



**CITY OF WEST COVINA**

**CITY COUNCIL/SUCCESSOR AGENCY/  
PUBLIC FINANCING AUTHORITY**

**JULY 7, 2020, 7:00 PM  
REGULAR MEETING**

**CITY HALL COUNCIL CHAMBERS  
1444 W. GARVEY AVENUE SOUTH  
WEST COVINA, CALIFORNIA 91790**

**Mayor Tony Wu  
Mayor Pro Tem Letty Lopez-Viado  
Councilman Dario Castellanos  
Councilman Lloyd Johnson  
Councilmember Jessica C. Shewmaker**

On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19. On March 17, 2020, Governor Newsom issued Executive Order N-29-20, suspending certain requirements of the Brown Act relating to the conduct of public meetings.

On June 28, 2020, the Los Angeles County Public Health Officer issued a revised Health Officer Order directing, among other things, that all persons living within the Los Angeles County Public Health Jurisdiction remain in their residences whenever practicable. Pursuant to the Order, people leaving their residences must strictly comply with specified social (physical) distancing protocols. It also requires that all persons wear a cloth face covering over both the nose and mouth whenever they leave their place of residence and are or can be in contact with or walking near or past others who are non-household members in both public and private places, whether indoors or outdoors.

Due to the ongoing COVID-19 emergency and pursuant to State and County public health directives, the City Council Chambers will have limited seating available on a first-come, first-served basis for members of the public to attend the City Council meeting in person. All persons attending the meeting shall wear cloth face coverings and shall observe social distancing protocols. Members of the public may also watch City Council meetings live on the City's website at:

<https://www.westcovina.org/departments/city-clerk/agendas-and-meetings/current-meetings-and-agendas> under the Watch Live tab or through the West Covina City YouTube channel at [www.westcovina.org/LIVE](https://www.westcovina.org/LIVE).

If you are experiencing symptoms such as fever or chills, cough, shortness of breath or difficulty breathing, fatigue, or sore throat, the City requests that you participate in the meeting from home by watching the meeting via the City's YouTube channel ([//www.westcovina.org/LIVE](https://www.westcovina.org/LIVE)) and/or providing public comments by email or telephone. If you are in the group of individuals who are at high-risk for severe illness from COVID-19, including those over the age of 65 and those with underlying health conditions, please consider participating in the meeting from home.

In lieu of attending the meeting in person, members of the public may submit public comments to the City Clerk via e-mail at [City\\_Clerk@westcovina.org](mailto:City_Clerk@westcovina.org). The subject line should specify either "Oral Communications or Public



Hearing – 7/7/2020”. Please include your full name and address in your e-mail. The City Clerk will provide copies of emails received by 6:30 P.M. the day of the Council meeting to the City Council. All comments received will be made part of the official public record of the meeting. No comments will be read out loud during the Council meeting.

*Please turn off all cell phones and other electronic devices prior to entering the Council Chambers*

**AMERICANS WITH DISABILITIES ACT**

The City complies with the Americans with Disabilities Act (ADA). If you will need special assistance at Council meetings, please call (626) 939-8433 (voice) or (626) 960-4422 (TTY) from 8 to 5 Monday through Thursday. Do call at least one day prior to the meeting date to inform us of your particular needs and to determine if accommodation is possible. For sign language interpreter services at Council meetings, please request no less than four working days prior to the meeting.

**AGENDA MATERIAL**

Agenda material is available for review at the City Clerk's Office, Room 317 in City Hall, 1444 W. Garvey Avenue South, West Covina and at [www.westcovina.org](http://www.westcovina.org). Any writings or documents regarding any item on this agenda, not exempt from public disclosure, provided to a majority of the City Council that is distributed less than 72 hours before the meeting, will be made available for public inspection in the City Clerk's Office, Room 317 of City Hall located at 1444 W. Garvey Avenue South, West Covina, during normal business hours.

**NOTICE**

The City Council will regularly convene on the first and third Tuesday of the month. The West Covina Community Development Commission, West Covina Public Financing Authority and the West Covina Community Services Foundation are agencies on which the City Council serves as members. Agendas may contain items for these boards, as necessary.

**PUBLIC COMMENTS**  
**ADDRESSING THE CITY COUNCIL**  
*(Per WCMC 2-48, Ordinance No. 2150)*

Any person wishing to address the City Council on any matter listed on the agenda or on any other matter within their jurisdiction should complete a speaker card that is provided at the entrance to the Council Chambers and submit the card to the City Clerk.

*Please identify on the speaker card whether you are speaking on an agenda item or non-agenda. Requests to speak on agenda items will be heard prior to requests to speak on non-agenda items. All comments are limited to five (5) minutes per speaker.*

Oral Communications may be limited to thirty (30) minutes, unless speakers addressing agenda items have not concluded.

Any testimony or comments regarding a matter set for a Public Hearing will be heard during the hearing.

**RULES OF DECORUM**

Excerpts from the West Covina Municipal Code and Penal Code pertaining to the Rules of Decorum will be found at the end of agenda.

**AGENDA**

**CITY OF WEST COVINA  
CITY COUNCIL/SUCCESSOR AGENCY**

**TUESDAY JULY 7, 2020, 7:00 PM  
REGULAR MEETING**

**INVOCATION**

Led by Reverend Nobuko Miyoshi from West Covina Buddhist Temple

**PLEDGE OF ALLEGIANCE**

Led by Councilman Johnson

**ROLL CALL**

**REPORTING OUT FROM CLOSED SESSION**



## **PRESENTATIONS**

- Proclamation - Parks Make Life Better Month
- Donations - Adopt a Senior Program
- Yuriko Chavez - Senior at Edgewood High School - Poet of the Year, National English Honors Society

## **ORAL COMMUNICATIONS - Five (5) minutes per speaker**

*Please step forward to the podium and state your name and city of residence for the record when recognized by the Mayor.*

## **CITY MANAGER'S REPORT**

*City Manager's report on current City projects.*

## **CONSENT CALENDAR**

*All matters listed under CONSENT CALENDAR are considered to be routine and can be acted on by one roll call vote. There will be no separate discussion of these items unless members of the City Council/Community Development Commission request specific items to be removed from the Consent Calendar for separate discussion or action.*

## **APPROVAL OF MEETING MINUTES**

- 1) **JUNE 10, 2020 CITY COUNCIL/SUCCESSOR AGENCY SPECIAL CLOSED SESSION MEETING MINUTES**  
**JUNE 16, 2020 CITY COUNCIL/SUCCESSOR AGENCY CLOSED SESSION MEETING MINUTES**  
**JUNE 16, 2020 CITY COUNCIL/SUCCESSOR AGENCY REGULAR SESSION MEETING MINUTES**

It is recommended that the City Council approve the June 10, 2020, Special Closed Session Meeting Minutes, the June 16, 2020, Closed Session Meeting Minutes and the June 16, 2020, Regular Session Meeting Minutes.

## **INVESTMENT REPORT**

- 2) **CONSIDERATION OF INVESTMENT REPORT FOR THE MONTH ENDED APRIL 30, 2020**

It is recommended that the City Council receive and file the Investment Report for the month ended April 30, 2020.

## **COMMUNITY DEVELOPMENT**

- 3) **CONSIDERATION OF A PROFESSIONAL SERVICES AGREEMENT FOR THE PREPARATION OF THE GENERAL PLAN HOUSING ELEMENT UPDATE**

It is recommended that the City Council:

1. Authorize the City Manager to execute a Professional Service Agreement with JHD Planning, LLC, in an amount not to exceed \$68,540, to provide consulting services associated with updating the Housing Element of the General Plan.
2. Approve contingency in the amount of \$6,824.
3. Authorize the City Manager to execute any amendments to the Agreement.

- 4) **CONSIDERATION OF RELEASE OF FAITHFUL PERFORMANCE AND LABOR AND MATERIAL BONDS FOR PARCEL MAP NO. 74787 LOCATED AT 845 S. SUNKIST AVENUE - SILVERADO PROPERTY GROUP, LLC**

It is recommended that the City Council accept all on-site and off-site improvements for Parcel Map No. 74787 located at 845 S. Sunkist Avenue and authorize the release of Faithful Performance and Labor and Material Bonds in the amount of \$29,250 and \$29,250, respectively.



5) **CONSIDERATION OF PROGRAM EXTENDING PLANNING ENTITLEMENTS, BUILDING PLAN CHECKS, BUILDING PERMITS, ENGINEERING PLAN CHECKS, AND ENGINEERING PERMITS FOR A PERIOD OF SIX MONTHS**

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2020-73 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PROVIDING AN AUTOMATIC EXTENSION OF THE EXPIRATION DATE OF ALL PLANNING ENTITLEMENTS, ALL BUILDING DIVISION PLAN CHECKS AND PERMITS, AND CERTAIN ENGINEERING DIVISION PLAN CHECKS AND PERMITS, WHICH WERE VALID AS OF MARCH 1, 2020 AND ARE DUE TO EXPIRE BY DECEMBER 31, 2020, FOR A PERIOD OF SIX MONTHS**

**HUMAN RESOURCES/RISK MANAGEMENT**

6) **CONSIDERATION OF GOVERNMENT TORT CLAIMS**

It is recommended that the City Council deny the following Government Tort Claims and the claimants to be notified:

1. E. Renee Washington vs. City of West Covina

7) **CONSIDERATION OF RESOLUTION ADOPTING TERMS AND CONDITIONS OF EMPLOYMENT FOR EMPLOYEES IN THE WEST COVINA POLICE OFFICERS' ASSOCIATION (WCPOA)**

That the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-74 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING TERMS AND CONDITIONS OF EMPLOYMENT FOR THE EMPLOYEES IN THE WEST COVINA POLICE OFFICERS' ASSOCIATION**

8) **CONSIDERATION OF A RESOLUTION ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE NON-SWORN SAFETY SUPPORT EMPLOYEES' ASSOCIATION**

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-76 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE NON-SWORN SAFETY SUPPORT EMPLOYEES' ASSOCIATION REPRESENTED BY TEAMSTERS LOCAL 1932 UNION**

9) **CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA FIREFIGHTERS' ASSOCIATION, I.A.F.F., LOCAL 3226**

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-75 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA FIREFIGHTERS' ASSOCIATION, I.A.F.F., LOCAL 3226**

10) **CONSIDERATION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE WEST COVINA POLICE MANAGEMENT ASSOCIATION**



It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-77 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE WEST COVINA POLICE MANAGEMENT ASSOCIATION (WCPMA)**

- 11) **CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA MAINTENANCE AND CRAFTS EMPLOYEES' ASSOCIATION**

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 79 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA MAINTENANCE AND CRAFTS EMPLOYEES' ASSOCIATION REPRESENTED BY CITY EMPLOYEES ASSOCIATES (CEA)**

- 12) **CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA GENERAL EMPLOYEES' ASSOCIATION**

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-80 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA GENERAL EMPLOYEES' ASSOCIATION (WCGEA)**

- 13) **CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA CONFIDENTIAL EMPLOYEES' ASSOCIATION (WCCEA)**

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-81 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA CONFIDENTIAL EMPLOYEES' ASSOCIATION (WCCEA)**

- 14) **CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA MIDDLE MANAGEMENT EMPLOYEES' ASSOCIATION**

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-82 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA MIDDLE MANAGEMENT EMPLOYEES' ASSOCIATION (WCMMEA)**

- 15) **CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA FIRE MANAGEMENT EMPLOYEES' ASSOCIATION (WCFMA)**

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-78 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA FIRE MANAGEMENT ASSOCIATION (WCFMA)**



**16) CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY OF WEST COVINA AND THE WEST COVINA DEPARTMENT HEADS**

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-83 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA DEPARTMENT HEADS**

**PUBLIC SERVICES**

**17) CONSIDERATION OF TREE TRIMMING AND MAINTENANCE SERVICES CONTRACT**

It is recommended that the City Council:

1. Authorize the City Manager to negotiate and execute a contract with West Coast Arborists, Inc. for a three (3) year term, with two (2) optional one (1) year extensions, in an amount not-to-exceed \$485,000 annually, or \$2,425,000 if both extension options are exercised, to provide tree trimming and maintenance services for City trees.
2. Authorize the City Manager to exercise the extension options.

**18) CONSIDERATION OF ANNUAL PURCHASE ORDER TO WAXIE SANITARY SUPPLY FOR FISCAL YEAR 2020-21**

It is recommended that the City Council approve an annual purchase order for Fiscal Year (FY) 2020-21 to WAXIE Sanitary Supply in the total amount of \$65,000.

**END OF CONSENT CALENDAR**

**HEARINGS**

**PUBLIC HEARINGS**

**19) PUBLIC HEARING TO CONSIDER WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT FISCAL YEAR 2020-2021 ANNUAL REPORT AND ASSESSMENT**

It is recommended that the City Council conduct the public hearing and then adopt the following resolution:

**RESOLUTION NO. 2020-69 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, CONFIRMING THE ANNUAL REPORT FILED BY THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD AND LEVYING AN ANNUAL ASSESSMENT FOR THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2020-2021**

**20) PUBLIC HEARING TO CONSIDER WEST COVINA CITYWIDE SEWER SERVICE CHARGES TO BE COLLECTED ON TAX ROLL FOR FY 2020-21 (CONTINUED FROM JUNE 23, 2020)**

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2020-61 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE SEWER SERVICE CHARGES TO BE COLLECTED ON THE FISCAL YEAR 2020-21 TAX ROLL**

**DEPARTMENTAL REGULAR MATTERS**



## **CITY MANAGER'S OFFICE**

- 21) **CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA AND A RESOLUTION OF THE WEST COVINA PUBLIC FINANCE AUTHORITY APPROVING THE ISSUANCE OF LEASE REVENUE BONDS, 2020 SERIES A (FEDERALLY TAXABLE) BY THE WEST COVINA PUBLIC FINANCING AUTHORITY; AUTHORIZING AND APPROVING A SITE AND FACILITY LEASE, A LEASE AGREEMENT, A PRELIMINARY OFFICIAL STATEMENT, A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE AGREEMENT; APPROVING CERTAIN PROFESSIONALS; RESCISSION OF RESOLUTION RELATING TO PENSION OBLIGATION BONDS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

It is recommended that the City Council of the City of West Covina adopt:

**A RESOLUTION NO. 2020-72 - RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, APPROVING THE ISSUANCE OF LEASE REVENUE BONDS, 2020 SERIES A (FEDERALLY TAXABLE) BY THE WEST COVINA PUBLIC FINANCING AUTHORITY; AUTHORIZING AND APPROVING A SITE AND FACILITY LEASE, A LEASE AGREEMENT, A PRELIMINARY OFFICIAL STATEMENT, A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE AGREEMENT; APPROVING CERTAIN PROFESSIONALS; RESCISSION OF RESOLUTION RELATING TO PENSION OBLIGATION BONDS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

It is recommended that the West Covina Public Financing Authority (the “Authority”) adopt:

**A RESOLUTION NO. 2020-30 (PFA) - RESOLUTION OF THE WEST COVINA PUBLIC FINANCING AUTHORITY APPROVING THE ISSUANCE OF LEASE REVENUE BONDS, 2020 SERIES A (FEDERALLY TAXABLE); APPROVING A SITE AND FACILITY LEASE, A LEASE AGREEMENT, AN ASSIGNMENT AGREEMENT, AN INDENTURE, A PRELIMINARY OFFICIAL STATEMENT AND BOND PURCHASE AGREEMENT; APPROVING CERTAIN PROFESSIONALS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

## **POLICE DEPARTMENT**

- 22) **Police Department Update**

It is recommended that the City Council receive and file this informational report.

## **MAYOR/COUNCILMEMBERS REPORTS**

AB 1234 Conference and Meeting Report (verbal, if any)

*(In accordance with AB 1234, Councilmembers shall make a brief report or file a written report on any meeting/event/conference attended at City expense.)*

## **CITY COUNCIL REQUESTS FOR REPORTS, STUDIES OR INVESTIGATION**

*(Per City of West Covina Standing Rules 4.f - Requests for reports, studies, or investigations that are not readily available must be placed on the City Council/Successor Agency agenda as items of business and must be approved by a majority of the City Council/Successor Agency Board.)*

## **CITY COUNCIL COMMENTS**

## **ADJOURNMENT**



## Next Tentative City Council Meeting

Regular Meeting

July 21, 2020

7:00 PM

### **RULES OF DECORUM**

*The following are excerpts from the West Covina Municipal Code:*

Sec. 2-48. Manner of addressing council; time limit; persons addressing may be sworn.

- a. Each person addressing the council shall step up to the rostrum, shall give his or her name and city of residence in an audible tone of voice for the record and unless further time is granted by the council, shall limit his or her address to five (5) minutes.
- b. The city council may establish a limit on the duration of oral communications.
- c. All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the presiding officer. No question shall be asked of a councilmember except through the presiding officer.
- d. The presiding officer may require any person to be sworn as a witness before addressing the council on any subject. Any such person who, having taken an oath that he or she will testify truthfully, willfully and contrary to such oath states as true any material matter which he knows to be false may be held to answer criminally and subject to the penalty prescribed for perjury by the provisions of the Penal Code of the state.

Sec. 2-50. Decorum--Required.

- a. While the council is in session, the members shall preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or disrupt the proceedings or the peace of the council nor interrupt any member while speaking or refuse to obey the orders of the council or its presiding officer, except as otherwise herein provided.
- b. Members of the public shall not willfully disrupt the meeting or act in a manner that actually impairs the orderly conduct of the meeting. For the purposes of this code, "willfully disrupt" includes, but is not limited to, continuing to do any of the following after being warned by the Mayor that continuing to do so will be a violation of the law:
  - a. Addressing the Mayor and City Council without first being recognized.
  - b. Persisting in addressing a subject or subjects, other than that before the Mayor and City Council.
  - c. Repetitiously addressing the same subject.
  - d. Failing to relinquish the podium when directed to do so.
  - e. From the audience, interrupting or attempting to interrupt, a speaker, the Mayor, a council member, or a staff member or shouting or attempting to shout over a speaker, the Mayor, a council member or a staff member.
  - f. As a speaker, interrupting or attempting to interrupt the Mayor, a council member, or a staff member, or shouting over or attempting to shout over the Mayor, a council member, or a staff member. Nothing in this section or any rules of the council shall be construed to prohibit public criticism of the policies, procedures, programs, or services of the City or of the acts or omissions of the City Council. It shall be unlawful to violate the provisions of this Section.

If any subsection, sentence, clause, or phrase or word of this Section 2-50 is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Section. The City Council hereby declares that it would have passed this section and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses, phrases or words had been declared invalid or unconstitutional.

#### **Sec. 2-52. Persons authorized to be within council area.**

No person, except city officials, their representatives and members of the news media shall be permitted within the rail in front of the council chamber without the express consent of the council.

*The following are excerpts from the Penal Code*

148(a) (1) Every Person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

403 Every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting that is not unlawful in its character, other than an assembly or meeting referred to in Section 303 of the Penal Code or Section 18340 of the Elections Code, is guilty of a misdemeanor.





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: JUNE 10, 2020 CITY COUNCIL/SUCCESSOR AGENCY SPECIAL CLOSED SESSION  
MEETING MINUTES  
JUNE 16, 2020 CITY COUNCIL/SUCCESSOR AGENCY CLOSED SESSION MEETING  
MINUTES  
JUNE 16, 2020 CITY COUNCIL/SUCCESSOR AGENCY REGULAR SESSION MEETING  
MINUTES**

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**RECOMMENDATION:**

It is recommended that the City Council approve the June 10, 2020, Special Closed Session Meeting Minutes, the June 16, 2020, Closed Session Meeting Minutes and the June 16, 2020, Regular Session Meeting Minutes.

**DISCUSSION:**

That the City Council adopt the attached minutes.

**Prepared by:** Lisa Sherrick, Assistant City Clerk

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**Attachments**

Attachment No. 1 - 06-10-20 Special Closed Session Meeting Minutes Draft

Attachment No. 2 - 06-16-20 Closed Session Meeting Minutes Draft

Attachment No. 3 - 06-16-20 Regular Session Meeting Minutes Draft

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**CITY OF WEST COVINA**

**CITY COUNCIL/SUCCESSOR AGENCY**

**JUNE 10, 2020, 6:00 PM  
SPECIAL MEETING - CLOSED SESSION**

**MANAGEMENT RESOURCE CENTER (MRC), 3RD FLOOR  
1444 W. GARVEY AVENUE SOUTH  
WEST COVINA, CALIFORNIA 91790**

**Mayor Tony Wu  
Mayor Pro Tem Letty Lopez-Viado  
Councilman Dario Castellanos  
Councilman Lloyd Johnson  
Councilmember Jessica C. Shewmaker**

**MINUTES**

**CALL TO ORDER**

A Closed Session Meeting was called to order by Mayor Wu on Tuesday, June 10, 2020 at 6:00 p.m., in the City Hall Management Resource Center (MRC), 3<sup>rd</sup> Floor, 1444 W. Garvey Avenue South, West Covina, California.

**ROLL CALL**

**Council Members**

**Present:** Council Members Dario Castellanos, Lloyd Johnson, Jessica C. Shewmaker, Mayor Pro Tem Letty Lopez-Viado, Mayor Tony Wu

**Council Members**

**Absent:** None

**City Staff:** David Carmany City Manager, Mark Persico Assistant City Manager, Thomas P. Duarte City Attorney, Robbeyn Bird Finance Director, Oliver



Yee, LCW Legal, Paulina Morales Economic Development Manager,  
Bruce Lindsey Jones & Mayer

**PUBLIC COMMENTS ON ITEMS ON THE AGENDA**

- James Bradford

**CLOSED SESSION**

**1.CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Pursuant to Government Code § 54956.9(d)(4)

Number of Cases: Three (3)

**2.CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code § 54956.8

Property: 2210 S Azusa Ave

Agency Negotiator: Carmany, Persico, Duarte

Negotiating Parties: Singpoli

Under Negotiation: Price and Terms

**3.CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code § 54956.8

Property: 112 Plaza Dr

Agency Negotiator: Carmany, Persico, Duarte

Negotiating Parties: Starwood

Under Negotiation: Price and Terms

**4.CONFERENCE WITH LABOR NEGOTIATORS**

Pursuant to Government Code § 54957.6

City Negotiators: Carmany, Tran, Duarte

Employee Organizations

- Confidential Employees
- Maintenance & Crafts Employees
- Non-Sworn
- W.C. Police Officers' Association
- W.C. Firefighters' Management Assoc.
- W.C. Firefighters' Association, I.A.F.F., Local 3226
- General Employees
- Mid-Management Employees
- W.C. Police Management Association

Unrepresented Employee Group

- Department Heads



## **ADJOURNMENT**

The Closed Session Meeting adjourned at 8:18 p.m., by Mayor Wu. The next regularly scheduled Closed Session City Council Meeting will be held on Tuesday, June 16, 2020 at 6:00 p.m. in the City Hall Council Chambers, 1444 West Garvey Avenue South, West Covina, California.

Submitted by:

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Lisa Sherrick  
Assistant City Clerk

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Tony Wu  
Mayor





## **CITY OF WEST COVINA**

### **CITY COUNCIL/SUCCESSOR AGENCY**

JUNE 16, 2020, 6:00 PM  
REGULAR MEETING - CLOSED SESSION

CITY MANAGER'S CONFERENCE ROOM  
1444 W. GARVEY AVENUE SOUTH  
WEST COVINA, CALIFORNIA 91790

**Mayor Tony Wu**  
**Mayor Pro Tem Letty Lopez Viado**  
**Councilman Dario Castellanos**  
**Councilman Lloyd Johnson**  
**Councilmember Jessica C. Shewmaker**

### **MINUTES**

#### **CALL TO ORDER**

A Closed Session Meeting was called to order by Mayor Wu on Tuesday, June 16, 2020 at 6:00 p.m., in the City Hall Council Chambers, 1444 West Garvey Avenue South, West Covina, California.

#### **ROLL CALL**

##### **Council Members**

Present: Council Members Dario Castellanos, Lloyd Johnson, Jessica C. Shewmaker, Mayor Pro Tem Letty Lopez-Viado, Mayor Tony Wu – All Members were present.

##### **Council Members**

Absent: None

City Staff: David Carmany City Manager, Mark Persico Assistant City Manager, Thomas P. Duarte City Attorney, Robbeyn Bird Finance Director, Helen Tran Director of Human Resources, Oliver Yee, LCW Legal



**PUBLIC COMMENTS ON ITEMS ON THE AGENDA**

None

**CLOSED SESSION**

CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code § 54957.6

City Negotiators: Carmany, Duarte

Employee Organizations

- Confidential Employees
- Maintenance & Crafts Employees
- Non-Sworn
- W.C. Police Officers' Association
- W.C. Firefighters' Management Assoc.
- W.C. Firefighters' Association, I.A.F.F., Local 3226
- General Employees
- Mid-Management Employees
- W.C. Police Management Association

Unrepresented Employee Group

- Department Heads

**REPORTING OUT**

City Attorney Thomas P. Duarte reported that no reportable action was taken during the closed session meeting.

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## **ADJOURNMENT**

The Closed Session Meeting adjourned at 6:50 p.m., by Mayor Wu. The next regularly scheduled Closed Session City Council Meeting will be held on Tuesday, July 7, 2020 at 6:00 p.m. in the City Hall Council Chambers, 1444 West Garvey Avenue South, West Covina, California.

Submitted by:

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Lisa Sherrick  
Assistant City Clerk

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Tony Wu  
Mayor





## **CITY OF WEST COVINA**

### **CITY COUNCIL/SUCCESSOR AGENCY**

**JUNE 16, 2020, 7:00 PM  
REGULAR MEETING**

**CITY HALL COUNCIL CHAMBERS  
1444 W. GARVEY AVENUE SOUTH  
WEST COVINA, CALIFORNIA 91790**

**Mayor Tony Wu  
Mayor Pro Tem Letty Lopez-Viado  
Councilman Dario Castellanos  
Councilman Lloyd Johnson  
Councilmember Jessica C. Shewmaker**

### **MINUTES**

#### **CALL TO ORDER**

A Regular Meeting was called to order by Mayor Wu on Tuesday, June 16, 2020 at 7:00 p.m. in the Council Chambers, 1444 West Garvey Avenue South, West Covina, California.

#### **ROLL CALL**

Council Members

Present: Council Members Dario Castellanos, Lloyd Johnson, Jessica Shewmaker, Mayor Pro Tem Letty Lopez-Viado, Mayor Tony Wu



Council Members

Absent: None

City Staff: David Carmany City Manager, Mark Persico Assistant City Manager, Thomas P. Duarte City Attorney, Lisa Sherrick Assistant City Clerk; other City staff presented reports and responded to questions as indicated in the minutes.

**INVOCATION**

Led by Pastor Emeritus Carmany of the United Church of Huntington

**PLEDGE OF ALLEGIANCE**

Led by Councilmember Castellanos

**CLOSED SESSION**

CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code § 54957.6

City Negotiators: Carmany, Duarte

Employee Organizations

- Confidential Employees
- Maintenance & Crafts Employees
- Non-Sworn
- W.C. Police Officers' Association
- W.C. Firefighters' Management Assoc.
- W.C. Firefighters' Association, I.A.F.F., Local 3226
- General Employees
- Mid-Management Employees
- W.C. Police Management Association

Unrepresented Employee Group

- Department Heads

**REPORTING OUT FROM CLOSED SESSION**

City Attorney Thomas P. Duarte reported that no reportable action was taken during the closed session meeting.

**PRESENTATIONS**

South Hills High School – Graduating Class of 2020

West Covina High School | Coronado High – Graduating Classes of 2020



**ORAL COMMUNICATIONS - Five (5) minutes per speaker**

- Rodger Medina
- Roy Bradford
- Jefferson De Roux
- Terry Banover
- Chris Prater
- Tammy Mathis
- Susan Dinkland
- Steve Bennett
- Chris Miller
- Cindy Ortega
- Melissa Lourido
- Sean Garcia
- Gladys Rupa
- Jerry Potras on behalf of West Covina Neighbors
- Teresa Cozad
- Marsha Solorio
- Marc Taylor
- Shirley Elveth
- Nick Lewis
- Brian Tabatabai
- Michael Hambel
- Sharon Mulhern
- James Toma
- Jay Meader
- Walt Hauser
- Philip Vasquez
- Angie Gillingham
- Kelby Trujillo
- Jim Grivich
- Phil Moreno
- Rosa Franco
- Elsie Messman
- Jefferson De Roux
- Steven Medina
- Cecilia Munoz

**--- End of Oral Communication---**

**CITY MANAGER'S REPORT**

Presentation given by Mr. Carmany



## **CONSENT CALENDAR**

**ACTION: Motion by Councilman Johnson, Second by Councilmember Shewmaker, Carried 5-0 to:** approve Consent Calendar Items 1-6, and 8.

**ACTION: Motion by Councilman Johnson, Second by Councilmember Shewmaker, Carried 3-2 (No: Johnson and Lopez-Viado) to:** Approve Consent Calendar Item 7.

**ACTION: Motion by Councilman Johnson, Second by Councilmember Shewmaker, Carried 4-1 (No: Shewmaker) to:** Approve Consent Calendar Item 9.

## **APPROVAL OF MEETING MINUTES**

- 1) **JUNE 2, 2020 CITY COUNCIL/SUCCESSOR AGENCY REGULAR MEETING MINUTES**  
**JUNE 2, 2020 CITY COUNCIL/SUCCESSOR AGENCY CLOSED SESSION MEETING MINUTES**

**CARRIED 5-0 to:** approve the May 19, 2020 Regular Meeting Minutes, May 19, 2020 Closed Session Meeting Minutes, and the May 19, 2020 Special Session Meeting Minutes.

## **CLAIMS AGAINST THE CITY**

- 2) **CONSIDERATION OF GOVERNMENT TORT CLAIMS**

**Carried 5-0 to:** deny the following Government Tort Claims and the claimants be notified:

1. **Nancy Diaz** vs. The City of West Covina
2. **James Moss** vs. The City of West Covina
3. **Jacob Dominguez, Ann Martinez, Linda Quinonez, Oscar Escamillo, Mary Escamillo, Fabviola Rosales, Lorenzo Dominguez, Estate of Gracie Contreras** vs. The City of West Covina

## **CITY MANAGER'S OFFICE**

- 3) **APPOINTMENT OF HUMAN RESOURCES COMMISSIONER ROSY FRANCO**



**Carried 5-0 to:** receive and file this informational report.

**COMMUNITY DEVELOPMENT**

- 4) **CONSIDER ADOPTION OF VEHICLE MILES TRAVELED ("VMT") AND THRESHOLDS OF SIGNIFICANCE FOR PURPOSES OF ANALYZING TRANSPORTATION IMPACTS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**Carried 5-0 to:** adopt the following resolution:

**RESOLUTION NO. 2020-57 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ADOPTING “VEHICLE MILES TRAVELED” THRESHOLDS OF SIGNIFICANCE FOR PURPOSES OF ANALYZING TRANSPORTATION IMPACTS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

- 5) **WEST COVINA LANDSCAPE MAINTENANCE DISTRICT NO. 1 SETTING OF FISCAL YEAR 2020-21 ASSESSMENT RATE**

**Carried 5-0 to:** adopt the following resolution:

**RESOLUTION NO. 2020-59 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA SETTING THE ASSESSMENT RATE FOR WEST COVINA LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR THE FISCAL YEAR BEGINNING JULY 1, 2020**

- 6) **CONSIDER SETTING OF FISCAL YEAR 2020-21 ASSESSMENT RATE FOR WEST COVINA LANDSCAPE MAINTENANCE DISTRICT NO. 2**

**Carried 5-0 to:** adopt the following resolution, which provides for the assessment rate to be maintained at the current rate.

**RESOLUTION NO. 2020-60 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA SETTING THE ASSESSMENT RATE FOR WEST COVINA LANDSCAPE MAINTENANCE DISTRICT NO. 2 FOR THE FISCAL YEAR BEGINNING JULY 1, 2020**

- 7) **CONSIDER INITIATION OF CODE AMENDMENT NO 20-06 REGARDING WIRELESS TELECOMMUNICATION FACILITIES WITHIN ALL LAND-USE ZONES**



**Carried 3-2 (No: Johnson, Lopez-Viado) to:** adopt the following resolution:

**RESOLUTION NO. 2020-58 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, INITIATING CODE AMENDMENT NO. 20-06 RELATED TO WIRELESS TELECOMMUNICATION FACILITIES WITHIN ALL LAND USE ZONES**

- 8) CONSIDERATION OF FISCAL YEAR 2020-21 PROJECTS FUNDED BY SENATE BILL 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

**Carried 5-0 to:** adopt the following resolution

**RESOLUTION NO. 2020-63 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING A LIST OF FISCAL YEAR 2020-21 PROJECTS FUNDED BY SENATE BILL 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

#### **HUMAN RESOURCES/RISK MANAGEMENT**

- 9) CONSIDERATION OF BUDGET AMENDMENT FOR FISCAL YEAR 2019-2020**

**CARRIED 4-1(No: Shewmaker) to:** adopt the following Resolution:

**RESOLUTION NO. 2020-66 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ADOPTING A BUDGET AMENDMENT FOR THE FISCAL YEAR COMMENCING JULY 1, 2019 AND ENDING JUNE 30, 2020**

**END OF CONSENT CALENDAR**

#### **PUBLIC HEARINGS**

- 10)PUBLIC HEARING REGARDING WEST COVINA CITYWIDE SEWER SERVICE CHARGE - CONTINUE TO JUNE 23, 2020**

**Carried 5-0 to:** continue the public hearing regarding the Citywide Sewer Service Charge to the Special City Council meeting of June 23, 2020.

- 11)PUBLIC HEARING FOR WEST COVINA LIGHTING AND MAINTENANCE DISTRICT - CONTINUE TO JUNE 23, 2020**



**Carried 5-0 to:** continue the public hearing regarding the Citywide Lighting and Maintenance District to the Special City Council meeting of June 23, 2020.

## **DEPARTMENTAL REGULAR MATTERS**

### **FINANCE DEPARTMENT**

#### **12) FISCAL YEAR 2020/2021 PRELIMINARY BUDGET DISCUSSION**

**Carried 5-0 to:** 1) receive and file the Preliminary Fiscal Year Preliminary 2020-21 Operating and Capital Improvement Program Budget, 2) direct that the Preliminary Budget be broadly publicly disseminated, and 3) schedule the 2020-21 Budget for consideration at the June 23<sup>rd</sup> City Council meeting.

## **MAYOR/COUNCILMEMBERS REPORTS**

Councilmember Shewmaker reported that the board for the Southern California Association of Governments (SCAG) to discount the yearly membership fee by 20% due to their inability to have their annual retreat for their member cities.

## **CITY COUNCIL REQUESTS FOR REPORTS, STUDIES OR INVESTIGATION**

None

## **CITY COUNCIL COMMENTS**

None

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**ADJOURNMENT**

A motion to adjourn the Regular Meeting was made by Mayor Wu, and the meeting was adjourned at 10:23 p.m. The next regularly scheduled Regular City Council Meeting will be held on Tuesday, July 7, 2020 at 7:00 p.m. in the Council Chambers, 1444 West Garvey Avenue South, West Covina, California.

Submitted by:

\_\_\_\_\_  
Lisa Sherrick  
Assistant City Clerk

\_\_\_\_\_  
Tony Wu  
Mayor





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF INVESTMENT REPORT FOR THE MONTH ENDED APRIL 30, 2020**

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### RECOMMENDATION:

It is recommended that the City Council receive and file the Investment Report for the month ended April 30, 2020.

### BACKGROUND:

California Government Code Section 53646 requires that cities report detailed information on all securities, investments, and monies of the City and to report the market value of the investments held. California Government Code Section 53601 and the City's Investment Policy define the types of investments allowed. The City's Investment Policy was last revised and adopted by the City Council on July 2, 2019. The City's Investment Policy has set primary goals of the portfolio management of safety, liquidity and yield.

Bond reserves are held and invested by a Trustee. The investment of these funds is governed by an investment policy approved by the City Council as a part of the governing documents for each specific bond issue.

### DISCUSSION:

The Investment Report (Attachment No. 1) presents the City's and the Successor Agency's cash and investments for the month ended April 30, 2020. This report is in compliance with California Government Code Section 53646 regarding the reporting of detailed information on all securities, investments, and monies of the City, as well as, reporting of the market value of the investments held. All the investments contained within the portfolio are in full compliance with Government Code Section 53601 and the City's Investment Policy as to the types of investments allowed. The City's surplus funds are deposited with the Los Angeles County Investment Pool (LACIP), the Local Agency Investment Fund (LAIF) and Chandler Asset Management (Attachment No. 2).

At April 30, 2020, the investment portfolio had a market value of \$77,674,736 and the bond reserves had a market value of \$6,659,060.

**Prepared by:** Robbeyn Bird, Finance Director

**Additional Approval:** David Carmany, City Manager

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### Attachments

Attachment No. 1 - Investment Report April 2020

Attachment No. 2 - Chandler Report April 2020



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**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability  
Enhance the City Image and Effectiveness



**City of West Covina  
Investment Report  
For the Month Ended April 30, 2020**

Description	Book Value	Market Value	Interest/ Yield to Maturity	Maturity Date	% of Portfolio
<b>Cash and Cash Equivalents</b>					
Wells Fargo Checking Account	\$ 4,157,625	\$ 4,157,625	0.00%	n/a	4.93%
Pacific Western Bank Checking - HPP (CDBG)	3,642	3,642	0.00%	n/a	0.00%
Pacific Western Bank Checking - HPP (LMIHF)	2,092	2,092	0.00%	n/a	0.00%
Los Angeles County Investment Pool (LACIP)	11,282,377	11,282,377	1.40%	n/a	13.38%
Los Angeles County Investment Pool (LACIP) - CFD	1,895,859	1,895,859	1.40%	n/a	2.25%
Local Agency Investment Fund (LAIF)	55,776,254	55,776,254	1.65%	n/a	66.14%
Wells Fargo Checking Account - Successor Agency	3,354,185	3,354,185	0.00%	n/a	3.98%
Wells Fargo Checking Account - CFD	863,378	863,378	0.00%	n/a	1.02%
<b>Investments - Chandler Asset Management</b>					
Asset-Backed Securities	167,771	168,763	0.99%	See attached	0.20%
Federal Agencies	-	-	0.00%	See attached	0.00%
Collateralized Mortgage Obligation	149,935	152,900	1.60%	See attached	0.18%
Money Market Funds	17,661	17,661	0.01%	See attached	0.02%
US Treasury	-	-	0.00%	See attached	0.00%
<b>Total Cash and Investments</b>	<b>\$ 77,670,779</b>	<b>\$ 77,674,736</b>			
<b>Bond Reserves</b>					
Lease Revenue Bonds, 2006 Series A & 2006 Series B (Taxable)					
First American Treasury Obligations Fund Class D	\$ 1,071,000	\$ 1,071,000	1.39%	n/a	1.27%
First American Treasury Obligations Fund Class D	585,372	585,372	1.39%	n/a	0.69%
1996 Special Tax Refunding Bonds - Successor Agency					
First American Treasury Obligations Fund Class D	5,002,688	5,002,688	7.01%	9/1/2022	5.93%
First American Treasury Obligations Fund Class D	-	-	1.39%	n/a	0.00%
<b>Total Bond Reserves</b>	<b>\$ 6,659,060</b>	<b>\$ 6,659,060</b>			
<b>Total Investment Portfolio</b>	<b>\$ 84,329,839</b>	<b>\$ 84,333,796</b>			<b>100.00%</b>

Blended Yield of Cash and Investments *	1.60%
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<b>Benchmarks:</b>	
LAIF	1.65%
LACIP	1.40%
6mo U.S. Treasury	0.11%
2yr U.S. Treasury	0.20%
5yr U.S. Treasury	0.36%

I hereby certify that the investments are in compliance with the investment policy adopted by the City Council.

PREPARED BY:

  
Robbeyn Bird - Finance Director

REVIEWED BY:

Colleen B. Rozatti - City Treasurer

APPROVED BY:

  
David Carmany - City Manager





# | City of West Covina Short Term - Account #10479

## MONTHLY ACCOUNT STATEMENT

APRIL 1, 2020 THROUGH APRIL 30, 2020

### Chandler Team:

For questions about your account, please call (800) 317-4747,  
or contact [operations@chandlerasset.com](mailto:operations@chandlerasset.com)

### Custodian

US Bank  
Christopher Isles  
(503) 464-3685

**CHANDLER** ASSET MANAGEMENT  
[chandlerasset.com](http://chandlerasset.com)

*Information contained herein is confidential. We urge you to compare this statement to the one you receive from your qualified custodian. Please see Important Disclosures.*





## PORTFOLIO CHARACTERISTICS

Average Modified Duration	0.69
Average Coupon	2.60%
Average Purchase YTM	2.40%
Average Market YTM	1.22%
Average S&P/Moody Rating	AAA/Aaa
Average Final Maturity	1.37 yrs
Average Life	0.71 yrs

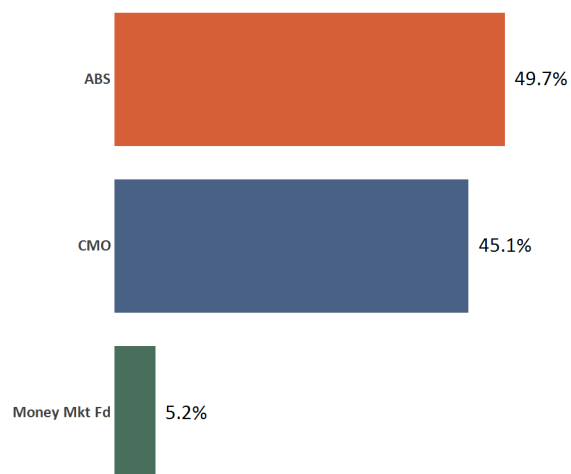
## ACCOUNT SUMMARY

	Beg. Values as of 3/31/20	End Values as of 4/30/20
Market Value	3,305,364	339,325
Accrued Interest	10,145	535
Total Market Value	<b>3,315,509</b>	<b>339,860</b>
Income Earned	3,622	2,344
Cont/WD		-2,980,290
Par	3,287,152	334,470
Book Value	3,291,567	335,367
Cost Value	3,321,933	336,863

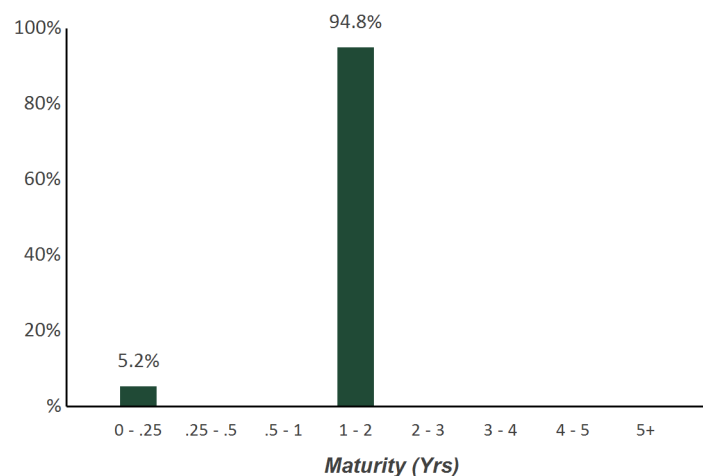
## TOP ISSUERS

Federal Home Loan Mortgage Corp	45.1%
Honda ABS	39.2%
John Deere ABS	10.6%
First American Govt Oblig Fund	5.2%
<b>Total</b>	<b>100.0%</b>

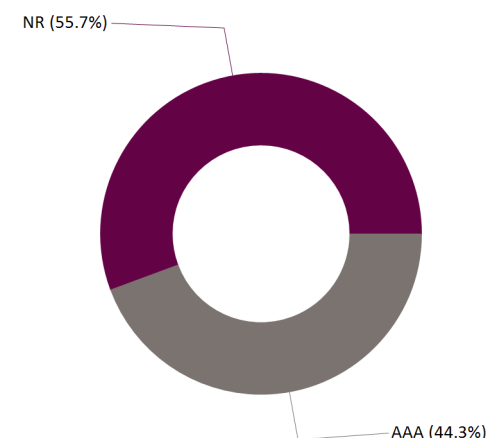
## SECTOR ALLOCATION



## MATURITY DISTRIBUTION



## CREDIT QUALITY (S&amp;P)



## PERFORMANCE REVIEW

TOTAL RATE OF RETURN	1M	3M	YTD	1YR	Annualized				7/31/2016
					2YRS	3YRS	5YRS	10YRS	
City of West Covina Short Term	0.42%	1.26%	1.41%	3.58%	3.32%	2.30%	N/A	N/A	1.88%
ICE BAML 1-3 Yr US Treasury/Agency Index	0.05%	2.28%	2.83%	5.23%	4.15%	2.67%	N/A	N/A	2.11%



# Statement of Compliance

As of April 30, 2020



## City of West Covina

Assets managed by Chandler Asset Management are in full compliance with state law and the District's investment policy.

Category	Standard	Comment
Treasury Issues	No limitations	Complies
Federal Agencies	No limitations	Complies
Municipal Securities	"A" or higher by a NRSRO; 30% maximum; 5% max per issuer	Complies
Supranationals	"AA" rated or higher by a NRSRO; 30% max; 10% max per issuer; Unsubordinated obligations issued by: IBRD, IFC, IADB	Complies
Medium Term Notes	"A" rated or higher by a NRSRO; 30% maximum; 5% max per issuer; Issued by corporations organized and operating within the U.S.	Complies
Collateralized Certificates of Deposit	25% maximum	Complies
Negotiable Certificates of Deposit	"A" rated or better by a NRSRO; 30% maximum	Complies
Banker's Acceptances	40% maximum; 30% max per one commercial bank; 180 days max maturity	Complies
Commercial Paper	A-1/P-1 rating or higher by both S&P and Moody's; 25% maximum; 5% per issuer; 270 days max maturity; Eligible paper is limited to corporations organized and operating within the U.S. with total assets of at least \$500 million	Complies
Asset-Backed Securities/ Mortgage-Backed Securities	"AA" or better by a NRSRO; "A" rated issuer rating or higher by a NRSRO; 20% maximum	Complies*
Money Market Mutual Funds	"AAA" rated or highest rating by a NRSRO; 20% maximum; 10% per fund	Complies
Prohibited Securities	Inverse floaters; Ranges notes, Interest-only strips from mortgaged backed securities; Zero interest accrual securities; Reverse Repurchase Agreements	Complies
Repurchase Agreements	20% maximum; 100 days max maturity; collateralized 102% of market value; Not used by investment adviser	Complies
Local Agency Investment Fund (LAIF)	Maximum program; Not used by investment adviser	Complies
Los Angeles County Investment Pool	Maximum program; Not used by investment adviser	Complies
Max per Security Type	No more than 40% of the City's total portfolio shall be invested in a single security type or with a single financial institution	Complies
Max per Issuer	No more than 5% in any single issuer except US Gov, Agencies, Supranationals, Money Market Funds, LAIF, or LGIP	Complies
Maximum Maturity	5 years	Complies

\*Account is terminating and liquidating all positions as they mature.





BOOK VALUE RECONCILIATION		
<b>BEGINNING BOOK VALUE</b>		<b>\$3,291,567.12</b>
<b><u>Acquisition</u></b>		
+ Security Purchases	\$0.00	
+ Money Market Fund Purchases	\$2,552,428.32	
+ Money Market Contributions	\$0.00	
+ Security Contributions	\$0.00	
+ Security Transfers	\$0.00	
<b>Total Acquisitions</b>		<b>\$2,552,428.32</b>
<b><u>Dispositions</u></b>		
- Security Sales	\$2,515,174.14	
- Money Market Fund Sales	\$0.00	
- MMF Withdrawals	\$2,980,289.77	
- Security Withdrawals	\$0.00	
- Security Transfers	\$0.00	
- Other Dispositions	\$0.00	
- Maturities	\$0.00	
- Calls	\$0.00	
- Principal Paydowns	\$24,820.24	
<b>Total Dispositions</b>		<b>\$5,520,284.15</b>
<b><u>Amortization/Accretion</u></b>		
+/- Net Accretion	(\$479.62)	
		(\$479.62)
<b><u>Gain/Loss on Dispositions</u></b>		
+/- Realized Gain/Loss	\$12,135.51	
		\$12,135.51
<b>ENDING BOOK VALUE</b>		<b>\$335,367.18</b>

CASH TRANSACTION SUMMARY		
<b>BEGINNING BALANCE</b>		<b>\$445,522.74</b>
<b><u>Acquisition</u></b>		
Contributions	\$0.00	
Security Sale Proceeds	\$2,515,174.14	
Accrued Interest Received	\$11,634.01	
Interest Received	\$775.71	
Dividend Received	\$24.22	
Principal on Maturities	\$0.00	
Interest on Maturities	\$0.00	
Calls/Redemption (Principal)	\$0.00	
Interest from Calls/Redemption	\$0.00	
Principal Paydown	\$24,820.24	
<b>Total Acquisitions</b>	<b>\$2,552,428.32</b>	
<b><u>Dispositions</u></b>		
Withdrawals	\$2,980,289.77	
Security Purchase	\$0.00	
Accrued Interest Paid	\$0.00	
<b>Total Dispositions</b>	<b>\$2,980,289.77</b>	
<b>ENDING BOOK VALUE</b>		<b>\$17,661.29</b>



## Holdings Report

As of April 30, 2020



CUSIP	Security Description	Par Value/Units	Purchase Date Book Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody/S&P Fitch	Maturity Duration
<b>ABS</b>									
43811BAC8	Honda Auto Receivables Trust 2017-2 A3 1.68% Due 8/16/2021	26,511.76	04/27/2018 2.62%	26,099.59 26,350.18	100.26 0.72%	26,581.17 19.80	7.83% 230.99	Aaa / AAA NR	1.30 0.27
43814WAB1	Honda Auto Receivables Trust 2019-1 A2 2.75% Due 9/20/2021	105,782.63	02/19/2019 2.77%	105,775.82 105,778.94	100.54 1.00%	106,356.58 105.05	31.33% 577.64	NR / AAA AAA	1.39 0.31
47788BAD6	John Deere Owner Trust 2017-B A3 1.82% Due 10/15/2021	7,521.83	07/11/2017 1.83%	7,521.29 7,521.64	100.16 1.04%	7,533.87 6.08	2.22% 12.23	Aaa / NR AAA	1.46 0.20
47788CAC6	John Deere Owner Trust 2018-A A3 2.66% Due 4/18/2022	28,121.08	02/21/2018 2.68%	28,119.07 28,120.13	100.61 1.22%	28,291.63 33.25	8.33% 171.50	Aaa / NR AAA	1.97 0.42
<b>Total ABS</b>		<b>167,937.30</b>	<b>2.69%</b>	<b>167,515.77</b> <b>167,770.89</b>	<b>0.99%</b>	<b>168,763.25</b> <b>164.18</b>	<b>49.71%</b> <b>992.36</b>	<b>Aaa / AAA</b> <b>AAA</b>	<b>1.48</b> <b>0.32</b>
<b>CMO</b>									
3137BFDQ1	FHLMC K717 A2 2.991% Due 9/25/2021	148,871.47	01/04/2018 2.37%	151,686.08 149,935.00	102.71 1.60%	152,900.21 371.06	45.10% 2,965.21	NR / NR AAA	1.41 1.19
<b>Total CMO</b>		<b>148,871.47</b>	<b>2.37%</b>	<b>151,686.08</b> <b>149,935.00</b>	<b>1.60%</b>	<b>152,900.21</b> <b>371.06</b>	<b>45.10%</b> <b>2,965.21</b>	<b>NR / NR</b> <b>AAA</b>	<b>1.41</b> <b>1.19</b>
<b>MONEY MARKET FUND FI</b>									
31846V203	First American Govt Obligation Fund Class Y	17,661.29	Various 0.01%	17,661.29 17,661.29	1.00 0.01%	17,661.29 0.00	5.20% 0.00	Aaa / AAA AAA	0.00 0.00
<b>Total Money Market Fund FI</b>		<b>17,661.29</b>	<b>0.01%</b>	<b>17,661.29</b> <b>17,661.29</b>	<b>0.01%</b>	<b>17,661.29</b> <b>0.00</b>	<b>5.20%</b> <b>0.00</b>	<b>Aaa / AAA</b> <b>AAA</b>	<b>0.00</b> <b>0.00</b>
<b>TOTAL PORTFOLIO</b>		<b>334,470.06</b>	<b>2.40%</b>	<b>336,863.14</b> <b>335,367.18</b>	<b>1.22%</b>	<b>339,324.75</b> <b>535.24</b>	<b>100.00%</b> <b>3,957.57</b>	<b>Aaa / AAA</b> <b>AAA</b>	<b>1.37</b> <b>0.69</b>
<b>TOTAL MARKET VALUE PLUS ACCRUED</b>						<b>339,859.99</b>			





Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
<b>ACQUISITIONS</b>										
Purchase	04/01/2020	31846V203	24.22	First American Govt Obligation Fund Class Y	1.000	0.12%	24.22	0.00	24.22	0.00
Purchase	04/15/2020	31846V203	4,272.59	First American Govt Obligation Fund Class Y	1.000	0.12%	4,272.59	0.00	4,272.59	0.00
Purchase	04/15/2020	31846V203	2,026.98	First American Govt Obligation Fund Class Y	1.000	0.12%	2,026.98	0.00	2,026.98	0.00
Purchase	04/15/2020	31846V203	2,983.34	First American Govt Obligation Fund Class Y	1.000	0.12%	2,983.34	0.00	2,983.34	0.00
Purchase	04/20/2020	31846V203	15,735.99	First American Govt Obligation Fund Class Y	1.000	0.12%	15,735.99	0.00	15,735.99	0.00
Purchase	04/22/2020	31846V203	2,526,808.15	First American Govt Obligation Fund Class Y	1.000	0.12%	2,526,808.15	0.00	2,526,808.15	0.00
Purchase	04/27/2020	31846V203	577.05	First American Govt Obligation Fund Class Y	1.000	0.12%	577.05	0.00	577.05	0.00
<b>Subtotal</b>			<b>2,552,428.32</b>				<b>2,552,428.32</b>	<b>0.00</b>	<b>2,552,428.32</b>	<b>0.00</b>
<b>TOTAL ACQUISITIONS</b>			<b>2,552,428.32</b>				<b>2,552,428.32</b>	<b>0.00</b>	<b>2,552,428.32</b>	<b>0.00</b>

<b>DISPOSITIONS</b>										
Sale	04/22/2020	3130A7CV5	350,000.00	FHLB Note 1.375% Due 2/18/2021	100.903	0.27%	353,160.50	855.56	354,016.06	2,462.82
Sale	04/22/2020	3135G0D75	700,000.00	FNMA Note 1.5% Due 6/22/2020	100.216	0.20%	701,512.00	3,500.00	705,012.00	977.66
Sale	04/22/2020	3135G0F73	350,000.00	FNMA Note 1.5% Due 11/30/2020	100.778	0.21%	352,723.00	2,070.83	354,793.83	1,891.10
Sale	04/22/2020	3135G0K69	350,000.00	FNMA Note 1.25% Due 5/6/2021	100.992	0.29%	353,472.00	2,017.36	355,489.36	3,527.49
Sale	04/22/2020	912828N89	375,000.00	US Treasury Note 1.375% Due 1/31/2021	101.004	0.08%	378,764.65	1,161.57	379,926.22	2,885.52
Sale	04/22/2020	912828VF4	375,000.00	US Treasury Note 1.375% Due 5/31/2020	100.145	0.02%	375,541.99	2,028.69	377,570.68	390.92
<b>Subtotal</b>			<b>2,500,000.00</b>				<b>2,515,174.14</b>	<b>11,634.01</b>	<b>2,526,808.15</b>	<b>12,135.51</b>





Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
<b>DISPOSITIONS</b>										
Paydown	04/15/2020	43811BAC8	4,229.55	Honda Auto Receivables Trust 2017-2 A3 1.68% Due 8/16/2021	100.000		4,229.55	43.04	4,272.59	0.00
Paydown	04/15/2020	47788BAD6	2,012.52	John Deere Owner Trust 2017-B A3 1.82% Due 10/15/2021	100.000		2,012.52	14.46	2,026.98	0.00
Paydown	04/15/2020	47788CAC6	2,914.54	John Deere Owner Trust 2018-A A3 2.66% Due 4/18/2022	100.000		2,914.54	68.80	2,983.34	0.00
Paydown	04/20/2020	43814WAB1	15,458.15	Honda Auto Receivables Trust 2019-1 A2 2.75% Due 9/20/2021	100.000		15,458.15	277.84	15,735.99	0.00
Paydown	04/27/2020	3137BFDQ1	205.48	FHLMC K717 A2 2.991% Due 9/25/2021	100.000		205.48	371.57	577.05	0.00
<b>Subtotal</b>			<b>24,820.24</b>				<b>24,820.24</b>	<b>775.71</b>	<b>25,595.95</b>	<b>0.00</b>
Security Withdrawal	04/03/2020	31846V203	248.10	First American Govt Obligation Fund Class Y	1.000		248.10	0.00	248.10	0.00
Security Withdrawal	04/22/2020	31846V203	2,980,000.00	First American Govt Obligation Fund Class Y	1.000		2,980,000.00	0.00	2,980,000.00	0.00
Security Withdrawal	04/27/2020	31846V203	41.67	First American Govt Obligation Fund Class Y	1.000		41.67	0.00	41.67	0.00
<b>Subtotal</b>			<b>2,980,289.77</b>				<b>2,980,289.77</b>	<b>0.00</b>	<b>2,980,289.77</b>	<b>0.00</b>
<b>TOTAL DISPOSITIONS</b>			<b>5,505,110.01</b>				<b>5,520,284.15</b>	<b>12,409.72</b>	<b>5,532,693.87</b>	<b>12,135.51</b>
<b>OTHER TRANSACTIONS</b>										
Dividend	04/01/2020	31846V203	445,522.74	First American Govt Obligation Fund Class Y	0.000		24.22	0.00	24.22	0.00
<b>Subtotal</b>			<b>445,522.74</b>				<b>24.22</b>	<b>0.00</b>	<b>24.22</b>	<b>0.00</b>
<b>TOTAL OTHER TRANSACTIONS</b>			<b>445,522.74</b>				<b>24.22</b>	<b>0.00</b>	<b>24.22</b>	<b>0.00</b>





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF A PROFESSIONAL SERVICES AGREEMENT FOR THE  
PREPARATION OF THE GENERAL PLAN HOUSING ELEMENT UPDATE**

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### RECOMMENDATION:

It is recommended that the City Council:

1. Authorize the City Manager to execute a Professional Service Agreement with JHD Planning, LLC, in an amount not to exceed \$68,540, to provide consulting services associated with updating the Housing Element of the General Plan.
2. Approve contingency in the amount of \$6,824.
3. Authorize the City Manager to execute any amendments to the Agreement.

### BACKGROUND:

The Housing Element of the General Plan is one of nine elements mandated by State law. Unlike other General Plan elements, the Housing Element is required by State law to be periodically updated. The Housing Element was last reviewed and updated by the City Council along with the City's General Plan Update in December 2016. The December 2016 Housing Element update was considered a part of the 5th planning cycle (2013-2021).

Every eight years, the California Department of Housing and Community Development (HCD) develops a new set of housing production targets, or regional housing needs assessment (RHNA). Each Metropolitan Planning Organization (MPO) is then tasked with developing a methodology to allocate the RHNA to local jurisdictions. Local jurisdictions are required to plan for their RHNA allocation. The Southern California Association of Governments (SCAG) is the City's local MPO and was tasked with allocating a total of 1.3 million housing units for the 6th cycle (2021-2029). The SCAG RHNA allocation methodology was developed based on household growth, job accessibility, transit accessibility, and social equity adjustment. The draft RHNA allocation for the City of West Covina included a total of 5,333 housing units (compared to 831 units in the 5th cycle). The proposed final RHNA allocations will be made available in August 2020 and adopted by October 2020.

### DISCUSSION:

West Covina is required to adopt the Housing Element update by October 2021 in order to be eligible for the eight-year planning period (2021-2029). This 6th cycle Housing Element update process is anticipated to be more challenging than the previous planning cycles because of new State laws and State threats of legal action for noncompliance. The allocation of 5,333 units will prove to be a formidable policy issue to address in the Housing Element update. Although HCD does not require the allocated 5,333 housing units to be actually constructed, the City is required to identify adequate sites with approximate



zoning to accommodate the RHNA.

To assist in the preparation of the Housing Element update, staff is seeking a qualified consultant. A Request for Proposals (RFP) was released on April 8, 2020. On May 6, 2020, the City received proposals from JHD Planning, LLC and Rincon Consultants, Inc. The proposals were reviewed by three staff members for each firm's Housing Element preparation experience, qualifications and experience of personnel, and schedule of time and cost based on a weighted scale. The results of the evaluation of the proposals were as follows:

No.	Firm	Score
1	JHD Planning, LLC	80.83
2	Rincon Consultants, Inc.	74.33

Although both firms are qualified to prepare an update of the Housing Element, JHD Planning, LLC is the lowest bid with a cost schedule totaling \$75,364 (including contingency), compared to Rincon Consultant, Inc.'s \$127,742 proposed cost schedule.

Staff is recommending that the City Council approve a Professional Services Agreement with JHD Planning, LLC for an amount not to exceed \$68,540, and approve a contingency in the amount of \$6,824, to provide consulting services associated with updating the Housing Element of the General Plan.

#### **LEGAL REVIEW:**

The City Attorney's Office has reviewed and approved the proposed agreement as to form.

#### **OPTIONS:**

The City Council has the following options:

1. Approve Staff's recommendation; or
2. Provide alternative direction.

**Prepared by:** Jo-Anne Burns, Planning Manager

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#### **Fiscal Impact**

##### **FISCAL IMPACT:**

Funding for the professional services agreement with JHD Planning LLC will be paid out of the housing funds professional services budget (Account No. 820.22.2210.6110). There are adequate funds in the budget to cover the contract amount.

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#### **Attachments**

Attachment No. 1 - Agreement with JHD Planning

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**CITY COUNCIL GOALS & OBJECTIVES:** Enhance City Programs and Activities  
Engage in Proactive Economic Development



**CITY OF WEST COVINA  
PROFESSIONAL SERVICES AGREEMENT  
WITH  
JHD PLANNING, LLC  
FOR  
PREPARATION OF THE WEST COVINA  
GENERAL PLAN HOUSING ELEMENT UPDATE**

THIS AGREEMENT is made and entered into this 7th day of July, 2020 ("Effective Date"), by and between the CITY OF WEST COVINA, a municipal corporation ("City"), and JHD PLANNING, LLC, a California limited liability company ("Consultant").

**WITNESSETH:**

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to City to prepare the West Covina General Plan Housing Element update, as more fully described herein; and

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated, except that if Consultant is required to but does not yet hold a City business license, it will promptly obtain a business license and will not provide services to the City until it has done so; and

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

E. WHEREAS, Consultant responded to the City's Request for Proposals dated April 8, 2020, incorporated via this reference as if fully set forth herein, and Consultant's response to the Request for Proposals was a material inducement to the City ultimately entering into this agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**1.0. SERVICES PROVIDED BY CONSULTANT**

1.1. Scope of Services. Consultant shall provide the professional services described in the Scope of Services attached hereto as Exhibit "A," incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its



performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement. Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. City officers and employees shall not be liable at law or in equity for any claims or damages occurring as a result of failure of the Consultant to comply with this section.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the reasonable satisfaction of the City. Evaluations of the work will be conducted by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical or mental disability, medical condition, genetic information, pregnancy, marital status, sex, gender, gender identity, gender expression, sexual orientation, or military or veteran status, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

1.8 Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors,



pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the court.

## **2.0. COMPENSATION AND BILLING**

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "B," attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's total compensation shall not exceed Sixty-Eight Thousand Five Hundred Forty Dollars (\$68,540.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the Scope of Services unless the City, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable. Should the City request in writing additional services that increase the Scope of Services, an additional fee based upon the Consultant's standard hourly rates shall be paid to the Consultant for such additional services. Such increase in additional fees shall be limited to 25% of the total contract sum or to the maximum total contract amount of \$25,000, whichever is greater. The Department Head or City Manager is authorized to approve a Change Order for such additional services.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but no more often than once a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City for inspection and/or audit at mutually convenient times from the Effective Date until three (3) years after the termination or expiration of this Agreement.

## **3.0. TIME OF PERFORMANCE**

3.1. Commencement and Completion of Work. Unless otherwise agreed to by the parties, the professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Said services shall be performed in strict compliance with the Project Schedule approved by City as set forth in Exhibit "C," attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.



3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party. If a delay beyond the control of the Consultant is encountered, a time extension may be mutually agreed upon in writing by the City and the Consultant. The Consultant shall present documentation satisfactory to the City to substantiate any request for a time extension.

#### **4.0. TERM AND TERMINATION**

4.1. Term. This Agreement shall commence on the Effective Date and continue through December 31, 2021, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing at least fifteen (15) days prior written notice to Consultant. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City. If the City suspends, terminates or abandons a portion of this Agreement, such suspension, termination or abandonment shall not make void or invalidate the remainder of this Agreement.

Consultant may terminate this Agreement at any time, with or without cause, by providing at least thirty (30) days written notice to City.

If the Consultant defaults in the performance of any of the terms or conditions of this Agreement, it shall have ten (10) days after service upon it of written notice of such default in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled to at law, in equity, or under this Agreement.

The City also shall have the right, notwithstanding any other provisions of this Agreement, to terminate this Agreement, at its option and without prejudice to any other remedy to which it may be entitled to at law, in equity, or under this Agreement, immediately upon service of written notice of termination on the Consultant, if the latter should:

- a. Be adjudged a bankrupt;
- b. Become insolvent or have a receiver of its assets or property appointed because of insolvency;
- c. Make a general assignment for the benefit of creditors;
- d. Default in the performance of any obligation or payment of any indebtedness under this Agreement;
- e. Suffer any judgment against it to remain unsatisfied or unbonded of record for thirty (30) days or longer; or



- f. Institute or suffer to be instituted any procedures for reorganization or rearrangement of its affairs.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the effective date of the City's written notice of termination, within forty-five (45) days after the effective date of the notice of termination or the final invoice of the Consultant, whichever occurs last. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of the effective date of the notice of termination, at no cost to City.

## **5.0. INSURANCE**

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company authorized to do business in California, with a current A.M. Best's rating of no less than A:VII, and approved by City:

- (a) Broad-form commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per accident for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers for losses arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

By execution of this Agreement, the Consultant certifies as follows:

I am aware of, and will comply with, Section 3700 of the Labor Code, requiring every employer to be insured against liability of Workers' Compensation or to undertake self-insurance before commencing any of the work.



The Consultant shall also comply with Section 3800 of the Labor Code by securing, paying for and maintaining in full force and effect for the duration of this Agreement, complete Workers' Compensation Insurance, and shall furnish a Certificate of Insurance to the City before execution of this Agreement by the City. The City, its officers and employees shall not be responsible for any claims in law or equity occasioned by failure of the consultant to comply with this section.

- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence or claim and aggregate. If the policy is written as a "claims made" policy, the retroactivity date shall be prior to the start of the work set forth herein. Consultant shall obtain and maintain said E&O liability insurance during the life of this Agreement and for one (1) year after completion of the work hereunder. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of one (1) year after completion of the work.

If the Consultant maintains higher limits or has broader coverage than the minimums shown above, the City requires and shall be entitled to all coverage, and to the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

5.2. Endorsements. The commercial general liability insurance policy shall contain, or be endorsed to contain, the following provisions:

- (a) Additional Insureds: The City of West Covina and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles leased, hired, or borrowed by the Consultant.
- (b) Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.
- (c) Primary Coverage: The Consultant's insurance coverage shall be primary insurance as respects the City of West Covina, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of West Covina shall be excess and not contributing with the insurance provided by this policy.
- (d) Waiver of Subrogation: Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of



whether or not the City has received a waiver of subrogation endorsement from the insurer.

- (e) Coverage Not Affected: Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of West Covina, its officers, officials, agents, employees, and volunteers.
- (f) Coverage Applies Separately: The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. The City may require the Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

5.5. Non-limiting. Nothing in this Section shall be construed as limiting in any way the indemnification provision contained in this Agreement.

## **6.0. GENERAL PROVISIONS**

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Key Personnel. It is the intent of both parties to this Agreement that Consultant shall make available the professional services of John Douglas, AICP, who shall coordinate directly with City. Any substitution of key personnel must be approved in advance in writing by City's Representative.

6.4. Notices. Any notices, documents, correspondence or other communications



concerning this Agreement or the work hereunder may be provided by personal delivery, Email or by U.S. mail. If by U.S. mail, it shall be addressed as set forth below and placed in a sealed envelope, postage prepaid, and deposited in the United States Postal Service. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by Email; and c) 72 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

JHD Planning, LLC  
P.O. Box 474  
Shaver Lake, CA 93664  
Email: John@JHDPlanning.net  
Attn: John Douglas

IF TO CITY:

City of West Covina  
1444 West Garvey Ave. South  
West Covina, CA 91790  
Email: JBurns@westcovina.org  
Attn: Jo-Anne Burns

6.5. Attorneys' Fees. If litigation is brought by any party in connection with this Agreement against another party, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof. For purposes of this Agreement, the "prevailing party" shall be understood to be that party which is awarded, or successfully defends against, at least seventy-five percent (75%) of the damages sought.

6.6. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Los Angeles County, California.

6.7. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.8. Indemnification and Hold Harmless. Consultant shall indemnify and hold harmless the City, and its elected and appointed officials, officers, employees, agents, and representatives, for losses, including reasonable attorneys' fees and costs, to the extent caused by the negligent or wrongful acts, errors, or omissions of Consultant, its officers, employees, agents, or subcontractors in the performance of this Agreement. Consultant has no duty to defend City in connection with this indemnification. However, to the extent that any City loss is finally determined by a court to be caused by the negligent or wrongful acts, errors, or omissions of Consultant, its officers, employees, agents, or subcontractors, Consultant shall reimburse City for such loss, including reasonable defense costs, proportionate to Consultant's comparative fault as determined by the court. Consultant's liability for such losses shall be limited to the amount of Consultant's available insurance coverage.



6.9. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder.

6.10. PERS Eligibility Indemnification. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.11. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require. City agrees to compensate Consultant for such assistance in accordance with the hourly rates set forth in the Fee Schedule.

6.12. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other related items as requested by City or its authorized representative. City agrees to reimburse Consultant for Consultant's actual, reasonable costs of providing such information and data to the City. Consultant or Consultant's agents shall execute such documents as may be necessary from time to time to confirm City's ownership of the copyright in such documents.

6.13. Electronic Safeguards. Consultant shall identify reasonably foreseeable internal and external risks to the privacy and security of personal information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of the information. Contractor shall regularly assess the sufficiency of any safeguards and information security awareness training in place to control reasonably foreseeable internal and external risks, and evaluate and adjust those safeguards in light of the assessment.

6.14. Economic Interest Statement. Consultant hereby acknowledges that pursuant to



Government Code Section 87300 and the Conflict of Interest Code adopted by City, Consultant is designated in said Conflict of Interest Code and is therefore required to file an Economic Interest Statement (Form 700) with the City Clerk, for each employee providing advice under this Agreement, prior to the commencement of work, unless waived by the City Manager.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act of 1974 (Government Code Section 81000, *et seq.*) and Government Code Sections 1090-1092. Consultant covenants that none of Consultant's officers or principals have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of the services hereunder, including in any manner in violation of the Political Reform Act. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be used by Consultant as an officer, employee, agent, or subconsultant. Consultant further covenants that Consultant has not contracted with nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City and further covenants and agrees that Consultant and/or its subconsultants shall provide no service or enter into any agreement or agreements with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City prior to the completion of the work under this Agreement.

6.16. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.17. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.18. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.19. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.20. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.21. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.22. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of



this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.23. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.24. Counterparts and Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement. Counterpart written signatures may be transmitted by facsimile, email or other electronic means and have the same legal effect as if they were original signatures.

6.25. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

6.26 Taxpayer Identification Number. Consultant shall provide City with a complete Request for Taxpayer Identification Number and Certification, Form W9, as issued by the Internal Revenue Service.

[SIGNATURE PAGE FOLLOWS]



**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF WEST COVINA,  
A municipal corporation

\_\_\_\_\_  
David Carmany  
City Manager

Date: \_\_\_\_\_

CONSULTANT

\_\_\_\_\_  
John H. Douglas  
Owner

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Lisa Sherrick  
Assistant City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Thomas P. Duarte  
City Attorney

Date: \_\_\_\_\_

APPROVED AS TO INSURANCE:

\_\_\_\_\_  
Helen Tran  
Human Resources and Risk Management  
Director

Date: \_\_\_\_\_



## EXHIBIT A

### SCOPE OF SERVICES

Described below are the specific tasks and work products we propose for this assignment. Other optional tasks can also be provided if desired.

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#### *Task 1* *Evaluate the Current* *Housing Element*

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We will conduct an evaluation of the current Housing Element including the following:

- Effectiveness of the housing programs and policies;
- Comparison of projected results from the adopted Housing Element to actual accomplishments;
- How these results are important to a revision of the Housing Element;
- Evaluation of existing Housing Element in comparison to current State Housing Law.

We will also review other City documents that are relevant to understanding local conditions and the community's housing needs, such as the General Plan, SCAG's Regional Housing Needs Assessment, zoning regulations, and other City documents that are related to the Housing Element.

The budget assumes that City staff will provide current information regarding City programs that are relevant to the Housing Element, including resources and funding mechanisms.

The results of this task will be summarized in an assessment memo and an outline for the 6<sup>th</sup> Housing Element update will be prepared.

#### Work Products

- Housing Element assessment memo
- 6<sup>th</sup> Housing Element outline

---

#### *Task 2* *Housing Needs* *Assessment*

---

We will complete the housing needs assessment pursuant to State requirements and coordinate with City staff to evaluate housing conditions using State-approved criteria. Where necessary to complete this task, we will analyze recent demographic and housing data. This data will be used to prepare the housing needs chapter of the Housing Element including the following information:

- Population, household and employment trends;
- Special housing needs (e.g. large families, seniors, persons with disabilities, homeless, etc.);
- Housing stock characteristics, including at-risk units,



housing conditions and vacancy rates;

- Residential building permit activity;
- Housing cost and affordability;
- Projected housing needs as assigned in the RHNA

The budget assumes that all information required for the needs analysis will be available from published sources or internal City data, and that no field work or original research will be necessary.

#### Work Products

- Housing needs assessment

---

### **Task 3** **Resources and Land** **Use Inventory**

---

We will prepare an evaluation of housing resources, including programmatic, physical, and financial. Information provided by City staff regarding current housing programs will be an important component of this analysis. The analysis will include a land use inventory and "adequate sites analysis" showing the relationship between the City's RHNA allocation and the realistic capacity for additional housing at a parcel-specific level based on current General Plan and zoning designations and existing conditions.

It should be noted that significant changes to State requirements for the sites analysis have occurred since the preparation of the 5<sup>th</sup> cycle Housing Element update. Among the most significant changes are:

- Site size - Sites smaller than 1/2 acre or larger than 10 acres are assumed to be unsuitable for lower-income housing absent evidence such as previous examples of affordable housing development on similar-sized parcels.
- Sites listed in prior Housing Elements - Vacant sites identified in two prior housing elements, and non-vacant sites identified in the prior housing element may not be used to satisfy lower-income RHNA needs unless the site satisfies the minimum "default density" for lower-income housing and zoning allows by-right residential development if at least 20% of units will be reserved for lower-income households.
- Substantial evidence for underutilized sites - If non-vacant sites comprise 50% or more of the lower-income inventory, the existing use shall be presumed to impede additional residential development absent findings



based on substantial evidence that the existing use is likely to be discontinued during the planning period. It is likely that this requirement will apply to West Covina and HCD has not yet published final guidance on what such "substantial evidence" must include.

- No net loss - Changes to *no net loss* rules require that adequate sites be maintained throughout the planning period. Under State default density rules, any qualifying site with an allowable density of 30+ units/acre may be counted for 100% lower-income RHNA credit. However, since few housing developments are 100% affordable, it is likely that over the course of the 8-year planning period, more lower-income sites will be needed than indicated by the initial RHNA to offset sites that are developed during the planning period.

The first step in preparing the sites inventory will be to update the 5<sup>th</sup> cycle inventory to reflect development activity, pending applications and changes to land use designations. The updated inventory will then be refined based upon the new criteria described above. We will coordinate with City staff to evaluate whether the updated sites inventory is sufficient to accommodate the 6<sup>th</sup> cycle RHNA. SCAG's 3/5/2020 preliminary RHNA calculator tool estimates a RHNA allocation of 5,333 units for West Covina, with about 2,500 of those in the very-low and low categories. The City's RHNA allocation in the prior cycle was 831 units.

The budget for this task assumes that City staff will assist by providing the raw data necessary to update the sites inventory, including City zoning and General Plan designations, infrastructure availability, planning and building permit data, assessor parcel data, and other information that could satisfy "substantial evidence" requirements, such as communications with property owners regarding development interest or expiring leases. If additional land use surveys are needed to satisfy HCD requirements, such work can be provided as an optional task on a time-and-materials basis.

Based upon the magnitude of the 6<sup>th</sup> cycle RHNA assigned to SCAG by HCD – over 1.3 million housing units compared to about 412,000 units in the previous cycle – we anticipate that potential accessory dwelling units (ADUs) will be an important component of the 6<sup>th</sup> cycle Housing Element sites inventory. One of the first tasks after project initiation will be a conversation with City staff regarding ADU regulations and development trends, and ensuring that a monitoring mechanism is in place to support Housing Element assumptions



regarding future ADU development.

If necessary, we will work with staff to identify potential zoning and development strategies to address any shortfall of housing capacity compared to the RHNA allocation (see also the optional tasks below).

#### Work Products

- Analysis of resources and potential housing sites

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#### **Task 4** **Constraints Analysis**

---

We will update the analysis of governmental and nongovernmental constraints based upon any changed circumstances such as the 2016 General Plan and zoning amendments, development review procedures, fees and infrastructure availability. If constraints are identified, we will recommend programs to mitigate or remove them, where feasible.

#### Work Products

- Constraints analysis

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#### **Task 5** **Special Housing Needs Analysis**

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This task is a component of the needs analysis described in Task 2 above and includes the following segments:

- Elderly
- Persons with disabilities
- Large (5+) households
- Female-headed households
- Farmworkers
- Homeless

#### Work Products

- Special housing needs analysis

---

#### **Task 6** **Preservation of Assisted Units**

---

This task includes analysis of assisted housing units that are eligible to convert to market-rate housing and strategies available to preserve those units in the affordable housing supply. It is assumed that the City will provide available information regarding assisted housing developments and City resources that could be utilized to assist in the preservation of units at risk of conversion.

#### Work Products

- Analysis of units at risk of conversion



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**Task 7**  
**Goals, Policies and**  
**Programs**

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Based upon the current Housing Element, the analyses described above, and input from City staff, decision-makers, stakeholders and HCD, we will recommend appropriate revisions to goals, policies, programs and quantified objectives.

Work Products

- Goals, policies, programs and quantified objectives

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**Task 8**  
**Public Review**

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This task includes preparation and review of the 6<sup>th</sup> cycle Housing Element consistent with the requirements of State law. The following sub-tasks are proposed:

Administrative Draft Housing Element. We will prepare an Administrative Draft Housing Element for internal Staff review. The budget assumes that the substance, level of detail, and format of the new Housing Element will be similar to the current element and that if new maps or graphics that are not available from published sources are desired, they will be provided by City staff. The Housing Element will include all of the sections required by State law, as described in the tasks above.

In addition to the Housing Element document, we will prepare a Housing Element *Frequently Asked Questions* (FAQ) for posting on the City website.

Public Review Draft Housing Element. Based upon Staff comments, we will prepare a Public Review Draft Housing Element for City distribution. The Draft Housing Element must be submitted to HCD for review prior to adoption. We will assist Staff in coordinating with HCD and responding to questions and comments on the Draft Housing Element.

Final Housing Element. We will prepare a proposed final Housing Element, including any changes to the draft Element required by HCD, for Planning Commission review and City Council adoption. The due date for Housing Element adoption is October 15, 2021 and we will work closely with Staff to ensure that applicable deadlines and requirements are met. The budget assumes one Draft Housing Element submittal to HCD plus submittal of the adopted element.

Public Meetings. The budget assumes that Mr. Douglas will participate in a total of three public meetings/hearings. If additional meeting attendance is desired by the City, we will participate in those additional meetings on a time-and-materials basis.



Mr. Douglas will provide a presentation at each meeting as directed by the City's Project Manager. We will also assist City staff in compiling a public notification list of interested parties, assist in preparing public meeting notices for publication by the City, and prepare a draft staff report and supporting materials for each meeting.

#### Work Products

- Administrative Draft Housing Element for review by City staff
- Public Review Draft Housing Element incorporating staff comments for review by the community, the Planning Commission, the City Council and HCD
- Proposed Final Housing Element reflecting any revisions that may be appropriate in response to comments received
- Final adopted Housing Element
- For each work product, a digital file (Word and PDF) will be provided
- Participation in three public meetings

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#### **Task 9** **CEQA Compliance**

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We will conduct an environmental review for the Housing Element update in compliance with CEQA. The budget assumes that either an Initial Study/Negative Declaration (IS/ND) or an addendum to the General Plan EIR will be appropriate. The analysis will be programmatic in nature, and if the Housing Element identifies a need for land use and zoning amendments to provide adequate sites, potential impacts related to those amendments and future housing developments will be addressed at a conceptual level of detail. No technical studies are anticipated.

If it is determined that land use changes are necessary to demonstrate adequate sites to accommodate the RHNA, we will work with staff to determine an appropriate course of action for those land use amendments and CEQA documentation, and assistance with those amendments, as well as any required housing-related Code amendments, can be provided as optional tasks (see below). Based on the nature of any required land use amendments, it is possible that more extensive analysis such as technical studies or an EIR may be necessary. It is not possible to quantify a budget for CEQA



analysis of land use changes until the nature and location of those changes are identified.

After the close of the public comment period we will prepare draft responses to any comments received as well as revisions to the CEQA analysis (if necessary) and appropriate CEQA findings for review by the City.

We will also prepare draft CEQA notices. The budget assumes that the City will be responsible for distribution and posting of all CEQA documents and payment of all filing fees.

As with the Housing Element documents, the budget assumes that digital files (Word and PDF) will be provided for each work product.

#### Work Products

- Administrative draft IS/ND or Addendum for city review
- Public review draft IS/ND or Addendum incorporating staff comments
- Final IS/ND or Addendum

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#### **Task 10** **HCD Review**

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In consultation with City staff, we will facilitate HCD review and certification of the Housing Element. Two rounds of HCD review are required by State law – first for the draft element and then for the adopted element. Mr. Douglas will prepare a summary of HCD comments and the City's responses to those comments on the draft Housing Element. If HCD has additional comments on the adopted element, we will work with City staff to resolve those issues. It must be noted that the Housing Element is a policy document and we will advise City staff and decision-makers regarding certification requirements. However, since the Housing Element is ultimately subject to approval by the City Council, HCD certification will be contingent on City acceptance of any policy changes required by HCD.

#### Work Products

- HCD coordination on the draft and adopted Housing Elements

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#### **Task 11:** **Project** **Administration**

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This task includes overall project management and coordination, including refinements to the scope of work, schedule, communications protocols, and ongoing monitoring to ensure the success of the project. Our approach to project management is to anticipate the City's needs and take



personal responsibility for the success of the project. The budget assumes that ongoing coordination with City staff will occur via telephone and email.

#### Work Products

- Ongoing project coordination and schedule monitoring via telephone and email

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#### *Optional Tasks*

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Since the last Housing Element was prepared the State Legislature has adopted several significant changes to housing law, and additional changes continue to be introduced this year in Sacramento. The analysis of constraints (Task 4) will identify any City housing regulations that do not comply with current State requirements. As an optional task we can assist the City in drafting housing-related ordinances (such as ADU standards and accommodations for persons with disabilities or other special needs) that may be required based on current State law.

Based on SCAG's most recent draft RHNA methodology, it is possible that amendments to General Plan land use designations and zoning regulations could be required in order to demonstrate adequate sites to accommodate the new RHNA allocation.

If desired, we will work with the City to prepare a detailed scope of work to address these additional topics to ensure that the City remains in full compliance with State Housing Element law.



## EXHIBIT B

### FEE SCHEDULE

Our proposed budget for the Housing Element update is shown below. Additional tasks can be provided on a time-and-materials basis. Reimbursable expenses are billed at actual cost with no surcharge. We do not charge for travel expenses, and travel time to/from meetings is included in the budget for each meeting.

We commit to donating 10% of our consulting fees to charities of the City's choice that serve the communities where we work.

Task	Description	JD	WP	Hours	Cost
1	Housing Element Evaluation	16		16	\$2,400
2	Housing Needs Assessment	40		40	\$6,000
3	Resources & Land Use Inventory	80		80	\$12,000
4	Constraints Analysis	80		80	\$12,000
5	Special Housing Needs	16		16	\$2,400
6	Preservation of Assisted Units	16		16	\$2,400
7	Goals, Policies & Programs	20		20	\$3,000
8	Public Review				
	-Document preparation	40	16	56	\$7,040
	-Public meetings (3)	48		48	\$7,200
9	CEQA Compliance	40		40	\$6,000
10	HCD Review	40		40	\$6,000
11	Project Administration	12		12	\$1,800
	Total Labor	448	16	464	\$68,240
	Hourly Rate	\$150	\$65		
	Contingency (10%)				\$6,824
	Reimbursable Expenses		(See table below)		\$300
	Total Labor + Expenses				\$75,364

JD = John Douglas, AICP, Principal

WP = Graphics/word processing

#### Reimbursable Expenses

Travel/mileage	No charge
Postage/deliveries/supplies	\$300
Total	\$300

#### Notes:

- 1) Travel time and expenses are included in the budget for each task.
- 2) Contingency funds will not be used without prior City authorization



## EXHIBIT C

### PROJECT SCHEDULE

Under State law the due date for adoption of 6<sup>th</sup> cycle Housing Elements in the SCAG region is October 15, 2021. We will work closely with City staff to ensure timely completion of the project. The following preliminary milestone schedule would achieve the State Housing Element deadline; however, this schedule will be subject to refinement during the course of the project in consultation with City staff.

Date	Milestone
June 2020	Authorization to proceed
June - December 2020	Review current Housing Element Monitor SCAG RHNA process Prepare Administrative Draft Housing Element RHNA adoption by SCAG Public workshop
January 2021	Internal staff review of Administrative Draft Housing Element
February 2021	Prepare Public Review Draft Housing Element
March - May 2021	HCD review & consultation
June 2021	Planning Commission hearing & recommendation
July 2021	City Council hearing & adoption Submit adopted Housing Element to HCD (90-day review)





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF RELEASE OF FAITHFUL PERFORMANCE AND LABOR AND MATERIAL BONDS FOR PARCEL MAP NO. 74787 LOCATED AT 845 S. SUNKIST AVENUE - SILVERADO PROPERTY GROUP, LLC**

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### RECOMMENDATION:

It is recommended that the City Council accept all on-site and off-site improvements for Parcel Map No. 74787 located at 845 S. Sunkist Avenue and authorize the release of Faithful Performance and Labor and Material Bonds in the amount of \$29,250 and \$29,250, respectively.

### BACKGROUND:

A Subdivision Improvement Agreement represents a promise by a developer to install and complete, at the developer's own expense, specified public improvements required by the City in connection with a proposed development. The Agreement is secured by performance security, which guarantees satisfactory completion of the work, and a labor and materials bond, which guarantees that subcontractors and suppliers are paid for the work and materials they supply in connection with the improvements.

### DISCUSSION:

Silverado Property Group, LLC applied to subdivide a 26,650-square foot vacant residential parcel into three parcels to construct three single-family residences. In accordance with the conditions of approval for the development, Silverado Property Group, LLC entered into a Subdivision Improvement Agreement with the City for the required on-site and off-site improvements on March 13, 2019. The Agreement required performance security in an amount equal to 100% of the estimated cost of the improvements and a labor and materials bonds in an amount equal to 100% of the estimated cost of the improvements. Silverado Property Group, LLC posted a Faithful Performance bond in the amount of \$29,250 and a Labor and Materials in the amount of \$29,250.

All improvements have been completed in accordance with the Subdivision Improvement Agreement and to the satisfaction of the City Engineer or designee. Therefore, Silverado Property Group, LLC is requesting the release of the bonds. Staff recommends that the City Council accept the improvements and authorize the release of the Faithful Performance and Labor and Materials Bonds.

### OPTIONS:



The City Council has the following options:

1. Approve Staff's recommendation; or
2. Provide alternative direction.

**Prepared by:** Michael Ackerman, City Engineer

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### **Fiscal Impact**

#### **FISCAL IMPACT:**

The bonds are held to guarantee performance and released upon successful completion of the work. There is no impact to the City's general fund.

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**CITY COUNCIL GOALS & OBJECTIVES:** Enhance the City Image and Effectiveness  
Engage in Proactive Economic Development





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF PROGRAM EXTENDING PLANNING ENTITLEMENTS, BUILDING PLAN CHECKS, BUILDING PERMITS, ENGINEERING PLAN CHECKS, AND ENGINEERING PERMITS FOR A PERIOD OF SIX MONTHS**

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### **RECOMMENDATION:**

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2020-73 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PROVIDING AN AUTOMATIC EXTENSION OF THE EXPIRATION DATE OF ALL PLANNING ENTITLEMENTS, ALL BUILDING DIVISION PLAN CHECKS AND PERMITS, AND CERTAIN ENGINEERING DIVISION PLAN CHECKS AND PERMITS, WHICH WERE VALID AS OF MARCH 1, 2020 AND ARE DUE TO EXPIRE BY DECEMBER 31, 2020, FOR A PERIOD OF SIX MONTHS**

### **BACKGROUND:**

On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19. The City declared the existence of a local emergency on March 16, 2020. On the same day, the Los Angeles County Health Officer issued an order to prohibit group events and gatherings of 50 or more people and require social distancing measures. On March 19, 2020, the Health Officer issued the first "Safer at Home Order", prohibiting gatherings of 10 or more people and requiring the closure of indoor malls, shopping centers, and non-essential businesses. On March 21, 2020, the Health Officer issued a revised Safer at Home Order which, among other things, prohibited all group events and gatherings through April 19, 2020. West Covina City Hall closed to the public on March 23, 2020.

On April 10, 2020, the Los Angeles County Public Health Officer extended the Safer at Home Order through May 15, 2020. On May 6, 2020, Los Angeles County issued a five-stage roadmap outlining a phased approach to modifying the County's Safer at Home Order and a reopening process for certain business sectors. On May 18, 2020, West Covina City Hall re-opened to the public. On June 11, 2020, the Los Angeles County Public Health Officer issued a revised Health Officer order directing, among other things, that all persons living within the Los Angeles County Public Health Jurisdiction remain in their residences whenever practicable.

### **DISCUSSION:**



The City is seeking to assist homeowners, property owners and developers by extending the permit expiration dates by six months. This is a proactive economic development idea that will assist applicants' during this financially challenging times.

Entitlements approved by the Planning Commission and/or Community Development Director pursuant to provisions of the City's Zoning Code, as well as plan checks and permits conducted and issued pursuant to the adopted Building Code, include expiration dates.

Planning Division entitlements generally range from one year for a relatively small number of Director's review level projects (such as a Second Unit Review or Administrative Review), to two years for larger entitlements that require a public hearing (such as a Precise Plan or Conditional Use Permit). In each case, an applicant may apply prior to expiration of the original approval for up to a one-year extension, which may be granted by the original reviewing body (by the Director for Director's approvals; by the Planning Commission for Planning Commission's approvals).

For plan checks associated with Building and certain Engineering (retaining wall, drainage, and/or grading) permits, a permit must be issued within 180 days of the application or the plan check will expire. Up to one 180-day extension may be granted by the Building Official or City Engineer upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken and upon the payment of an extension fee.

West Covina Municipal Code Section 7-18.1 states that "[e]very permit shall become null and void by limitation whenever the work that is done during any continuous period of one hundred eighty days (180) amounts to less than ten (10) percent of the total work authorized by such permit."

While the City has been continuing to accept and process Planning entitlements, Building permit applications, and Engineering permit applications, and has been performing inspections in-person, staff acknowledges the difficulties some development projects have encountered in the current environment. Based on this, staff is recommending that the City Council consider automatically extending the expiration dates for all Planning entitlements, all Building Division plan checks and permits, and certain Engineering plan checks and permits (private property drainage, retaining wall, and/or grading) that were valid as of March 1, 2020 and that are due to expire by December 31, 2020, for a period of six-months with no associated fee. Permits that expired prior to March 1, 2020 are not eligible for this program.

#### **LEGAL REVIEW:**

The City Attorney's Office has reviewed the resolution and approved it as to form.

#### **OPTIONS:**

The City Council has the following options:

1. Adopt the proposed resolution; or
2. Defer action and provide alternate direction to staff; or
3. Take no action.

**Prepared by:** Jo-Anne Burns, Planning Manager

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#### **Fiscal Impact**

#### **FISCAL IMPACT:**



The fiscal impact is unknown. The extension fee is \$175.00 for Director's review level entitlements and \$948.00 for Planning Commission review level entitlements. The extension fee for Building/Engineering permits is typically based on and equals to the percentage of work that has not been completed (if 50-percent of the work has not yet been completed, the renewal fee would equal to 50-percent of the current permit fee for the project). Staff believes the benefits of extending permits for a limited time period will benefit the City's overall economic development goals.

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### **Attachments**

Attachment No. 1 - Resolution No. 2020-73

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**CITY COUNCIL GOALS & OBJECTIVES:** Enhance the City Image and Effectiveness  
Engage in Proactive Economic Development



**RESOLUTION NO. 2020-73**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PROVIDING AN AUTOMATIC EXTENSION OF THE EXPIRATION DATE OF ALL PLANNING ENTITLEMENTS, ALL BUILDING DIVISION PLAN CHECKS AND PERMITS, AND CERTAIN ENGINEERING DIVISION PLAN CHECKS AND PERMITS, WHICH WERE VALID AS OF MARCH 1, 2020 AND ARE DUE TO EXPIRE BY DECEMBER 31, 2020, FOR A PERIOD OF SIX MONTHS**

**WHEREAS**, on March 4, 2020, Governor Newsom proclaimed a State of Emergency in response to the global outbreak of the novel coronavirus, COVID-19. On the same date, the County of Los Angeles declared a local emergency and a local health emergency; and

**WHEREAS**, on March 16, 2020, the City Manager, acting in the capacity of the Director of Emergency Services, proclaimed the existence of a local emergency in West Covina due to the COVID-19 outbreak. On March 17, 2020, the City Council ratified the proclamation of local emergency; and

**WHEREAS**, on March 19, 2020, the Los Angeles County Health Officer issued a “Safer at Home Order” to prohibit group events and gatherings of 10 or more people, require social distancing measures, and require the closure of indoor malls, shopping centers, and non-essential businesses. On March 21, 2020, the Health Officer issued a revised order, which, among other things, prohibited all public and private group events and gatherings through April 19, 2020; and

**WHEREAS**, on April 10, 2020, the Safer at Home Order was extended through May 15, 2020; and

**WHEREAS**, on May 6, 2020, the County issued its five-stage roadmap outlining a phased approach to modifying the Safer at Home Order and a reopening process for certain business sectors; and

**WHEREAS**, pursuant to public health directives, West Covina City Hall was closed to the public from March 23, 2020 through May 15, 2020; and

**WHEREAS**, entitlements approved pursuant to the City of West Covina Zoning Code generally include an expiration date of one to two years after approval, with the potential for a 12-month extension; and

**WHEREAS**, pursuant to the West Covina Municipal Code, a permit shall be issued within 180 days of the application, or the plan check will expire for all building permit and certain engineering permit applications reviewed pursuant to the City’s adopted Building Code. Up to one 180-day extension may be granted by the Building Official and/or City



Engineer upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken and upon the payment of an extension fee; and

**WHEREAS**, pursuant to the West Covina Municipal Code, a building permit shall expire within 180 days of issuance if the building or work authorized by such permit is not commenced or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. An extension to an unexpired permit may be granted by the Building Official and/or City Engineer for a period of 180 days; and

**WHEREAS**, the State and local emergencies related to the spread of COVID-19 have disrupted the submittal, processing, approval and inspection of the development and construction projects within the City; and

**WHEREAS**, the City Council desires to automatically extend certain permit expiration dates for entitlements approved pursuant to the City's Zoning Code and building/engineering plan check and permits approved pursuant to the adopted Building Code for a period of six months.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The expiration date for planning entitlements approved pursuant to Chapter 26 (Zoning) and Chapter 20 (Subdivision Regulations) of the West Covina Municipal Code, which were valid as of March 1, 2020 and are due to expire by December 31, 2020, shall be automatically extended for a period of six months with no associated fee.

**SECTION 2.** The expiration date for Building/Engineering permits and applications being reviewed pursuant to Chapter 7 (Buildings and Building Regulations) and Chapter 9 (Drainage and Grading) of the West Covina Municipal Code, which were valid as of March 1, 2020 and are due to expire by December 31, 2020, shall be automatically extended for a period of six months with no associated fee, as long as the applicant ensures that the construction site is properly maintained, safe, and secure.

**SECTION 3.** The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 7th day of July, 2020.

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Tony Wu  
Mayor



**APPROVED AS TO FORM:**

**ATTEST:**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, Assistant City Clerk of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-73 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7th day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT:** **CONSIDERATION OF GOVERNMENT TORT CLAIMS**

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### RECOMMENDATION:

It is recommended that the City Council deny the following Government Tort Claims and the claimants to be notified:

1. E. Renee Washington vs. City of West Covina

### BACKGROUND:

The Tort Claims Act governs the filing of claims against a government entity. The Tort Claims Act is found in Division 3.6 of the California Government Code, Govt. Code §§ 810 et seq. Typically, one must first give written notice within six (6) months of the injury or discovery of the injury before filing an actual lawsuit in a California superior court, giving the governmental agency time to settle the claim.

### DISCUSSION:

As all claims should be considered potential lawsuits, it is requested that all Councilmembers refrain from making specific public comments so as not to prejudice any claim. Specific questions should be referred to the City Attorney.

**Prepared by:** Helen Tran, Director Human Resources/Risk Management

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**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability





## AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF RESOLUTION ADOPTING TERMS AND CONDITIONS OF EMPLOYMENT FOR EMPLOYEES IN THE WEST COVINA POLICE OFFICERS' ASSOCIATION (WCPOA)**

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### RECOMMENDATION:

That the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-74 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING TERMS AND CONDITIONS OF EMPLOYMENT FOR THE EMPLOYEES IN THE WEST COVINA POLICE OFFICERS' ASSOCIATION**

### BACKGROUND:

West Covina Police Officer Association (WCPOA) MOU is scheduled to expire on June 30, 2021. However, on January 30, 2020, the World Health Organization declared the novel coronavirus, COVID-19, outbreak a “public health emergency of international concern.” On March 11, 2020, the World Health Organization elevated the public health emergency to the status of a pandemic. In California, Governor Gavin Newsom declared a State of Emergency on March 4, 2020. On the same date, Los Angeles County declared a local emergency and a local health emergency. The City of West Covina declared a local emergency on March 16, 2020.

On March 19, 2020, Governor Newsom issued Executive Order N-33-20, mandating all individuals living in the State of California to stay at home or at their place of residence except as needed to maintain the continuity of operations of the federal critical infrastructure sectors. On the same date, the Los Angeles County Public Health Officer issued a Safer at Home Order for the Control of COVID-19, ordering, among other things, the immediate closure of: (1) non-essential retail businesses, (2) indoor malls and shopping centers, including all stores therein regardless whether they are essential or non-essential businesses, and (3) indoor and outdoor playgrounds for children, except for those located in childcare centers.

As a result of the State and County stay-at-home orders, the City has experienced a decline in economic activity, which has impacted the City’s revenues. City staff estimates a potential loss of \$2.8 million in General Fund revenues for Fiscal Year (FY) 2019-20 and a continuing loss of \$2.1 million in General Fund revenues in FY 2020-21.

In addition to the economic impacts from the COVID-19 pandemic, over the past five years, the City’s General Fund reserves have continued to decline – in FY 2014-15, the unassigned fund balance was \$20,531,695, in FY



2015-16, the unassigned fund balance was \$15,032,389, in FY 2016-17, the unassigned fund balance was \$14,119,078, in FY 2017-18, the unassigned fund balance was \$11,979,653, in FY 2018-19, the unassigned fund balance was \$9,884,913, and for FY 2019-20, the unassigned fund balance is projected to be \$1,903,251. These reserves are insufficient to fully absorb the loss in revenue that will occur due to the COVID-19 pandemic.

The City has also faced challenges in delivering a balanced budget in recent years. For example, to deliver a balanced budget for FY 2019-20, the City had to make significant cuts in expenditures, including layoffs of City employees, contracting out Building & Safety and Engineering functions, and not funding vacancies in City positions. Further, as of May 19, 2020, the City's General Fund deficit was \$7,201,514.

Due to the financial condition of the City, which has been exacerbated by the COVID-19 pandemic, the City Council unanimously declared a fiscal emergency on May 19, 2020. In declaring the fiscal emergency, the City Council authorized the City Manager to take any and all actions necessary to address the fiscal emergency, including reviewing and making changes to service agreements.

Unfortunately, as outlined above, the City has faced significant fiscal challenges in recent years, which challenges were not foreseeable at the time the City entered into the MOU with the WCPOA. The COVID-19 pandemic, which effectively shut down the economy, was also not foreseeable at the time the City entered into the MOU. Due to this "irresistible, superhuman cause", which is expected to result in a loss to the City of approximately \$2.8 million in General Fund revenues in the current fiscal year alone and which exacerbated the City's financial condition such that the City declared a fiscal emergency, the City is unable to perform its contractual obligations pursuant to the MOU. The City must stabilize its cash flow. The City is unable to determine when it will recover from the financial impacts of the pandemic and be in financial position to enable it to resume performance.

The City Manager sent an all staff memorandum to City employees on April 29, 2020 and May 19, 2020 summarizing the City's need to address its unforeseen emergency costs and strained financial position.

On May 15, 2020, the Los Angeles County Department of Auditor-Controller ("County Auditor-Controller") notified the City that due to delayed payments of property taxes due to the COVID-19 pandemic, the City's May 20, 2020 property tax remittance will be less than expected. On the same date, the County Auditor-Controller notified the Successor Agency that due to delayed payments of property taxes due to the COVID-19 pandemic, the Successor Agency's June 1, 2020 property tax remittance will be less than expected; and the City's General Fund reserves are insufficient to fully absorb the anticipated loss in revenue that will occur from the COVID-19 pandemic.

As of May 19, 2020, the City's General Fund deficit was \$7,201,514 and on May 19, 2020, the City Council declared a fiscal emergency in Resolution No. 2020-46

## **DISCUSSION:**

Between May 20, 2020 and July 7, 2020, representatives of the City met with representatives of the City's labor groups including West Covina Fire Management Association, West Covina Firefighters' Association I.A.F.F. Local 3226, West Covina Police Management Association, West Covina Non-Sworn Safety Support Employees' Association, West Covina Confidential Employees' Association, West Covina Maintenance and Crafts Employees' Association, West Covina Mid-Management Employees' Association, and West Covina General Employees' Association to discuss the City's unforeseen fiscal emergency and the need to immediately stabilize the City's cash flow through immediate cost savings measures through the reduction of personnel and benefits costs. The West Covina Fire Management Association, West Covina Firefighters' Association I.A.F.F. Local 3226, West Covina Police Management Association, West Covina Non-Sworn Safety Support Employees' Association, West Covina Confidential Employees' Association, West Covina Maintenance and Crafts Employees' Association, West Covina Mid-Management Employees' Association, and West Covina General Employees' Association have put forth proposals on reduction of personnel and benefits costs and reached agreement on proposals to assist the City during this unprecedented time to assist the City in immediately stabilizing the City's cash flow through immediate cost savings measures. Despite repeated efforts on the City's part to engage in good faith discussions and negotiations with the West Covina Police Officers' Association ("WCPOA") between May 20, 2020 to July 7, 2020, including making multiple requests to meet with WCPOA, the WCPOA refuses to meet with the City to discuss proposals on



reduction of personnel and benefits costs to assist the City on immediately stabilizing the City's cash flow through immediate cost savings measures.

The City is currently experiencing a month-to-month deficit cash flow and its cash balance is projected to be depleted in its entirety and turn negative by September 2020. The City projects to have a negative cash balance at the end of December 2020 of \$5,786,000. If the City does not take immediate action to reduce personnel and benefits related costs and expenditures, the City anticipates it will be unable to sustain its on-going operating expenses, including payroll; and because of the City's anticipated immediately forthcoming inability to sustain the current on-going operating expenses, including payroll, there is not a reasonable amount of time to complete the meet and confer process under the Meyers-Milias-Brown-Act, Government Code section 3500 et seq.

The following actions set forth below constitute an emergency within the meaning of Government Code section 3504.5, authorizing the immediate implementation of such terms and conditions while the City completes any remaining aspects of the meet and confer process. This emergency is based upon the findings in this resolution and Resolution No. 2020-46, adopted by the City Council on May 19, 2020.

1. The classic members' employee contribution to CalPERS shall be 12% through end of December 2020.
2. The entirety of the City/Employer contribution to Deferred Compensation provided to employees shall be suspended through end of December 2020.
3. The entirety of the \$600 cash amount provided to employees in lieu of receiving medical benefits, and the entirety of all cash amounts provided to employees covering the difference between the amount of the medical insurance premium and \$600, shall be suspended through end of December 2020.
4. The entirety of the City/Employer contribution to the Retiree Health Savings Plan (RHSP) shall be suspended through end of December 2020.
5. The entirety of all Senior Officer Pay (100%) shall be suspended through end of December 2020.
6. Educational Incentive Pay shall be reduced by 50% through end of December 2020.
7. Bilingual Pay shall be reduced by 10% through end of December 2020.
8. Hazardous Pay and Assignment Pay shall be reduced by 10% through end of December 2020.
9. Holiday Pay for shift employees shall be reduced by 10% through end of December 2020.
10. Uniform and Maintenance Allowance and Payment shall be reduced by 10% through end of December 2020.
11. There shall be cap on the City/Employer contribution towards Medical Insurance coverage as follows:
  - Employee Only - \$650.00
  - Employee + 1 (dependent) - \$1150.00
  - Employee + Family - \$1600.00.
12. The entirety of all Lateral Entry Employee Vacation Leave and Lateral Entry Sick Leave shall be suspended through end of December 2020.
13. The entirety of Tuition Reimbursement provided by City policy shall be suspended through June 30, 2021.
14. With the exception of the above terms and conditions of employment, all other terms and conditions of employment from any and all previous and current memoranda of understanding, amendments thereto, letters of understanding, and side letter agreements currently in effect between the City and the West Covina Police Officers' Association are to remain as terms and conditions of employment.

The terms and conditions of employment adopted are effective July 7, 2020.

The terms and conditions of employment adopted herein supersede any all previous and current memoranda of understanding, amendments thereto, letters of understanding, and side agreements currently in effect between the City and the affected employee organizations.

These terms and conditions of employment shall be immediately effective and the actions set forth in this resolution constitute an emergency within the meaning of Government Code section 3504.5, authorizing the immediate implementation of such terms and conditions while the City completes any remaining aspects of the meet and confer process. This emergency is based upon the findings in this resolution and Resolution No. 2020-46, adopted by the City Council on May 19, 2020.

## **LEGAL REVIEW:**



The City's Labor Attorney, LCW, has reviewed and approved the Resolution as to form.

**Prepared by:** Helen Tran, HR/Risk Management Director

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#### **Fiscal Impact**

**FISCAL IMPACT:**

The cost savings to the City through imposition of the terms and conditions of employment equals approximately \$462,000 for six months.

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#### **Attachments**

Attachment No. 1 - 2020-74 (West Covina Police Officers' Association)

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**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability



# **ATTACHMENT NO. 1**

## **RESOLUTION NO. 2020-74**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ADOPTING TERMS AND CONDITIONS OF EMPLOYMENT FOR EMPLOYEES IN THE WEST COVINA POLICE OFFICERS' ASSOCIATION (WCPOA)**

**WHEREAS**, the City was recently listed by the California State Auditor as a fiscally challenged city based on criteria that ranked the fiscal health of over 470 California cities across the State; and

**WHEREAS**, over the course of the past five (5) years, the City's unassigned General Fund balance has continuously declined: in FY 2014-15, the unassigned fund balance was \$20,531,695, in FY 2015-16, the unassigned fund balance was \$15,032,389, in FY 2016-17, the unassigned fund balance was \$14,119,078, in FY 2017-18, the unassigned fund balance was \$11,979,653, in FY 2018-19, the unassigned fund balance was \$9,884,913, and for FY 2019-20, the unassigned fund balance is projected to be \$1,903,251; and

**WHEREAS**, in order to deliver a balanced budget for FY 2019-20, the City made significant cuts in expenditures, including contracting out the Building & Safety and Engineering functions, not funding vacancies in nine (9) positions citywide, layoff of eight (8) employees, shifting some eligible salaries and benefits to special funds; and

**WHEREAS**, in order to ensure, to the maximum extent possible, that essential services of the City are not jeopardized, public health and safety are preserved, the City is able to pay its obligations when due, and the City is able to pay its employees for the work they perform, the City must take immediate and comprehensive action to further reduce spending, including, but not limited to, spending on personnel and benefit costs; and

**WHEREAS**, on January 30, 2020, the World Health Organization declared the novel coronavirus, COVID-19, outbreak a "public health emergency of international concern;" and

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a State of Emergency as part of the State's response to the global novel coronavirus (COVID-19) outbreak; and

**WHEREAS**, on March 11, 2020, the World Health Organization elevated the COVID-19 public health emergency to the status of a pandemic; and



**WHEREAS**, on March 16, 2020, the City Manager, acting in the capacity of the City's Director of Emergency Services, declared the existence of a local emergency due to the COVID-19 pandemic; and

**WHEREAS**, on March 16, 2020, the Los Angeles County Public Health Officer ("Local Health Officer"), issued an Order for the Control of COVID-19, directing, among other things, the immediate closure of: (1) bars and nightclubs that do not serve food, (2) movie theatres, live performance venues, bowling alleys, and arcades, (3) gyms and fitness centers, and (4) wineries, breweries, and tap rooms that provide tastings; and

**WHEREAS**, on March 17, 2020, the City Council adopted Resolution No. 2020-19, ratifying the City Manager's proclamation; and

**WHEREAS**, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, ordering all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors; and

**WHEREAS**, on March 19, 2020, the Local Health Officer issued a Safer at Home Order for the Control of COVID-19, ordering, among other things, the immediate closure of: (1) nonessential retail businesses, (2) indoor malls and shopping centers, including all stores therein regardless whether they are essential or non-essential businesses, and (3) indoor and outdoor playgrounds for children, except for those located in childcare centers; and

**WHEREAS**, the unforeseen economic impacts of the COVID-19 pandemic have been significant, and the City's approximately 3,278 businesses are experiencing substantial losses; and

**WHEREAS**, the City has experienced an unforeseen significant decline in economic activity due to the decline in business activity and the closure of all non-essential business establishments within the City due to the COVID-19 pandemic, thereby reducing revenues for Fiscal Year (FY) 2019-20 below budget estimates, with similar trends projected for FY 2020-21; and

**WHEREAS**, City staff estimates a potential loss of \$2,800,000 in General Fund revenues (i.e., sales tax, Transient Occupancy Tax, etc.) for FY 2019-20, and a continuing loss of \$2,100,000 in General Fund revenues in FY 2020-21; and

**WHEREAS**, the City Manager sent an all staff memorandum to City employees on April 29, 2020 and May 19, 2020 summarizing the City's need to address its unforeseen emergency costs and strained financial position; and

**WHEREAS**, on May 15, 2020, the Los Angeles County Department of Auditor-Controller ("County Auditor-Controller") notified the City that due to delayed payments of property taxes due to the COVID-19 pandemic, the City's May 20, 2020 property tax



remittance will be less than expected. On the same date, the County Auditor-Controller notified the Successor Agency that due to delayed payments of property taxes due to the COVID-19 pandemic, the Successor Agency's June 1, 2020 property tax remittance will be less than expected; and

**WHEREAS**, the City's General Fund reserves are insufficient to fully absorb the anticipated loss in revenue that will occur from the COVID-19 pandemic; and

**WHEREAS**, as of May 19, 2020, the City's General Fund deficit was \$7,201,514; and

**WHEREAS**, on May 19, 2020, the City Council declared a fiscal emergency in Resolution No. 2020-46; and

**WHEREAS**, between May 20, 2020 and July 7, 2020, representatives of the City met with representatives of the City's labor groups including West Covina Fire Management Association, West Covina Firefighters' Association I.A.F.F. Local 3226, West Covina Police Management Association, West Covina Non-Sworn Safety Support Employees' Association, West Covina Confidential Employees' Association, West Covina Maintenance and Crafts Employees' Association, West Covina Mid-Management Employees' Association, and West Covina General Employees' Association to discuss the City's unforeseen fiscal emergency and the need to immediately stabilize the City's cash flow through immediate cost savings measures through the reduction of personnel and benefits costs; and

**WHEREAS**, the West Covina Fire Management Association, West Covina Firefighters' Association I.A.F.F. Local 3226, West Covina Police Management Association, West Covina Non-Sworn Safety Support Employees' Association, West Covina Confidential Employees' Association, West Covina Maintenance and Crafts Employees' Association, West Covina Mid-Management Employees' Association, and West Covina General Employees' Association have put forth proposals on reduction of personnel and benefits costs and reached agreement on proposals to assist the City during this unprecedented time to assist the City in immediately stabilizing the City's cash flow through immediate cost savings measures; and

**WHEREAS**, despite repeated efforts on the City's part to engage in good faith discussions and negotiations with the West Covina Police Officers' Association ("WCPOA") between May 20, 2020 to July 7, 2020, including making multiple requests to meet with WCPOA, the WCPOA refuses to meet with the City to discuss proposals on reduction of personnel and benefits costs to assist the City on immediately stabilizing the City's cash flow through immediate cost savings measures; and

**WHEREAS**, the City is currently experiencing a month-to-month deficit cash flow and its cash balance is projected to be depleted in its entirety and turn negative by September 2020;



**WHEREAS**, the City projects to have a negative cash balance at the end of December 2020 of \$5,786,000; and

**WHEREAS**, if the City does not take immediate action to reduce personnel and benefits related costs and expenditures, the City anticipates it will be unable to sustain its on-going operating expenses, including payroll; and

**WHEREAS**, because of the City's anticipated immediately forthcoming inability to sustain the current on-going operating expenses, including payroll, there is not a reasonable amount of time to complete the meet and confer process under the Meyers-Milias-Brown-Act, Government Code section 3500 *et seq.*

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council finds that all of the foregoing recitals are true and correct and hereby incorporates and adopts them as findings and determinations by the City Council as if fully set forth herein.

**SECTION 2.** The City Council finds that the need to immediately implement the terms and conditions of employment and take the actions set forth in this resolution constitute an emergency within the meaning of Government Code section 3504.5, authorizing the immediate implementation of such terms and conditions while the City completes any remaining aspects of the meet and confer process. This emergency is based upon the findings in this resolution and Resolution No. 2020-46, adopted by the City Council on May 19, 2020.

**SECTION 3.** The terms and conditions for employees in the West Covina Police Officers' Association are described below and are adopted.

1. The classic members' employee contribution to CalPERS shall be 12% through end of December 2020.
2. The entirety of the City/Employer contribution to Deferred Compensation provided to employees shall be suspended through end of December 2020.
3. The entirety of the \$600 cash amount provided to employees in lieu of receiving medical benefits, and the entirety of all cash amounts provided to employees covering the difference between the amount of the medical insurance premium and \$600, shall be suspended through end of December 2020.
4. The entirety of the City/Employer contribution to the Retiree Health Savings Plan (RHSP) shall be suspended through end of December 2020.
5. The entirety of all Senior Officer Pay (100%) shall be suspended through end of December 2020.



6. Educational Incentive Pay shall be reduced by 50% through end of December 2020.
7. Bilingual Pay shall be reduced by 10% through end of December 2020.
8. Hazardous Pay and Assignment Pay shall be reduced by 10% through end of December 2020.
9. Holiday Pay for shift employees shall be reduced by 10% through end of December 2020.
10. Uniform and Maintenance Allowance and Payment shall be reduced by 10% through end of December 2020.
11. There shall be cap on the City/Employer contribution towards Medical Insurance coverage as follows:
  - o Employee Only - \$650.00
  - o Employee + 1 (dependent) - \$1150.00
  - o Employee + Family - \$1600.00.
12. The entirety of all Lateral Entry Employee Vacation Leave and Lateral Entry Sick Leave shall be suspended through end of December 2020.
13. The entirety of Tuition Reimbursement provided by City policy shall be suspended through June 30, 2021.
14. With the exception of the above terms and conditions of employment, all other terms and conditions of employment from any and all previous and current memoranda of understanding, amendments thereto, letters of understanding, and side letter agreements currently in effect between the City and the West Covina Police Officers' Association are to remain as terms and conditions of employment.

**SECTION 4.** The terms and conditions of employment adopted herein are effective July 7, 2020.

**SECTION 5.** The terms and conditions of employment adopted herein supersede any all previous and current memoranda of understanding, amendments thereto, letters of understanding, and side agreements currently in effect between the City and the West Covina Police Officers' Association.

**SECTION 6.** The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.



**APPROVED AND ADOPTED** this 7th day of July, 2020.

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Tony Wu

Mayor

**APPROVED AS FORM**

**ATTEST**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-74 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7th day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF A RESOLUTION ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE NON-SWORN SAFETY SUPPORT EMPLOYEES' ASSOCIATION**

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### RECOMMENDATION:

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-76 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE NON-SWORN SAFETY SUPPORT EMPLOYEES' ASSOCIATION REPRESENTED BY TEAMSTERS LOCAL 1932 UNION**

### BACKGROUND:

The West Covina Non-Safety Support Employees' Memorandum of Understanding expired on June 30, 2017. Terms and conditions of employment were imposed and adopted to cover fiscal year 2017-2018, and have been in operation since that time. The City and the West Covina Non-Safety Support Employees, represented by Teamsters Local 1932 Union met and conferred on nine (9) occasions and have reached an agreement on a one-year Memorandum of Understanding, covering the period of July 1, 2020 until June 30, 2021 ("MOU").

### DISCUSSION:

The City and the Non-Sworn Safety Support Employees' Association have memorialized the agreement reached in an MOU. The terms and conditions agreed upon addressed the necessary cost-saving measures as a result of the City's dire financial condition, as declared on May 19, 2020.

**Prepared by:** Helen Tran, HR/Risk Management Director

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### Fiscal Impact

#### FISCAL IMPACT:

Anticipated savings is approximately \$78,000.00 of benefits reductions suspended for a period of 6 months (through December 31, 2020).

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### Attachments



**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability



## ATTACHMENT NO. 1

### RESOLUTION NO. 2020-76

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE NON-SWORN SAFETY SUPPORT EMPLOYEES' ASSOCIATION REPRESENTED BY TEAMSTERS LOCAL 1932 UNION**

**WHEREAS**, the City of West Covina, hereinafter referred to as the "City," and the Non-Sworn Safety Support Employees' Association represented by Teamsters Local 1932, have met and conferred in accordance with the Meyers-Milias-Brown Act and Government Labor Code §3500; and

**WHEREAS**, the City and the Non-Sworn Safety Support Employees' Association represented by Teamsters Local 1932 have memorialized the agreement in a memorandum of understanding.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY RESOLVES AS FOLLOWS:**

**SECTION 1.** The Memorandum of Understanding between the City and the Non-Sworn Safety Support Employees' Association represented by Teamsters Local 1932 to be provided at the regular meeting of the City Council on July 7, 2020 is hereby approved.

**SECTION 2.** The City Manager is authorized to sign the Memorandum of Understanding.

**APPROVED, AND ADOPTED** by the City Council of the City of West Covina at its regular meeting on this 7th day of July, 2020.

---

Tony Wu  
Mayor

**APPROVED AS FORM**

**ATTEST**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk



I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-76 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7th day of July, 2019, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND  
THE WEST COVINA FIREFIGHTERS' ASSOCIATION, I.A.F.F., LOCAL 3226**

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### RECOMMENDATION:

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-75 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA FIREFIGHTERS' ASSOCIATION, I.A.F.F., LOCAL 3226**

### BACKGROUND:

West Covina Firefighters' Association (WCFFA) MOU is scheduled to expire on June 30, 2022. However, on January 30, 2020, the World Health Organization declared the novel coronavirus, COVID-19, outbreak a "public health emergency of international concern." On March 11, 2020, the World Health Organization elevated the public health emergency to the status of a pandemic. In California, Governor Gavin Newsom declared a State of Emergency on March 4, 2020. On the same date, Los Angeles County declared a local emergency and a local health emergency. The City of West Covina declared a local emergency on March 16, 2020.

On March 19, 2020, Governor Newsom issued Executive Order N-33-20, mandating all individuals living in the State of California to stay at home or at their place of residence except as needed to maintain the continuity of operations of the federal critical infrastructure sectors. On the same date, the Los Angeles County Public Health Officer issued a Safer at Home Order for the Control of COVID-19, ordering, among other things, the immediate closure of: (1) non-essential retail businesses, (2) indoor malls and shopping centers, including all stores therein regardless whether they are essential or non-essential businesses, and (3) indoor and outdoor playgrounds for children, except for those located in childcare centers.

As a result of the State and County stay-at-home orders, the City has experienced a decline in economic activity, which has impacted the City's revenues. City staff estimates a potential loss of \$2.8 million in General Fund revenues for Fiscal Year (FY) 2019-20 and a continuing loss of \$2.1 million in General Fund revenues in FY 2020-21.

In addition to the economic impacts from the COVID-19 pandemic, over the past five years, the City's General Fund reserves have continued to decline – in FY 2014-15, the unassigned fund balance was \$20,531,695, in FY 2015-16, the unassigned fund balance was \$15,032,389, in FY 2016-17, the unassigned fund balance was



\$14,119,078, in FY 2017-18, the unassigned fund balance was \$11,979,653, in FY 2018-19, the unassigned fund balance was \$9,884,913, and for FY 2019-20, the unassigned fund balance is projected to be \$1,903,251. These reserves are insufficient to fully absorb the loss in revenue that will occur due to the COVID-19 pandemic.

The City has also faced challenges in delivering a balanced budget in recent years. For example, to deliver a balanced budget for FY 2019-20, the City had to make significant cuts in expenditures, including layoffs of City employees, contracting out Building & Safety and Engineering functions, and not funding vacancies in City positions. Further, as of May 19, 2020, the City's General Fund deficit was \$7,201,514.

Due to the financial condition of the City, which has been exacerbated by the COVID-19 pandemic, the City Council unanimously declared a fiscal emergency on May 19, 2020. In declaring the fiscal emergency, the City Council authorized the City Manager to take any and all actions necessary to address the fiscal emergency, including reviewing and making changes to service agreements.

Unfortunately, as outlined above, the City has faced significant fiscal challenges in recent years, which challenges were not foreseeable at the time the City entered into the MOU with the WCPOA. The COVID-19 pandemic, which effectively shut down the economy, was also not foreseeable at the time the City entered into the MOU. Due to this "irresistible, superhuman cause", which is expected to result in a loss to the City of approximately \$2.8 million in General Fund revenues in the current fiscal year alone and which exacerbated the City's financial condition such that the City declared a fiscal emergency, the City is unable to perform its contractual obligations pursuant to the MOU. The City must stabilize its cash flow. The City is unable to determine when it will recover from the financial impacts of the pandemic and be in financial position to enable it to resume performance.

The City Manager sent an all staff memorandum to City employees on April 29, 2020 and May 19, 2020 summarizing the City's need to address its unforeseen emergency costs and strained financial position.

On May 15, 2020, the Los Angeles County Department of Auditor-Controller ("County Auditor-Controller") notified the City that due to delayed payments of property taxes due to the COVID-19 pandemic, the City's May 20, 2020 property tax remittance will be less than expected. On the same date, the County Auditor-Controller notified the Successor Agency that due to delayed payments of property taxes due to the COVID-19 pandemic, the Successor Agency's June 1, 2020 property tax remittance will be less than expected; and the City's General Fund reserves are insufficient to fully absorb the anticipated loss in revenue that will occur from the COVID-19 pandemic.

As of May 19, 2020, the City's General Fund deficit was \$7,201,514 and on May 19, 2020, the City Council declared a fiscal emergency in Resolution No. 2020-46.

## **DISCUSSION:**

Between May 20, 2020 and July 7, 2020, representatives of the City met with representatives of the West Covina Firefighters' Association I.A.F.F. Local 3226 to discuss the City's unforeseen fiscal emergency and the need to immediately stabilize the City's cash flow through immediate cost savings measures through the reduction of personnel and benefits costs. The West Covina Firefighters' Association I.A.F.F. Local 3226 have put forth proposals on reduction of personnel and benefits costs and reached agreement on proposals to assist the City during this unprecedented time to assist the City in immediately stabilizing the City's cash flow through immediate cost savings measures.

**Prepared by:** Helen Tran, Director Human Resources/Risk Management

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## **Fiscal Impact**

### **FISCAL IMPACT:**

Anticipated savings is approximately \$730,000.00 of benefits reductions suspended for 6 months, through December 31, 2020.

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## **Attachments**



**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability



## ATTACHMENT NO. 1

### RESOLUTION NO. 2020-75

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING  
THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA FIREFIGHTERS'  
ASSOCIATION, I.A.F.F., LOCAL 3226 (WCFFA)**

**WHEREAS**, the City of West Covina, hereinafter referred to as the "City," and the West Covina Firefighters' Association, I.A.F.F. Local 3226 have met and conferred in accordance with the Meyers-Milias-Brown Act and Government Labor Code §3500; and

**WHEREAS**, the City and the West Covina Firefighters' Association, I.A.F.F. Local 3226 have memorialized the agreement in a written side letter of agreement.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY  
RESOLVES AS FOLLOWS:**

**SECTION 1.** The Side Letter of Agreement between the City and the West Covina Firefighters' Association, I.A.F.F. Local 3226 to be provided at the regular meeting of the City Council on July 7, 2020 is hereby approved.

**SECTION 2.** The City Manager is authorized to sign the Side Letter of Agreement.  
APPROVED AND ADOPTED by the City Council of the City of West Covina at its regular meeting on this 7th day of July, 2020.

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Tony Wu  
Mayor

**APPROVED AS FORM**

**ATTEST**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk



I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-75 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7th day of July, 2019, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY  
AND THE WEST COVINA POLICE MANAGEMENT ASSOCIATION**

---

### RECOMMENDATION:

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-77 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST  
COVINA, CALIFORNIA ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE  
CITY AND THE WEST COVINA POLICE MANAGEMENT ASSOCIATION (WCPMA)**

### BACKGROUND:

The West Covina Police Management Association's Memorandum of Understanding expired on June 30, 2019. The City and the West Covina Police Management Employees met and conferred on eight (8) occasions and have reached an agreement on a two-year Memorandum of Understanding, covering the period of July 1, 2020 until June 30, 2022 ("MOU").

### DISCUSSION:

The City and the Police Management Association have memorialized the agreement reached in an MOU. The terms and conditions agreed upon addressed the necessary cost-saving measures as a result of the City's dire financial condition, as declared on May 19, 2020.

**Prepared by:** Helen Tran, HR/Risk Management Director

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### Fiscal Impact

#### FISCAL IMPACT:

Anticipated savings is approximately \$53,000 in benefits reduction suspended for a 6 month period (through December 31, 2020).

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### Attachments

Attachment No. 1 - Resolution 2020-77 (West Covina Police Management Association)

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**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability







## ATTACHMENT NO. 1

### RESOLUTION NO. 2020-77

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE WEST COVINA POLICE MANAGEMENT ASSOCIATION (WCPMA)**

**WHEREAS**, the City of West Covina, hereinafter referred to as the “City,” and the West Covina Police Management Association, have met and conferred in accordance with the Meyers-Milias-Brown Act and Government Labor Code §3500; and

**WHEREAS**, the City and the West Covina Police Management Association have memorialized the agreement in a memorandum of understanding.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY  
RESOLVES AS FOLLOWS:**

**SECTION 1.** The Memorandum of Understanding between the City and the West Covina Police Management Association to be provided at the regular meeting of the City Council on July 7, 2020 is hereby approved.

**SECTION 2.** The City Manager is authorized to sign the Memorandum of Understanding.

**APPROVED, AND ADOPTED** by the City Council of the City of West Covina at its regular meeting on this 7th day of July, 2020.

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Tony Wu  
Mayor

**APPROVED AS FORM**

**ATTEST**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk



I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-77 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7th day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND  
THE WEST COVINA MAINTENANCE AND CRAFTS EMPLOYEES' ASSOCIATION**

---

### RECOMMENDATION:

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 79 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA MAINTENANCE AND CRAFTS EMPLOYEES' ASSOCIATION REPRESENTED BY CITY EMPLOYEES ASSOCIATES (CEA)**

### BACKGROUND:

The West Covina Maintenance and Crafts represented by City Employees' Association (CEA) Memorandum of Understanding expired on June 30, 2019. The City and the West Covina Maintenance and Crafts employee association met and conferred on nine (9) occasions and have reached a side letter of agreement.

### DISCUSSION:

The City and the Maintenance and Crafts Employee Association have memorialized a side letter of agreement. The terms and conditions agreed upon address personnel-related cost-saving measures immediately needed as a result of the City's dire financial condition, as declared on May 19, 2020. Such cost-savings measures include the suspension and reduction of certain employment benefits through the end of December 2020.

**Prepared by:** Helen Tran, HR/Risk Management Director

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### Fiscal Impact

#### FISCAL IMPACT:

Anticipated savings is approximately \$30,000 of benefits reduction suspended for a period of 6 months (through December 31, 2020).

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### Attachments

Attachment No. 1 - Resolution No. 2020-79 (West Covina Maintenance and Crafts Employees' Association)

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**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability



**RESOLUTION NO. 2020-79**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA  
ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST  
COVINA MAINTENANCE AND CRAFTS EMPLOYEES' ASSOCIATION REPRESENTED BY  
CITY EMPLOYEES ASSOCIATES (CEA)**

**WHEREAS**, the City of West Covina, hereinafter referred to as the "City," and the West Covina Maintenance and Crafts Employees' Association represented by City Employees Associates, have met and conferred in accordance with the Meyers-Milias-Brown Act and Government Labor Code §3500; and

**WHEREAS**, the City and the West Covina Maintenance and Crafts Employees' Association represented by City Employees Associates have memorialized the agreement in a written side letter of agreement.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY  
RESOLVES AS FOLLOWS:**

SECTION 1. The Side Letter of Agreement between the City and the West Covina Maintenance and Crafts Employees' Association represented by City Employees Associates to be provided at the regular meeting of the City Council on July 7, 2020 is hereby approved.

SECTION 2. The City Manager is authorized to sign the Side Letter of Agreement.

APPROVED AND ADOPTED by the City Council of the City of West Covina at its regular meeting on this 7th day of July, 2020.

---

Tony Wu  
Mayor

**APPROVED AS FORM**

**ATTEST**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk



I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-79 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7th day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND  
THE WEST COVINA GENERAL EMPLOYEES' ASSOCIATION**

---

### RECOMMENDATION:

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-80 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST  
COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY  
AND THE WEST COVINA GENERAL EMPLOYEES' ASSOCIATION (WCGEA)**

### BACKGROUND:

The West Covina General Employees (WCGEA) represented by City Employees' Association (CEA) Memorandum of Understanding expired on June 30, 2019. The City and the West Covina Maintenance and Crafts employee association met and conferred on nine (9) occasions and have reached a side letter of agreement.

### DISCUSSION:

The City and the West Covina General Employees Association (WCGEA) represented by CEA have memorialized a side letter of agreement. The terms and conditions agreed upon address personnel-related cost-saving measures immediately needed as a result of the City's dire financial condition, as declared on May 19, 2020. Such cost-savings measures include the suspension and reduction of certain employment benefits through the end of December 2020.

**Prepared by:** Helen Tran, HR/Risk Management Director

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### Fiscal Impact

#### FISCAL IMPACT:

Anticipated savings is approximately \$106,000 of benefits reduction suspended for a period of 6 months (through December 31, 2020).

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### Attachments

Attachment No. 1 - Resolution No. 2020-80 (WCGEA)

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**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability



**RESOLUTION NO. 2020-80**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA  
ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST  
COVINA GENERAL EMPLOYEES' ASSOCIATION (WCGEA) REPRESENTED BY CITY  
EMPLOYEES ASSOCIATES (CEA)**

**WHEREAS**, the City of West Covina, hereinafter referred to as the "City," and the West Covina General Employees' Association represented by City Employees Associates, have met and conferred in accordance with the Meyers-Milias-Brown Act and Government Labor Code §3500; and

**WHEREAS**, the City and the West Covina General Employees' Association represented by City Employees Associates have memorialized the agreement in a written side letter of agreement.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY  
RESOLVES AS FOLLOWS:**

SECTION 1. The Side Letter of Agreement between the City and the West Covina General Employees' Association represented by City Employees Associates to be provided at the regular meeting of the City Council on July 7, 2020 is hereby approved.

SECTION 2. The City Manager is authorized to sign the Side Letter of Agreement.

**APPROVED AND ADOPTED** by the City Council of the City of West Covina at its regular meeting on this 7th day of July, 2020.

---

Tony Wu  
Mayor

**APPROVED AS FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk



I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-80 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7 day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND  
THE WEST COVINA CONFIDENTIAL EMPLOYEES' ASSOCIATION (WCCEA)**

---

### RECOMMENDATION:

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-81 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST  
COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY  
AND THE WEST COVINA CONFIDENTIAL EMPLOYEES' ASSOCIATION (WCCEA)**

### BACKGROUND:

The West Covina Confidential Employees Association (WCCEA) represented by City Employees' Association (CEA) Memorandum of Understanding expired on June 30, 2019. The City and the West Covina Confidential employee association met and conferred on ten (10) occasions and have reached a side letter of agreement.

### DISCUSSION:

The City and the Confidential Employees Association have memorialized a side letter of agreement. The terms and conditions agreed upon address personnel-related cost-saving measures immediately needed as a result of the City's dire financial condition, as declared on May 19, 2020. Such cost-savings measures include the suspension and reduction of certain employment benefits through the end of December 2020.

**Prepared by:** Helen Tran, HR/Risk Management Director

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### Fiscal Impact

#### FISCAL IMPACT:

Anticipated savings is approximately \$109,000 of benefits reduction suspended for a period of 6 months (through December 31, 2020).

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### Attachments

Attachment No. 1 - Resolution No. 2020-81 (WCCEA)

---

**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability







**RESOLUTION NO. 2020-81**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA CONFIDENTIAL EMPLOYEES' ASSOCIATION (WCCEA) REPRESENTED BY CITY EMPLOYEES ASSOCIATES (CEA)**

**WHEREAS**, the City of West Covina, hereinafter referred to as the "City," and the West Covina Confidential Employees' Association represented by City Employees Associates, have met and conferred in accordance with the Meyers-Milias-Brown Act and Government Labor Code §3500; and

**WHEREAS**, the City and the West Covina Confidential Employees' Association represented by City Employees Associates have memorialized the agreement in a written side letter of agreement.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. The Side Letter of Agreement between the City and the West Covina Confidential Employees' Association represented by City Employees Associates to be provided at the regular meeting of the City Council on July 7, 2020 is hereby approved.

SECTION 2. The City Manager is authorized to sign the Side Letter of Agreement.

**APPROVED AND ADOPTED** by the City Council of the City of West Covina at its regular meeting on this 7th day of July, 2020.

---

Tony Wu  
Mayor

**APPROVED AS FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk



I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-81 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7 day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND  
THE WEST COVINA MIDDLE MANAGEMENT EMPLOYEES' ASSOCIATION**

---

### RECOMMENDATION:

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-82 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA MIDDLE MANAGEMENT EMPLOYEES' ASSOCIATION (WCMMEA)**

### BACKGROUND:

The West Covina Middle Management Employees Association (WCMMEA) represented by City Employees' Association (CEA) Memorandum of Understanding expired on June 30, 2019. The City and the West Covina Maintenance and Crafts employee association met and conferred on nine (9) occasions and have reached a side letter of agreement.

### DISCUSSION:

The City and the Middle Management Employees Association have memorialized a side letter of agreement. The terms and conditions agreed upon address personnel-related cost-saving measures immediately needed as a result of the City's dire financial condition, as declared on May 19, 2020. Such cost-savings measures include the suspension and reduction of certain employment benefits through the end of December 2020.

**Prepared by:** Helen Tran, HR/Risk Management Director

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### Fiscal Impact

#### FISCAL IMPACT:

Anticipated savings is approximately \$101,000 of benefits reduction suspended for a period of 6 months (through December 31, 2020).

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### Attachments

Attachment No. 1 - Resolution No. 2020-82 (WCMMEA)

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**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability



**RESOLUTION NO. 2020-82**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA  
ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST  
COVINA MIDDLE MANAGEMENT EMPLOYEES' ASSOCIATION (WCMMEA)  
REPRESENTED BY CITY EMPLOYEES ASSOCIATES (CEA)**

**WHEREAS**, the City of West Covina, hereinafter referred to as the "City," and the West Covina Middle Management Employees' Association represented by City Employees Associates, have met and conferred in accordance with the Meyers-Milias-Brown Act and Government Labor Code §3500; and

**WHEREAS**, the City and the West Covina Middle Management Employees' Association represented by City Employees Associates have memorialized the agreement in a written side letter of agreement.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY  
RESOLVES AS FOLLOWS:**

SECTION 1. The Side Letter of Agreement between the City and the West Covina Middle Management Employees' Association represented by City Employees Associates to be provided at the regular meeting of the City Council on July 7, 2020 is hereby approved.

SECTION 2. The City Manager is authorized to sign the Side Letter of Agreement.

**APPROVED AND ADOPTED** by the City Council of the City of West Covina at its regular meeting on this 7th day of July, 2020.

---

Tony Wu  
Mayor

**APPROVED AS FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk



I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-82 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7 day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA FIRE MANAGEMENT EMPLOYEES' ASSOCIATION (WCFMA)**

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### RECOMMENDATION:

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-78 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA FIRE MANAGEMENT ASSOCIATION (WCFMA)**

### BACKGROUND:

The West Covina Fire Management Association's Memorandum of Understanding expired on June 30, 2016. The City and the West Covina Fire Management Association met and conferred on five (5) occasions and have reached a side letter of agreement.

### DISCUSSION:

The City and the Fire Management Association have memorialized a side letter of agreement. The terms and conditions agreed upon address personnel-related cost-saving measures immediately needed as a result of the City's dire financial condition, as declared on May 19, 2020. Such cost-savings measures include the suspension and reduction of certain employment benefits through the end of December 2020.

**Prepared by:** Helen Tran, HR/Risk Management Director

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### Fiscal Impact

#### FISCAL IMPACT:

Anticipated savings is approximately \$42,000 of benefits reduction suspended for a period of 6 months (through December 31, 2020).

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### Attachments

ATTACHMENT NO. 1 - RESOLUTION NO. 2020-78 (WEST COVINA FIRE MANAGEMENT)

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**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability







**RESOLUTION NO. 2020-78**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA FIRE MANAGEMENT ASSOCIATION (WCFMA)**

**WHEREAS**, the City of West Covina, hereinafter referred to as the “City,” and the West Covina Fire Management Association, have met and conferred in accordance with the Meyers-Milias-Brown Act and Government Labor Code §3500; and

**WHEREAS**, the City and the West Covina Fire Management Association have memorialized the agreement in a written side letter of agreement.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY RESOLVES AS FOLLOWS:**

SECTION 1. The Side Letter of Agreement between the City and the West Covina Fire Management Association to be provided at the regular meeting of the City Council on July 7, 2020 is hereby approved.

SECTION 2. The City Manager is authorized to sign the Side Letter of Agreement.

**APPROVED, AND ADOPTED** by the City Council of the City of West Covina at its regular meeting on this 7th day of July, 2020.

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Tony Wu  
Mayor

**APPROVED AS FORM**

**ATTEST**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk



I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-78 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7 day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF A SIDE LETTER OF AGREEMENT BETWEEN THE CITY OF WEST COVINA AND THE WEST COVINA DEPARTMENT HEADS**

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### RECOMMENDATION:

It is recommended that the City Council adopt the following Resolution:

**RESOLUTION NO. 2020-83 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST COVINA DEPARTMENT HEADS**

### BACKGROUND:

The West Covina Department Heads Memorandum of Understanding expired on June 30, 2018 and have reached a side letter of agreement.

### DISCUSSION:

The City and the West Covina Department Heads have memorialized a side letter of agreement. The terms and conditions agreed upon address personnel-related cost-saving measures immediately needed as a result of the City's dire financial condition, as declared on May 19, 2020. Such cost-savings measures include the suspension and reduction of certain employment benefits through the end of December 2020.

**Prepared by:** Helen Tran, HR/Risk Management Director

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### Fiscal Impact

#### FISCAL IMPACT:

Anticipated savings is approximately 10% of the department heads' benefits reduction suspended for a period of 6 months (through December 31, 2020).

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### Attachments

Attachment No. 1- Resolution No. 2020-83 (WCDH)

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**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability



**RESOLUTION NO. 2020-83**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA  
ADOPTING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE WEST  
COVINA DEPARTMENT HEADS**

**WHEREAS**, the City of West Covina, hereinafter referred to as the "City," and the West Covina Department Heads, have met and conferred in accordance with the Meyers-Milias-Brown Act and Government Labor Code §3500; and

**WHEREAS**, the City and the West Covina Department Heads have memorialized the agreement in a written side letter of agreement.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY  
RESOLVES AS FOLLOWS:**

SECTION 1. The Side Letter of Agreement between the City and the West Covina Department Heads to be provided at the regular meeting of the City Council on July 7, 2020 is hereby approved.

SECTION 2. The City Manager is authorized to sign the Side Letter of Agreement.

**APPROVED AND ADOPTED** by the City Council of the City of West Covina at its regular meeting on this 7th day of July, 2020.

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Tony Wu  
Mayor

**APPROVED AS FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk



I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-83 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7 day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF TREE TRIMMING AND MAINTENANCE SERVICES CONTRACT**

### RECOMMENDATION:

It is recommended that the City Council:

1. Authorize the City Manager to negotiate and execute a contract with West Coast Arborists, Inc. for a three (3) year term, with two (2) optional one (1) year extensions, in an amount not-to-exceed \$485,000 annually, or \$2,425,000 if both extension options are exercised, to provide tree trimming and maintenance services for City trees.
2. Authorize the City Manager to exercise the extension options.

### BACKGROUND:

The Public Services Department is responsible for maintenance of all City-owned facilities and public infrastructure. One component of these maintenance responsibilities is establishing and maintaining an efficient and cost-effective tree maintenance program. Implementing an annual tree maintenance program is critical in order to ensure the proper upkeep and maintenance of the City's urban forest. These regular maintenance services vary in scope and frequency depending on the sizes, species and condition of trees.

West Coast Arborists (WCA) has been providing tree maintenance services for the City of West Covina since 1997. In March 2020, WCA notified the City that they can no longer provide the services to the City at the agreed upon rates of the previous contract due to increases in operating costs such as insurance and wages. The contract was terminated on April 1, 2020. In good faith, WCA continued providing services on a month-to-month basis while a formal Request for Proposal was carried out.

### DISCUSSION:

On April 27, 2020, in line with the City's effort to competitively bid all contract services and select the most qualified firms, staff issued a Request for Proposal (RFP) for Tree Trimming and Tree Maintenance Services (RFP #61-007). The RFP was posted on Planet Bids. On May 19, 2020, proposals were received from the following four firms:

Company	Location
West Coast Arborists, Inc.	Anaheim, CA
Great Scott Tree Service, Inc.	Stanton, CA
Golden West Arbor Services, Inc.	Pomona, CA



Mariposa Landscapes Inc.	Irwindale, CA
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On May 27, 2020, Public Services and Transtech staff reviewed and evaluated all proposals based on the following criteria:

Qualifications, Relevant Experience and References.	40%
Proposed Team, Experience of Assigned Staff	35%
Detailed Work Plan	25%
Total	100%

The results of the evaluations were as follows:

Company	Average Score
West Coast Arborists, Inc.	91
Great Scott Tree Service, Inc.	87
Mariposa Landscapes Inc.	81.5
Golden West Arbor Services, Inc.	77.5

Company	Annual Bid Cost*
West Coast Arborists, Inc.	\$663,600
Great Scott Tree Service, Inc.	\$735,000
Gold West Arbor Services, Inc.	\$752,000
Mariposa Landscapes Inc.	\$760,000

\*All submitted proposals were based on a 5-year grid trimming cycle

The City Council declared a fiscal emergency on May 19, 2020 through the adoption of Resolution No. 2020-46, which will impact the City's ability to maintain a five-year cycle of trimming all City trees. The current budget will allow for approximately 3,500 trees to be trimmed annually, which equals an eight-year-trim cycle. The industry standard for tree trimming is three to five years.

WCA is a 48-year-old firm that specializes in providing tree maintenance services for public agencies. Since beginning work in the community, WCA has routinely demonstrated the requisite job knowledge, experience, and qualifications to perform tree maintenance services. In addition to traditional tree maintenance functions, WCA provides the City with several key services at no additional cost, including:

- Geographic Information System (GIS) Mapping and Database System

This GIS system helps the City to actively track tree maintenance schedules, identify Fiscal Year tree species, and respond to inquiries from the community. The GIS system has also proved beneficial in documenting service request histories for claim-related issues.

- Certified Arborist Services

The City regularly consults with WCA staff arborists to evaluate tree species in the community. These services help staff to identify Fiscal Year disease and health issues and take appropriate action to improve tree health. If necessary, detailed "Arborist Reports" can be prepared for an additional fee.

- Proactive Customer Service Approach

WCA is quick to respond to emergency situations, tree maintenance requests, and assist with grant proposals for our community. The firm is also a dedicated partner, participating in community events such as Earth Day and Arbor Day.

Staff is recommending that the City Council award the contract to WCA, for a three-year term, with two one-year extension options. The maximum annual compensation will be \$485,000. The total compensation over five years is \$2,425,000.

## LEGAL REVIEW:



The City Attorney's Office has reviewed the agreement and approved it as to form.

**OPTIONS:**

The City Council has the following options:

1. Adopt staff's recommendation;
2. Select a different contractor from the list of responders to the RFP; or
3. Provide alternative direction.

**Prepared by:** Mike Cresap, Public Services Superintendent

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**Fiscal Impact**

**FISCAL IMPACT:**

The total approved budget for tree maintenance for Fiscal Year 2020-21 is \$485,000 with funding coming from the following funding sources:

Funds	Account No.	Amount
Citywide Lighting Maintenance District	188.41.4141.6130	\$348,710
Sewer	189.41.4160.6120	\$11,151
General Fund	110.41.4142.6130	\$28,497
Gas Tax	124.41.4141.6130	\$28,497
Maintenance District No. 1	181.41.4145.6130	\$11,977
Maintenance District No. 2	182.41.4145.6130	\$11,151
Maintenance District No. 4	184.41.4145.6130	\$22,715
Maintenance District No. 6	186.41.4145.6130	\$11,151
Maintenance District No. 7	187.41.4145.6130	\$11,151
Total		\$485,000

The budget allocates \$485,000 for tree maintenance annually, but the contract is structured such that there is no minimum guarantee of work for WCA. The contract provides flexibility to the City to address the current fiscal emergency and tree trimming services will be scaled appropriately. Based upon available funds, staff will provide The City Council options to increase maintenance.

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**Attachments**

Attachment No. 1 - Agreement with West Coast Arborists

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**CITY COUNCIL GOALS & OBJECTIVES:** Enhance City Facilities and Infrastructure  
Enhance the City Image and Effectiveness



**CITY OF WEST COVINA  
MAINTENANCE SERVICES AGREEMENT  
WITH  
WEST COAST ARBORISTS, INC.  
FOR  
TREE TRIMMING AND MAINTENANCE SERVICES**

THIS AGREEMENT is made and entered into the 1st day of July, 2020 ("Effective Date"), by and between the CITY OF WEST COVINA, a municipal corporation ("City"), and WEST COAST ARBORISTS, INC., a California corporation ("Contractor").

**W I T N E S S E T H :**

A. WHEREAS, City proposes to utilize the services of Contractor as an independent contractor to provide tree trimming and maintenance services, as more fully described herein; and

B. WHEREAS, Contractor represents that it has that degree of specialized expertise contemplated within California Government Code Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated, except that if Contractor is required to but does not yet hold a City business license, it will promptly obtain a business license and will not provide services to the City until it has done so; and

C. WHEREAS, City and Contractor desire to contract for the specific services described in Exhibit "A" and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

E. WHEREAS, Contractor responded to the City's Request for Proposals for Tree Trimming and Tree Maintenance Services (Spec. No. 61-007) dated April 27, 2020 ("RFP"). The RFP is incorporated via this reference as if fully set forth herein.

F. WHEREAS, Contractor's response to the RFP was a material inducement to the City ultimately entering into this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**1.0. SERVICES PROVIDED BY CONTRACTOR**

1.1. Scope of Services. Contractor shall provide the professional services described in the Scope of Services attached hereto as Exhibit "A," incorporated herein by this reference. Contractor shall comply with all requirements set forth in the RFP in providing the services. Contractor acknowledges and agrees that the services will be provided as requested by the City on a schedule agreed upon by City and Contractor and that Contractor is not entitled to deliver any specific amount of services under this Agreement.



1.2. Professional Practices. All professional services to be provided by Contractor pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional Contractors in similar fields and circumstances in accordance with sound professional practices. Contractor also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Contractor's performance of this Agreement. Contractor shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Contractor shall at all times observe and comply with all such laws and regulations. City officers and employees shall not be liable at law or in equity for any claims or damages occurring as a result of failure of the Contractor to comply with this section.

1.3 Prevailing Wage Requirements.

- (a) Compliance with Prevailing Wage Requirements. Contractor shall comply with all applicable provisions of California Labor Code sections 1720 through 1861. Pursuant to Sections 1720 through 1861 of the California Labor Code, Contractor and its subcontractors shall ensure that all workers who perform work under this Agreement are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). Copies of such prevailing rate of per diem wages are on file at the City and are available for inspection to any interested party upon request. Copies of the prevailing rate of per diem wages may also be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Contractor and its subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.
- (b) Payroll Records. Contractor shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require its subcontractors to also comply with section 1776. Contractor and its subcontractors shall submit weekly certified payroll records to the City. Contractor is responsible for ensuring its subcontractors submit certified payroll records to the City.
- (c) Apprentices. Contractor and its subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. Contractor is responsible for ensuring its subcontractors comply with Sections 1777.5, 1777.6 and 1777.7.
- (d) Working Hours. Contractor and its subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to, restricting working hours on public works contracts to eight (8) hours a day and forty (40) hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay.



- (e) Penalties for Violations. Contractor and its subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This shall be in addition to any other applicable penalties allowed under Labor Code sections 1720 – 1861.

1.4. Bonds. Contractor shall furnish the following bonds: (1) a Performance Bond in an amount equal to \$2,425,000, and (2) a Payment Bond (Labor and Materials) in an amount equal to \$2,425,000. The bonds shall be in a form approved by City and shall be attached to this Agreement as Exhibit "C."

- (a) All bonds shall be accompanied by a power of attorney from the surety company authorizing the person executing the bond to sign on behalf of the company. If the bonds are executed outside the State of California, all copies of the bonds must be countersigned by a California representative of the surety. The signature of the person executing the bond shall be acknowledged by a Notary Public as the signature of the person designated in the power of attorney.
- (b) All the bonds shall be executed by a California admitted surety with an A.M. Best's Company rating satisfactory to the City. If an A.M. Best's rating is not available, the proposed surety must meet comparable standards of another rating service satisfactorily to City. Bonds issued by a California admitted surety listed in the latest versions of the U.S. Department of Treasury Circular 570 must be accompanied by all of the documents enumerated in California Code of Civil Procedure § 995.660(a).
- (c) The terms of the bonds shall provide that the surety agrees that no change, extension of time, alteration, or modification of the contract documents or the work to be performed thereunder shall in any way affect its obligations and shall waive notice of any such change, extension of time, alteration, or modification of the contract documents.

1.5. Performance to Satisfaction of City. Contractor agrees to perform all the work to the reasonable satisfaction of the City. Evaluations of the work will be conducted by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Contractor to review the quality of the work and resolve the matters of concern;
- (b) Require Contractor to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.6. Warranty. Contractor warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.



1.7. Non-discrimination. In performing this Agreement, Contractor shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical or mental disability, medical condition, genetic information, pregnancy, marital status, sex, gender, gender identity, gender expression, sexual orientation, or military or veteran status, except as permitted pursuant to Section 12940 of the Government Code.

1.8. Non-Exclusive Agreement. Contractor acknowledges that City may enter into agreements with other Contractors for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.9. Confidentiality. Employees of Contractor in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Contractor covenants that all data, documents, discussion, or other information developed or received by Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Contractor without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Contractor's covenant under this Section shall survive the termination of this Agreement.

1.10. Public Records Act Disclosure. Contractor has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Contractor, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in California Government Code Section 6254.7, and of which Contractor informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the court.

## **2.0. COMPENSATION AND BILLING**

2.1. Compensation. Contractor shall be paid in accordance with the fee schedule set forth in Exhibit "B," attached hereto and made a part of this Agreement (the "Fee Schedule"). Contractor's annual compensation during the initial term and any extension period shall not exceed Four Hundred Eighty-Five Thousand Dollars (\$485,000.00). Contractor's total compensation shall not exceed Two Million Four Hundred Twenty-Five Thousand Dollars (\$2,425,000.00).

2.2. Additional Services. Contractor shall not receive compensation for any services provided outside the scope of services specified in the Contractor's Proposal unless the City, prior to Contractor performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable. Should the City request in writing additional services that increase the Scope of Services, an additional fee based upon the Contractor's standard hourly rates shall be paid to the Contractor for such additional services. Such increase in additional fees shall be limited to 25% of the total contract sum or to the



maximum total contract amount of \$25,000, whichever is greater. The Department Head or City Manager is authorized to approve a Change Order for such additional services.

2.3. Method of Billing. Contractor may submit invoices to the City for approval on a progress basis, but no more often than once a month. Said invoice shall be based on the total of all Contractor's services which have been completed to City's sole satisfaction. City shall pay Contractor's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Contractor's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City for inspection and/or audit at mutually convenient times from the Effective Date until three (3) years after the termination or expiration of this Agreement.

### **3.0. TIME OF PERFORMANCE**

3.1. Commencement and Completion of Work. Unless otherwise agreed to by the parties, the professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Said services shall be performed in strict compliance with the Project Schedule approved by City as set forth in Exhibit "C," attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party. If a delay beyond the control of the Contractor is encountered, a time extension may be mutually agreed upon in writing by the City and the Contractor. The Contractor shall present documentation satisfactory to the City to substantiate any request for a time extension.

### **4.0. TERM AND TERMINATION**

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of three (3) years, ending on June 30, 2023, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. Thereafter, this Agreement may be extended for a maximum of two (2) successive one (1) year periods. Such extensions, if any, will be evidenced by a written amendment to this Agreement.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing at least fifteen (15) days prior written notice to Contractor. In the event of such termination, Contractor shall immediately stop rendering services under this Agreement unless directed otherwise by the City. If the City suspends, terminates or abandons a portion of this Agreement such suspension, termination or abandonment shall not make void or invalidate the remainder of this Agreement.



If the Contractor defaults in the performance of any of the terms or conditions of this Agreement, it shall have ten (10) days after service upon it of written notice of such default in which to cure the default by rendering a satisfactory performance. In the event that the Contractor fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled to at law, in equity, or under this Agreement.

The City also shall have the right, notwithstanding any other provisions of this Agreement, to terminate this Agreement, at its option and without prejudice to any other remedy to which it may be entitled to at law, in equity, or under this Agreement, immediately upon service of written notice of termination on the Contractor, if the latter should:

- a. Be adjudged a bankrupt;
- b. Become insolvent or have a receiver of its assets or property appointed because of insolvency;
- c. Make a general assignment for the benefit of creditors;
- d. Default in the performance of any obligation or payment of any indebtedness under this Agreement;
- e. Suffer any judgment against it to remain unsatisfied or unbonded of record for thirty (30) days or longer; or
- f. Institute or suffer to be instituted any procedures for reorganization or rearrangement of its affairs.

4.3. Compensation. In the event of termination, City shall pay Contractor for reasonable costs incurred and professional services satisfactorily performed up to and including the effective date of the City's written notice of termination, within forty-five (45) days after the effective date of the notice of termination or the final invoice of the Contractor, whichever occurs last. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Contractor in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of the effective date of the notice of termination, at no cost to City.

## **5.0. INSURANCE**

5.1. Minimum Scope and Limits of Insurance. Contractor shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company authorized to do business in California, with a current A.M. Best's rating of no less than A:VII, and approved by City:

- (a) Broad-form commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket



contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than Two Million Dollars (\$2,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.

- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per accident for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Contractor agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers for losses arising from work performed by Contractor for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

By execution of this Agreement, the Contractor certifies as follows:

I am aware of, and will comply with, Section 3700 of the Labor Code, requiring every employer to be insured against liability of Workers' Compensation or to undertake self-insurance before commencing any of the work.

The Contractor shall also comply with Section 3800 of the Labor Code by securing, paying for and maintaining in full force and effect for the duration of this Agreement, complete Workers' Compensation Insurance, and shall furnish a Certificate of Insurance to the City before execution of this Agreement by the City. The City, its officers and employees shall not be responsible for any claims in law or equity occasioned by failure of the Contractor to comply with this section.

- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence or claim, and Two Million Dollars (\$2,000,000.00) aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retroactivity date shall be prior to the start of the work set forth herein. Contractor shall obtain and maintain said E&O liability insurance during the life of this Agreement and for five (5) years after completion of the work hereunder. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Agreement, Contractor shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the work.

If the Contractor maintains higher limits or has broader coverage than the minimums



shown above, the City requires and shall be entitled to all coverage, and to the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

5.2. Endorsements. The insurance policies are to contain, or be endorsed to contain, the following provisions:

- (a) Additional Insureds: The City of West Covina and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Contractor pursuant to its contract with the City; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; automobiles owned, leased, hired, or borrowed by the Contractor.
- (b) Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.
- (c) Primary Coverage: The Contractor's insurance coverage shall be primary insurance as respects the City of West Covina, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of West Covina shall be excess and not contributing with the insurance provided by this policy.
- (d) Waiver of Subrogation: Contractor hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
- (e) Coverage Not Affected: Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of West Covina, its officers, officials, agents, employees, and volunteers.
- (f) Coverage Applies Separately: The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. The City may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

5.4. Certificates of Insurance. Contractor shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The City



reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

5.5. Non-limiting. Nothing in this Section shall be construed as limiting in any way the indemnification provision contained in this Agreement.

## **6.0. GENERAL PROVISIONS**

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Contractor shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Contractor called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Key Personnel. It is the intent of both parties to this Agreement that Contractor shall make available the professional services of Nick Alago, who shall coordinate directly with City. Any substitution of key personnel must be approved in advance in writing by City's Representative.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile, Email or by U.S. mail. If by U.S. mail, it shall be addressed as set forth below and placed in a sealed envelope, postage prepaid, and deposited in the United States Postal Service. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile or by Email; and c) 72 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

### **IF TO CONTRACTOR:**

West Coast Arborists, Inc.  
2200 E. Via Burton St.  
Anaheim CA, 92806  
Tel: (714) 920-0558  
Email: nalago@wcainc.com  
Attn: Nick Alago

### **IF TO CITY:**

City of West Covina  
825 S. Sunset Avenue  
West Covina, CA 91790  
Tel: (626) 939-8790  
Email: jaguilar@westcovina.org  
Attn: Josue Aguilar

6.5 Attorneys' Fees. If litigation is brought by any party in connection with this Agreement, each party shall be responsible for its own costs and expenses, including attorneys' fees.



6.6. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Los Angeles County, California.

6.7. Assignment. Contractor shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Contractor's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Contractor of Contractor's obligation to perform all other obligations to be performed by Contractor hereunder for the term of this Agreement.

6.8. Indemnification and Hold Harmless. Contractor agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Contractor's sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings brought against the City, its elected and appointed officials, officers, agents and employees arising out of the performance of the Contractor, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Contractor, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Contractor, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the work performed by the Contractor, its employees, and/or authorized subcontractors under this Agreement, whether or not the Contractor, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Contractor shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Contractor's Proposal, which shall be of no force and effect.

6.9. Independent Contractor. Contractor is and shall be acting at all times as an independent contractor and not as an employee of City. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Contractor shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Contractor and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Contractor shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor further agrees to indemnify and hold City harmless from any failure of Contractor to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under



this paragraph.

6.10. PERS Eligibility Indemnification. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.11. Cooperation. In the event any claim or action is brought against City relating to Contractor's performance or services rendered under this Agreement, Contractor shall render any reasonable assistance and cooperation which City might require.

6.12. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Contractor or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Contractor agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Contractor. City shall indemnify and hold harmless Contractor from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Contractor. Contractor shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other related items as requested by City or its authorized representative, at no additional cost to the City. Contractor or Contractor's agents shall execute such documents as may be necessary from time to time to confirm City's ownership of the copyright in such documents.

6.13. Electronic Safeguards. Contractor shall identify reasonably foreseeable internal and external risks to the privacy and security of personal information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of the information. Contractor shall regularly assess the sufficiency of any safeguards and information security awareness training in place to control reasonably foreseeable internal and external risks, and evaluate and adjust those safeguards in light of the assessment.

6.14. Economic Interest Statement. Contractor hereby acknowledges that pursuant to Government Code Section 87300 and the Conflict of Interest Code adopted by City, Contractor is designated in said Conflict of Interest Code and is therefore required to file an Economic Interest Statement (Form 700) with the City Clerk, for each employee providing advice under this Agreement, prior to the commencement of work, unless waived by the City Manager.



6.15. Conflict of Interest. Contractor and its officers, employees, associates and subcontractors, if any, will comply with all conflict of interest statutes of the State of California applicable to Contractor's services under this agreement, including, but not limited to, the Political Reform Act of 1974 (Government Code Section 81000, *et seq.*) and Government Code Sections 1090-1092. Contractor covenants that none of Contractor's officers or principals have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of the services hereunder, including in any manner in violation of the Political Reform Act. Contractor further covenants that in the performance of this Agreement, no person having such interest shall be used by Contractor as an officer, employee, agent, or subcontractor. Contractor further covenants that Contractor has not contracted with nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City and further covenants and agrees that Contractor and/or its subcontractors shall provide no service or enter into any agreement or agreements with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City prior to the completion of the work under this Agreement.

6.16. Prohibited Employment. Contractor will not employ any regular employee of City while this Agreement is in effect.

6.17. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.18. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.19. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Contractor and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.20. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.21. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.22. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.



6.23. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.24. Counterparts and Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement. Counterpart written signatures may be transmitted by facsimile, email or other electronic means and have the same legal effect as if they were original signatures.

6.25. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

6.26 Taxpayer Identification Number. Contractor shall provide City with a complete Request for Taxpayer Identification Number and Certification, Form W9, as issued by the Internal Revenue Service.

[SIGNATURE PAGE FOLLOWS]



**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF WEST COVINA,  
A municipal corporation

\_\_\_\_\_  
David Carmany  
City Manager

Date: \_\_\_\_\_

CONTRACTOR

\_\_\_\_\_  
Patrick Mahoney  
President

Date: \_\_\_\_\_

\_\_\_\_\_  
Richard Mahoney  
Vice President/Asst. Secretary

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Lisa Sherrick  
Assistant City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Thomas P. Duarte  
City Attorney

Date: \_\_\_\_\_

APPROVED AS TO INSURANCE:

\_\_\_\_\_  
Helen Tran  
Human Resources and Risk Management  
Director

Date: \_\_\_\_\_



**EXHIBIT A**  
**SCOPE OF SERVICES**



## **Tree Trimming and Tree Maintenance Services**

The scope of work is complete, continuous, consistent and safe tree maintenance of a variety of species throughout the City. Tree maintenance may consist of pruning, removals, stump grinding, planting, staking, pest control, fertilizing, watering, emergency response, arborist services, inventory and banner hanging work.

The Contractor shall provide all equipment, labor and materials necessary for performing tree maintenance according to the specifications in this agreement. The equipment shall be clean and well-maintained, of the latest and most efficient design. Maintenance personnel shall be uniformed professional and well trained.

Selective pruning shall be employed always based solely on the standards prescribed by the International Society of Arboriculture and according to the ANSI A300 pruning standards.

The intent and purpose of this agreement is to provide a level of tree maintenance to the areas such that each will present a safe, pleasing, and desirable appearance always within the limitations of the contracted service requirements. The contractor agrees to maintain all the designated areas covered by this Agreement at such levels. The City Engineer, or his designated representative, shall be the sole judge as to the adequacy and quality of the tree maintenance.

The work shall be done in accordance with "The 'Green Book' Standard Specifications for Public Works Construction" 2018 edition including subsequent amendments, supplements and/or additions. Copies are available from the publisher, Building News, Incorporated, 1612 So. Clementine Street, Anaheim, California, 92802, telephone (714) 517-0970.

Where the City Engineer is mentioned in these provisions, it shall be noted that his designated representative may act on his behalf regarding administration of this agreement.

The term "tree" is used about both woody trees and palms in the language of this agreement, unless otherwise specified.

**Contractor will perform complete prunes on approximately 5,000 city trees in the grid each year over a five year period, as requested by City and on a schedule agreed upon by City and Contractor.**

**Contractor will perform complete prunes on approximately 2,000 palm trees each year over a two year period, as requested by City and on a schedule agreed upon by City and Contractor.**

**Contractor will perform complete prunes on approximately 7,000 city trees over 5 year trim cycle in Landscape Maintenance Districts ("LMD"), as requested by City**



**and on a schedule agreed upon by City and Contractor. This would equal to approximately 1,400 trees each year.**

**Notwithstanding the foregoing estimates, Contractor is not entitled to deliver any minimum amount of services under this Agreement.**

Complete pruning includes: raising the canopy height for building and right of way clearance, eliminating deadwood, crossing branches, and other safety concerns; shaping and thinning for the health for the health of the tree and for aesthetics.

The number of trees indicated here are estimates to date based on the City's tree inventory system. The exact number of trees to be pruned at any one time will be determined when specific addresses and locations are provided.

Contractor is to provide all labor and equipment necessary to perform pruning operations as described in this contract.

All tools used on a tree known to contain an infectious tree disease shall be properly disinfected immediately before and after completing work on such tree, following procedures of current industry standards, or as instructed by the City. All major pest problems shall be reported to the City Contract Supervisor within 24 hours from the initial identification via email.

### **1.1. SUPERVISION & STAFF**

The Contractor shall assign a supervisor to be on site each working day, working regular working hours, for the duration of this contract. The contractor and its staff shall have skills, expertise, and experience in arboriculture; including pest control, soils, fertilizers and plant identification. The supervisor must be fluent in the English language. The supervisor shall be thoroughly knowledgeable of the General and Special Provisions of this Agreement, as set forth in the RFP.

### **1.2. WORK LISTS**

- a) **Grid Pruning** - The Public Services Department Representative will identify pruning locations by highlighting the corresponding streets on the map, which will be provided to the Contractor, along with a specific pruning assignment such as full trim, clean, raise, or palm trimming. The Contractor shall document all work onto a City Contractor Work List (Appendix D to RFP); and record the location, species, size, work type, quantity, unit costs and lump sum amounts for each tree trimmed. The price paid for grid pruning shall be as specified in Section 7.12(C) of the RFP.
- b) **Removals and Plantings** - The Public Services Department Representative will provide a work list consisting of location, tree species, size, work type, quantity, unit costs and lump sum amounts.



- c) **Inspection** - The Contractor shall notify the Public Services Department Representative upon completion of each work list and shall not process any work list for invoicing until all sites on the list have been inspected by the Public Services Department Representative. Also, daily, or as required, the Contractor or its supervisor may walk the project with the Public Services Department Representative for determining compliance with the specifications or to discuss required work. Any tree(s), which in the opinion of the Public Services Department Representative have not been pruned, removed or planted according to the conditions of the specifications set forth herein shall be brought to the attention of the Contractor and, if not corrected, payment to the Contractor will not be made until the condition is corrected.
- d) **Service Requests and Location Lists** - The Contractor could be given additional service requests and location lists each day, in addition to the weekly or grid schedule list. This work will be considered as normal work and not subject to emergency work cost or crew rental costs.

### 1.3. TREE INVENTORY AND WORK SHEETS

All trees that are in the tract, in which the Contractor is working, shall be recorded onto a City Tree Inventory List (Appendix E to the RFP). The Tree Inventory along with the list of trees pruned/removed shall be given to the Public Services Department Representative monthly. Each field on the inventory sheet should be filled in as follows:

- a) **Right of Way** – This is the public right of way (and/or tree maintenance easement) as recorded in the development plans. The measurement will be the width of the parkway, or in areas in which there is no parkway, the designated footage beginning from the curb face.
- b) **Address** – Consists of the house number and complete street name. If the tree is on the side of a corner house, the name of the intersecting street shall be included.
- c) **Species** – Including hybrids, varieties and cultivars.
- d) **Diameter at Breast Height (DBH)** – The measurement of the trunk diameter at 4.5 feet from the base, as described in section 7.12(f) of the RFP. Multi-trunk trees shall be recorded by using the DBH of the largest trunk followed by the letter M and the total amount of the trunks.

### 1.4. CREW RENTAL

The standard crew is three (3) workers, one (1) chipper truck, one (1) chipper and all necessary hand tools. The crew equipment can be modified to complete any type of miscellaneous tasks including special projects that may consist of



extraordinary work.

## **1.5. EMERGENCY RESPONSE WORK SCHEDULE**

Emergency response work may be required to mitigate safety hazards outside of normal working hours.

- a) Emergency response work will not be performed without prior approval by the Public Services Department Representative unless a condition exists wherein it appears there is a danger of injury to persons or property.
- b) Payment of emergency response work shall be in accordance with the hourly rates and unit prices in the Emergency Response Work Schedule.
- c) The City reserves the right to cause any emergency response work deemed necessary by the Public Services Department Representative to be performed by the City crews, other contractors, or day labor, at no cost to the Contractor.
- d) Emergency response work is work performed after normal working hours or anytime during a 24- hour period that the Public Services Department Representative deems an emergency. Emergency response work does not include service requests and location lists assigned during normal working hours (7 a.m. to 4 p.m. Monday through Friday, not including Holidays)
- e) Emergency Response and Crew Rental rates begin when the crew arrives on site and begins work, and end at the completion of the work requested by the City. Portal to Portal pay is not allowed.

## **1.6. SAFETY MEASURES**

- a) The Contractor shall obey and adhere to Cal OSHA requirements for worker safety, and ANSI Z133.1 Safety Requirements.
- b) Any person working in proximity to electrical conductors shall be properly trained in electrical hazard recognition and avoidance, and possess the appropriate qualifications required by the State of California.
- c) Any dead tree, tree with excessive decay, or tree with a substantial defect such as a split, crack, or unstable root system, shall be reported immediately to the Public Services Department Representative.
- d) The Contractor shall postpone any tree maintenance activity wherein a vehicle is in proximity and such activity has the likelihood of causing damage to vehicle. In such instances, it is the responsibility of the Contractor to immediately notify the vehicle owner and request to have the



vehicle moved to a safe location. Any abandoned vehicle shall be reported to the West Covina Police Dept.

### **1.7. PRESERVATION OF PROPERTY**

- a) The Contractor shall carefully protect from damage all trees, shrubs, ground covers, turf irrigation, water service, fences, sidewalk, buildings, automobiles, street lights, street signs, or any other facilities located on or adjacent to the job site.
- b) Should any direct or indirect damage or injury result to any public or private property by or because of any act, omission, neglect or misconduct in the execution of work, on the part of the Contractor or the Contractor's employees, such property shall be restored by the Contractor, to a condition equivalent to that existing before damage occurred.
- c) The Contractor shall be responsible for the complete removal and replacement of trees lost due to the Contractor's faulty maintenance or negligence, as determined by the Public Services Department Representative. Replacement shall be made by the Contractor in the kind and size of trees as determined by the Public Services Department Representative. Where there is a difference in value between the trees lost and the replacement of trees, this difference will be deducted from the contract payment. In all cases, the value of the trees lost will be determined by the Public Services Department Representative, using the latest Council of Tree and Landscape Appraisers – Guide for Plant Appraisal.

### **1.8. PRESERVATION OF WILDLIFE**

Reasonable efforts shall be taken to protect and preserve the nests, or nesting cavities, of beneficial birds and other beneficial animals, unless in-so doing would create a hazardous condition.

### **1.9. QUALITY OF WORK**

The Contractor shall be committed to retaining the value of all trees in its care, and at no time under this contract agreement shall the Contractor decrease the value of any tree without written authorization from the Public Services Department Representative.

The Contractor shall be skilled in arboriculture and have the expertise necessary to perform all duties to the highest standard, as required in this agreement.

The Public Services Department Representative shall be the sole judge as to the adequacy and quality of maintenance.



## **1.10. DISEASE CONTROL**

Any monocot or dicot species that is known to transmit an infectious disease prevalent in the landscape shall be pruned with handsaws, pole saws or reciprocating saws only. Prior to pruning, all saw blades must be sterilized by a ten (10) minute immersion in a bucket of water containing twenty-five (25) percent chlorine bleach. A fresh solution shall be mixed daily. Each tree shall be pruned utilizing a blade that has been sterilized in this fashion, thereby preventing tree-to-tree disease transmission via the saw blade. After a tree has been pruned, the saw blade shall not be utilized again until it has been sterilized by the ten (10) minute immersion method described above.

## **1.11. PRUNING – GENERAL REQUIREMENTS**

- a) Pruning shall be in strict accordance with all standards and methods as prescribed by the International Society of Arboriculture (Appendix C).
- b) The Contractor shall prune to retain the natural structure of each tree species, unless otherwise directed by the Public Services Department Representative, and have the knowledge and ability to determine each tree species response to pruning. Pruning patterns shall be consistent so that visual continuity is maintained, and the value of all City trees pruned is increased.
- c) The use of chain saws shall be restricted to those cuts that cannot be made with hydraulic, pneumatic, or manually operated lopping shears. All blades, chains and other cutting devices shall be kept sharpened, to make a clean final cut, with the bark intact and free from stripping or shredding. Wound dressings are not permitted.
- d) Pruning cuts shall be made carefully and at the proper location; this will be back to the parent branch or trunk, just to the outside of the branch collar and branch bark ridge.
- e) Branch cuts shall be kept as small as possible to prevent excessive decay. No live branch greater than eight (8) inches in diameter (measured at the base of the branch) shall be removed without authorization from the Public Services Department Representative, unless said branch is weakly attached or has other significant defect.
- f) Limbs, measuring two (2) inches or greater in diameter, shall be removed using the three-cut method (Appendix C).
- g) When pruning mature trees, no more than twenty-five (25) percent of the leaf-bearing canopy should be removed. Live Oaks are limited to ten (10) percent.
- h) When reducing the length of a limb back to a lateral branch, the lateral should be at least one-third the diameter of the portion removed.



- i) Young trees shall be pruned primarily to improve structure (Appendix C).
- j) Private trees encroaching upon a City sidewalk or street, and are not providing proper height clearance requirements, shall be raised on the street-side only to mitigate nuisance or hazard. The cost shall be adjusted to one half that for complete raise.
- k) The use of climbing spurs, gaffs, or any other climbing device that causes puncture wounds is prohibited, except for aerial rescue efforts, or during removals.
- l) The Contractor shall not prune any tree(s), which have been pruned by a resident or homeowner and have been trained, cut, or sheared in such a way to form a hedge, espalier, or picturesque shape, and have not been trained in the normal landscape shade tree standard of pruning. Such trees shall not be recorded on the work list. These trees are to be noted, and the Contractor shall inform the Public Services Department Representative of them by address.
- m) Any inappropriate piece of metal, wire, rubber, wood, or other material that is damaging the growing tissue of a tree or predisposes the tree to irreparable damage in the future, shall be removed. If it is determined that the material cannot be removed without further damage to the growing tissue of the tree, it shall not be removed, but necessary actions shall be taken to reduce the impact of this material to the tree by cutting out as much of the exposed surface of it as possible.
- n) Vines that are entwined on the trunk or throughout the limb structure shall be removed with caution, avoiding injury to tree.

#### **1.12. PRUNING – WORK TYPE DESCRIPTIONS**

The following four work type descriptions may be assigned to the Contractor. All general requirements for pruning shall be followed.

- a) **Grid Pruning** – Grid pruning means routine tree pruning per pre-designated districts/grids on a scheduled cycle or any grouping of seven (7) or more trees near one another, within an approximate 200-yard radius, and shall be paid as grid pruning even when off the regularly scheduled district/grid plan. The price paid for grid pruning shall be as specified in Section 7.12(C).
- b) **Full Pruning** - The objective is to improve tree structure, reduce wind sail effect, allow for improved light penetration, provide proper clearances, and to remove dead or other undesirable limbs.

Selective pruning shall be implemented; any or all pruning techniques shall be applied depending on the requirements of each tree. These include, structural pruning, crown cleaning, crown thinning, crown reduction, crown raise and crown



restoration.

- c) **Crown Raise** - In areas where raises are specified, no other type of pruning shall be done. A crown raise is removal of lower branches only, to provide proper height clearance. Fourteen and one-half (14.5) feet clearance is required over streets, where applicable. Nine (9) feet clearance is required over parkways and sidewalks. Eleven (11) feet clearance is required over equestrian trails. To avoid destroying the natural structure of small trees, they shall not be raised to the afore mentioned specifications. Instead, such trees shall be pruned to reduce the length of the obstructing limbs.
- d) **Crown Cleaning** - In areas where cleaning is specified, no other type of pruning shall be done. Crown cleaning is the removal of dead, dying, diseased, broken and weakly attached branches. Crown cleaning shall also include crown raise, when needed to provide proper clearance.
- e) **Crown Reduction** - In areas where height issues are specified, no other type of pruning shall be done. Crown reduction is used to reduce the height and/or spread of a tree. Thinning cuts are most effective in maintaining the structural integrity and natural form of a tree and in delaying the time when it will need to be pruned again. The lateral to which a branch or trunk is cut should be at least one-half the diameter of the cut to be made.
- f) **Palm Pruning** – Palm fronds are to be removed so that a 90-degree angle is achieved. The angle shall be measured from the horizontal axis of the growing point base.

All dead fronds, flower stalks and fruit stalks shall be removed and cut as close to their base as possible without damaging adjacent fronds or trunk tissue. Loose petioles from previous pruning operations shall be removed carefully.

When pruning palms in the Phoenix genus it is imperative to sterilize all pruning equipment (as described in section 7.25 to avoid possible tree-to-tree transmission of the disease *Fusarium oxysporum*.

### **1.13. SELECTIVE PRUNING**

When performing any of the four pruning work types, mentioned in section 7.31, it is imperative to employ selective pruning to prevent over pruning. If any tree in an assigned area requires a lesser amount of pruning than what has been assigned, only that which is necessary will be performed.

### **1.14. TREE REMOVALS**

- a) All tree removal operations shall be in strict accordance with the methods prescribed by the International Society of Arboriculture.



- b) Trees designated for removal by the Public Services Department Representative will be marked with a DOT, using white paint, on the trunk, just above the root collar of the tree. If for any reason there is doubt regarding the trees(s) to be removed, the Public Services Department Representative will be contacted before work commences.
- c) Felling is permitted providing it can be safely achieved without endangering surrounding property and will not interfere with vehicular traffic. A tag line(s) shall be used to direct fall always. All bystanders shall be kept at a safe distance from the work site.
- d) Trees too large to fell shall be removed in sections. Each section shall be cut into a size that can be handled easily and safely by one tree worker. If section is too heavy for one worker, it shall be rigged and lowered to the ground. The means of lowering shall be acceptable to the Public Services Department Representative.
- e) Stump grinding shall be incorporated with the removal of the tree and performed on the same day. The underground service alert regional notification center (Dig Alert) must be called prior to the start of the removal list, to allow enough time for each site to be marked before work begins.
- f) The depth of stump grind shall be no less than eighteen (18) inches below lowest surface grade. The grind shall comprise the entire stump below soil surface and any uplifted portion of the soil caused by the root flare. Exposed roots, whether in the public right of way or private property, shall be traced and ground or chopped out to a depth of no less than eight (8) inches below the lowest surface grade. If irrigation is damaged it shall be repaired immediately. The site shall be backfilled with a mix of 60% soil and 40% of the remaining wood chips; then firmly tamped down to allow for as little settling as possible. All excess wood chips and soil shall be hauled away. When complete, the work site shall be level and at the original soil grade of the surrounding area.

#### **1.15. TREE PLANTING AND STAKING**

- a) Trees purchased by the Contractor shall comply with the specifications set forth in the Standards for Purchasing Container-Grown Landscape Trees (Appendix F).
- b) All trees shall be planted according to the Standards prescribed by the International Society of Arboriculture. The standard plan for tree planting, as per Standard Plans for Public Works Construction (SPPWC), Std. Plan No 518-3, Sheet 2, shall be followed (Appendix H).
- c) The Contractor shall follow the requirements in section 7.11, UNDERGROUND ALERT of this contract before the excavation of any tree-planting site.



- d) Prior to planting, the natural root flare must be identified. Any soil that may be covering the root flare must be removed. The planting hole shall be dug to a size of two times the width of the root ball, leaving the bottom firm, to prevent the tree from settling. The container shall be removed carefully to prevent root or stem damage; the tree shall not be pulled by the stem. If the container does not come off easily, it shall be cut on one or more sides, from top to bottom, to allow its removal. Circling roots shall be separated and spread outward. Densely matted roots that cannot be teased apart shall be cut cleanly in two places.
- e) The tree shall be lifted by the root ball only and carefully placed in the planting hole. The root ball shall be oriented so that the tree stands vertical, with the top of the root ball approximately one to two inches higher than the soil grade. Backfill shall be native soil only with no rocks greater than three inches diameter. Soil shall not be placed on top of the root ball. Displace air pockets in the backfill by moderately tamping with shovel handle and watering in. Check for settling and add backfill if necessary. To avoid compaction of the soil, do not tamp the backfill with excessive pressure or use broad, heavy objects.
- f) Any tree that can stand upright without support and would be able to withstand prevailing winds along with yearly Santa Ana wind occurrences shall not be staked.
- g) If upon determining a tree cannot support itself, two stakes of good quality treated lodge pole pine not exceeding eight feet in length and no more than two and one-half inches in diameter, shall be used. The stakes shall be placed in a northwest / southeast configuration to give maximum support during heavy wind conditions and placed outside the root ball, avoiding any damage to roots. Stakes shall be pounded down until sufficiently stable. The top of the stakes interfering with branch structure shall be cut off below the lowest branch where the tree's growth habit permits.
- h) Trees shall be tied to stakes using rubber cinch ties, thirty-two inches in length, attached by a method of a figure eight loop between the tree trunk and each stake. Ties shall be attached to stakes with galvanized nails driven into the stakes. A minimum of two ties shall be used, placed high enough on the trunk to support the crown. Additional ties shall be placed lower on the trunk if needed to straighten. Ties shall be taught enough to prevent trunk from rubbing against the stakes, but with a modest amount of slack to allow movement of the tree. Ties shall not be placed in branch crotches.
- i) A plastic guard shall be placed loosely around the base of the trunk.
- j) A watering basin shall be placed around the outer edge of the root ball in areas where run-off will occur. The basin shall be in the form of a tightly compacted soil berm, three inches in height. A watering basin is not required on turf or dense groundcover.



#### **1.16. STAKING ONLY**

The Contractor shall stake any tree that is unable to stand upright on its own, whether the existing stakes have become loosened, damaged, incorrectly installed, or where the stakes are absent. This work shall be performed in any area where the contractor is pruning or where otherwise directed by the Public Services Department Representative. All the standards shall be followed.

#### **1.17. STAKE REMOVAL**

The Contractor shall remove stakes from trees that have achieved enough stability and grown to at least three (3) inches diameter at breast height (DBH). The stakes should be pulled completely out of the ground when possible; otherwise, the stakes shall be cut down below grade and backfilled with soil.

All undamaged tree stakes that are suitable for re-use shall be returned to the City. The Contractor shall dispose of all damaged tree stakes.

Stake removal shall be performed in any area where the contractor is pruning, and there shall be no extra charge incurred.

#### **1.18. REMOVAL OF BRUSH AND DEBRIS**

The Contractor shall be responsible for the removal and disposal of all debris, i.e. wood, branches, brush, chippings, and any other material resulting from tree maintenance operations.

- a) Contractor must comply with all state, county and local laws and ordinances applicable to and governing such disposal.
- b) Disposal of all Eucalyptus wood infested with the larvae of the Eucalyptus Long Horned Borer shall follow the State of California Public Resources Code, Article 5, Section 4714.5.

#### **1.19. TREE WATERING**

Watering is to be performed by a one-man crew with a water truck. Contractor shall include the pricing to water newly planted trees for the first year after initial planting. Watering will occur along various routes including landscape medians, parkways, parks, and City facilities. At the discretion of the Public Services Department Representative, older trees will be included on a watering schedule.

#### **1.20. ARBORIST SERVICES**

On occasion, the City requires tree evaluations including written reports. The Contractor shall provide an hourly rate for an Arborist that can respond to the City's request(s) for



the preparation of detailed arborist reports, tree risk assessment reports, tree evaluations and site inspections. Reporting can be generated on as little as one tree to an entire urban forest population and is handled on a case-by-case basis.

#### **1.21. MILLING**

On occasion, the City may request for some of the removed Urban Forest material be milled down for special projects. The Contractor shall provide a per foot milling cost of this material. Milling can be performed on or off site.



**EXHIBIT B**  
**FEE SCHEDULE**



ITEM	DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL COST
	<b>Grid Pruning</b>				
1	Flat rate price per tree to prune city trees in the grid. 5,000 ea per year over a five year period.	5,000	EA	\$ <u>66.00</u>	\$ <u>330,000.00</u>
2	Flat rate price per tree to prune palm trees in the grid. 2,000 ea per year over a two year period.	2,000	EA	\$ <u>66.00</u>	\$ <u>132,000.00</u>
3	Flat rate price per tree to prune city trees in Landscape Maintenance Districts ("LMD"). 1,400 ea per year over a five year period.	1,400	EA	\$ <u>144.00</u>	\$ <u>201,600.00</u>
	<b>SUBTOTAL (not to exceed annual cost)</b>				\$ <u>663,600.00</u>
	<b>Full Prune per Service Request</b>				
4	0"-12" Diameter Standard Height		EA	\$ <u>80.00</u>	\$ <u>80.00</u>
5	13"-18" Diameter Standard Height		EA	\$ <u>80.00</u>	\$ <u>80.00</u>
6	19"-24" Diameter Standard Height		EA	\$ <u>120.00</u>	\$ <u>120.00</u>
7	25"-30" Diameter Standard Height		EA	\$ <u>120.00</u>	\$ <u>120.00</u>
8	31"-36" Diameter Standard Height		EA	\$ <u>144.00</u>	\$ <u>144.00</u>
9	36"+ Diameter Standard Height		EA	\$ <u>144.00</u>	\$ <u>144.00</u>
	<b>Crown Raise per Service Request – Hardwood Tree</b>				
10	0"-12" Diameter Standard Height		EA	\$ <u>59.00</u>	\$ <u>59.00</u>
11	13"-18" Diameter Standard Height		EA	\$ <u>59.00</u>	\$ <u>59.00</u>
12	19"-24" Diameter Standard Height		EA	\$ <u>59.00</u>	\$ <u>59.00</u>
13	25"-30" Diameter Standard Height		EA	\$ <u>59.00</u>	\$ <u>59.00</u>
14	31"-36" Diameter Standard Height		EA	\$ <u>59.00</u>	\$ <u>59.00</u>
15	36"+ Diameter Standard Height		EA	\$ <u>59.00</u>	\$ <u>59.00</u>
	<b>Crown Cleaning per Service Request – Hardwood Tree</b>				
16	0"-12" Diameter Standard Height		EA	\$ <u>80.00</u>	\$ <u>80.00</u>
17	13"-18" Diameter Standard Height		EA	\$ <u>80.00</u>	\$ <u>80.00</u>
18	19"-24" Diameter Standard Height		EA	\$ <u>120.00</u>	\$ <u>120.00</u>
19	25"-30" Diameter Standard Height		EA	\$ <u>120.00</u>	\$ <u>120.00</u>
20	31"-36" Diameter Standard Height		EA	\$ <u>144.00</u>	\$ <u>144.00</u>
21	36"+ Diameter Standard Height		EA	\$ <u>144.00</u>	\$ <u>144.00</u>



	<b>Crown Reduction per Service Request – Hardwood Tree</b>			
22	0"-12" Diameter Standard Height	EA	\$ <u>90.00</u>	\$ <u>90.00</u>
23	13"-18" Diameter Standard Height	EA	\$ <u>90.00</u>	\$ <u>90.00</u>
24	19"-24" Diameter Standard Height	EA	\$ <u>144.00</u>	\$ <u>144.00</u>
25	25"-30" Diameter Standard Height	EA	\$ <u>144.00</u>	\$ <u>144.00</u>
26	31"-36" Diameter Standard Height	EA	\$ <u>184.00</u>	\$ <u>184.00</u>
27	36"+ Diameter Standard Height	EA	\$ <u>284.00</u>	\$ <u>284.00</u>
	<b>Palm Pruning</b>			
28	Prune Date Palm (Phoenix spp.)	EA	\$ <u>200.00</u>	\$ <u>200.00</u>
29	Clean Trunk for Date Palm (Phoenix spp.)	EA	\$ <u>200.00</u>	\$ <u>200.00</u>
30	Prune Fan Palm (Washingtonia spp.)	EA	\$ <u>84.00</u>	\$ <u>84.00</u>
31	Clean Trunk for Fan Palm (Washingtonia spp.)	EA	\$ <u>104.00</u>	\$ <u>104.00</u>
32	Prune all other Palm Species	EA	\$ <u>66.00</u>	\$ <u>66.00</u>
	<b>Tree and Stump Removal</b>			
33	0"-12" Diameter Standard Height	EA	\$ <u>280.00</u>	\$ <u>280.00</u>
34	13"-18" Diameter Standard Height	EA	\$ <u>680.00</u>	\$ <u>680.00</u>
35	19"-24" Diameter Standard Height	EA	\$ <u>940.00</u>	\$ <u>940.00</u>
36	25"-30" Diameter Standard Height	EA	\$ <u>1,220.00</u>	\$ <u>1,220.00</u>
37	31"-36" Diameter Standard Height	EA	\$ <u>1,450.00</u>	\$ <u>1,450.00</u>
38	36"+ Diameter Standard Height	EA	\$ <u>1,890.00</u>	\$ <u>1,890.00</u>
	<b>Tree Removal Only. No Stump Removal.</b>			
39	0"-12" Diameter Standard Height	EA	\$ <u>240.00</u>	\$ <u>240.00</u>
40	13"-18" Diameter Standard Height	EA	\$ <u>620.00</u>	\$ <u>620.00</u>
41	19"-24" Diameter Standard Height	EA	\$ <u>870.00</u>	\$ <u>870.00</u>
42	25"-30" Diameter Standard Height	EA	\$ <u>1,100.00</u>	\$ <u>1,100.00</u>
43	31"-36" Diameter Standard Height	EA	\$ <u>1,370.00</u>	\$ <u>1,370.00</u>
44	36"+ Diameter Standard Height	EA	\$ <u>1,720.00</u>	\$ <u>1,720.00</u>
	<b>Stump Removal</b>			
45	Stump Removal per Stump Diameter Inch at Grade	INCH	\$ <u>20.00</u>	\$ <u>20.00</u>



	<b>Tree Planting and Staking</b>	EA	\$ _____	\$ _____
46	15 Gallon (double staked per specs) – Labor, Equipment, Tree and Materials	EA	\$ <u>180.00</u>	\$ <u>180.00</u>
47	24 inch Box (double staked per specs) – Labor, Equipment, Tree and Materials	EA	\$ <u>360.00</u>	\$ <u>360.00</u>
48	36 inch Box (double staked per specs) – Labor, Equipment, Tree and Materials	EA	\$ <u>1,000.00</u>	\$ <u>1,000.00</u>
	<b>General Labor Rates</b>			
49	Hourly Rate for 1 Ground-person	HR	\$ <u>89.00</u>	\$ <u>89.00</u>
50	Hourly Rate for 1 Equipment Operator	HR	\$ <u>89.00</u>	\$ <u>89.00</u>
51	Hourly Rate for 1 Trimmer	HR	\$ <u>89.00</u>	\$ <u>89.00</u>
	<b>Day Rate</b>			
52	Day Rate Service Crew	DAY	\$ <u>2,403.00</u>	\$ <u>2,403.00</u>
53	Specialty Equipment Day Rate	DAY	\$ <u>1,000.00</u>	\$ <u>1,000.00</u>
	<b>Emergency Services</b>			
54	During normal business hours	HR	\$ <u>109.00</u>	\$ <u>109.00</u>
55	After hours, weekends and/or holidays	HR	\$ <u>129.00</u>	\$ <u>129.00</u>
	<b>General Arborist Services</b>			
56	Arborist Reports	HR	\$ <u>150.00</u>	\$ <u>150.00</u>
57	Level 1, 2, and 3 Risk Assessments	HR	\$ <u>150.00</u>	\$ <u>150.00</u>



**CITY OF WEST COVINA**  
**RFP for Tree Trimming and Tree Maintenance Services (Spec No. 61-007)**

**ADDITIONAL SERVICES PRICING**

<b>DESCRIPTION</b>	<b>UNIT</b>	<b>UNIT PRICE</b>
Specialty Equipment Pay Rate (ATV)	Per Day	\$500.00
GPS Tree Inventory Add-on's	Tree Site	\$5.00
Plant 48" box tree	Each	\$1,950.00
Plant 60" box tree	Each	\$5,950.00

**PLANT HEALTH CARE SERVICES**

<b>DESCRIPTION</b>	<b>UNIT</b>	<b>UNIT PRICE</b>
<b>Tree Canopy Spraying from ground level</b>	Per diameter inch	\$ 6.00
<b>Tree Canopy Spraying from aerial tower</b>	Per diameter inch	\$ 8.00
Description: Foliar hydraulic spraying of recommended material.		
<b>Insecticide or Fungicide Trunk Banding</b>	Per diameter inch	\$ 6.00
Description: Trunk spray of recommended material.		
<b>PGR Trunk Banding</b>	Per diameter inch	\$ 6.00
Description: Trunk spray of recommended material to regulate plant growth.		
<b>Insecticide or PGR Soil Application (Cambistat)</b>	Per diameter inch	\$ 6.00
Description: Recommended insecticide soil injection or drench material to regulate plant growth.		
<b>Insecticide or Fungicide Soil Application</b>	Per diameter inch	\$ 6.00
Description: Soil applied drench of recommended material.		
<b>Soil Injection Fertilization</b>	Per diameter inch	\$ 6.00
Description: Soil applied injection of recommended material.		
<b>Soil Drenching Fertilization</b>	Per diameter inch	\$ 6.00
Description: Soil application of recommended material.		
<b>Trunk Injection (Insecticide/Miticide)</b>	Per diameter inch	\$ 8.00
Description: Trunk injected recommended material.		
<b>Trunk Injection (Fungicide)</b>	Per diameter inch	\$ 6.00
Description: Trunk injected recommended material.		
<b>Trunk Injection (Insecticide &amp; Fungicide Combo)</b>	Per diameter inch	\$ 8.00
Description: Combination of one time trunk injection of two recommended materials.		
<b>Avermectin Class Insecticide Injection</b>	Per diameter inch	\$6.00
Description: Recommended trunk injection of Emamectin benzoate active ingredient.		

\*Prices may vary subject to the recommended rate of application, material availability, and best management practices.

**COOPERATIVE PURCHASE**

It is intended that any other public agency (e.g., city, county, district, public authority, public agency, municipality, and other political subdivision or public corporation) shall have the option to participate in any award made as a result of this solicitation at the same prices. The City shall incur no financial responsibility in connection with any purchase by another public agency. The public agency shall accept sole responsibility for placing orders and making payments to the vendor.



**EXHIBIT C**  
**BONDS**





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF ANNUAL PURCHASE ORDER TO WAXIE SANITARY  
SUPPLY FOR FISCAL YEAR 2020-21**

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### RECOMMENDATION:

It is recommended that the City Council approve an annual purchase order for Fiscal Year (FY) 2020-21 to WAXIE Sanitary Supply in the total amount of \$65,000.

### DISCUSSION:

WAXIE Sanitary Supply has been serving government agencies at a low cost since 1945. They are an industry leader in the distribution of quality sanitary and janitorial supplies and equipment to the commercial, industrial, contractor and institutional markets.

Since 2004, WAXIE has been furnishing sanitary and janitorial supplies to the City of West Covina. WAXIE has been invoicing the City under the National Cooperative Purchasing Alliance (NCPA). For FY 2018-19, the City Council approved an annual purchase order with WAXIE in the amount of \$60,000. For FY 2019-20, the City Council approved an annual purchase order with WAXIE in the amount of \$61,000. During FY 2019-20, the City spent \$59,088 on WAXIE sanitary and janitorial supplies, with an average monthly cost of \$5,000. Staff is now requesting that the City Council approve an annual purchase order in the total amount of \$65,000 for the purchase of WAXIE sanitary and janitorial supplies for FY 2020-21. The total approved budget for the purchase of City buildings supplies and materials including sanitary and janitorial supplies in FY 2020-21 is \$85,000 in account 110.61.4144.6270.

NCPA is a leading national government purchasing cooperative working to reduce the cost of goods and services by leveraging the purchasing power of public agencies in all 50 states. NCPA utilizes state-of-the-art procurement resources and solutions that result in cooperative purchasing contracts that ensure all public agencies are receiving products and services of the highest quality at the lowest prices. Under NCPA, cities are able to purchase products and/or services at significantly reduced rates. The Purchasing Division has verified that NCPA meets all City's requirements set forth in Section 2-333(i)(2) of the West Covina Municipal Code and therefore formal contract procedures may be waived. The current NCPA contract expires in April 2022.

### OPTIONS:



The City Council has the following options:

1. Approve staff's recommendation; or
2. Direct staff to solicit bids; or
3. Provide alternative direction.

**Prepared by:** Mike Cresap Public Services Superintendent

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#### **Fiscal Impact**

##### **FISCAL IMPACT:**

The total approved budget for the purchase of City buildings supplies and materials, including sanitary and janitorial supplies, in FY 2020-21 is \$85,000 in account 110.61.4144.6270. No appropriation is required.

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#### **Attachments**

Attachment 1 - Waxie NCPA Contract

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**CITY COUNCIL GOALS & OBJECTIVES:** Enhance City Facilities and Infrastructure  
Enhance Public Safety





**Waxie**

Website: <http://www.waxie.com>

## Overview

WAXIE Sanitary Supply is the industry leader in the distribution of quality sanitary and janitorial supplies and equipment to the commercial, industrial, contractor and institutional markets.

WAXIE reduces your total sanitary and janitorial maintenance costs by providing the highest quality products, supplies, tools and equipment all under one roof. From the basics you use every day – toilet tissue, cleaners, trash can liners, mops and safety supplies – to more specialized items like marble care products, floor care machinery, dilution control systems, washroom partitions, ware wash and laundry, and more, WAXIE is the single source for all your maintenance needs.

## Contract Info

### **Awarded Vendor:**

Waxie

### **Contract Awarded:**

Comprehensive Operational and Janitorial Supplies Solutions

### **Contract Number:**

02-27

### **Lead Agency:**

Region 14 ESC

### **Contract Term:**

3 year term, April 11, 2016 to April 30, 2019

*\*Option to renew for five (5) additional one (1) year periods.*





## Region XIV Education Service Center

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1850 Highway 351  
Abilene, TX 79601-4750  
325-675-8600  
FAX 325-675-8659

Monday, April 11<sup>th</sup>, 2016

Waxie's Enterprises, Inc. dba Waxie Sanitary Supply  
ATTN: Mike Muscara  
9353 Waxie Way  
San Diego, CA 92123

Dear Mike:

Region XIV Education Service Center is happy to announce that Waxie's Enterprises, Inc. dba Waxie Sanitary Supply has been awarded an annual contract for Comprehensive Operational and Janitorial Supplies Solutions based on the proposal submitted to Region XIV ESC.

The contract is effective immediately and will expire on April 30<sup>th</sup>, 2019. The contract can be renewed annually for an additional five years, if mutually agreed on by Region XIV ESC and Waxie's Enterprises, Inc. dba Waxie Sanitary Supply

We look forward to a long and successful partnership underneath this contract.

If you have any questions or concerns, feel free to contact me at 325-675-8600.

Sincerely,

A handwritten signature in blue ink that reads 'Ronnie Kincaid'.

Ronnie Kincaid  
Region XIV, Executive Director



## Tab 2 – NCPA Administration Agreement

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This Administration Agreement is made as of April 11, 2016, by and between National Cooperative Purchasing Alliance (“NCPA”) and Waxie's Enterprises (“Vendor”).

### Recitals

WHEREAS, Region 14 ESC has entered into a certain Master Agreement dated April 11, 2016, referenced as Contract Number 02-27, by and between Region 14 ESC and Vendor, as may be amended from time to time in accordance with the terms thereof (the “Master Agreement”), for the purchase of Comprehensive Operational and Janitorial Supplies Solutions;

WHEREAS, said Master Agreement provides that any state, city, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution, other government agency or nonprofit organization (hereinafter referred to as “public agency” or collectively, “public agencies”) may purchase products and services at the prices indicated in the Master Agreement;

WHEREAS, NCPA has the administrative and legal capacity to administer purchases under the Master Agreement to public agencies;

WHEREAS, NCPA serves as the administrative agent for Region 14 ESC in connection with other master agreements offered by NCPA

WHEREAS, Region 14 ESC desires NCPA to proceed with administration of the Master Agreement;

WHEREAS, NCPA and Vendor desire to enter into this Agreement to make available the Master Agreement to public agencies on a national basis;

NOW, THEREFORE, in consideration of the payments to be made hereunder and the mutual covenants contained in this Agreement, NCPA and Vendor hereby agree as follows:

#### ◆ General Terms and Conditions

- The Master Agreement, attached hereto as Tab 1 and incorporated herein by reference as though fully set forth herein, and the terms and conditions contained therein shall apply to this Agreement except as expressly changed or modified by this Agreement.
- NCPA shall be afforded all of the rights, privileges and indemnifications afforded to Region 14 ESC under the Master Agreement, and such rights, privileges and indemnifications shall accrue and apply with equal effect to NCPA under this Agreement including, but not limited to, the Vendor’s obligation to provide appropriate insurance and certain indemnifications to Region 14 ESC.
- Vendor shall perform all duties, responsibilities and obligations required under the Master Agreement in the time and manner specified by the Master Agreement.
- NCPA shall perform all of its duties, responsibilities, and obligations as administrator of purchases under the Master Agreement as set forth herein, and Vendor acknowledges that NCPA shall act in the capacity of administrator of purchases under the Master Agreement.
- With respect to any purchases made by Region 14 ESC or any Public Agency pursuant to the Master Agreement, NCPA (a) shall not be construed as a dealer, re-marketer, representative, partner, or agent of any type of Vendor, Region 14 ESC, or such Public Agency, (b) shall not be obligated, liable or responsible (i) for any orders made by Region



14 ESC, any Public Agency or any employee of Region 14 ESC or Public Agency under the Master Agreement, or (ii) for any payments required to be made with respect to such order, and (c) shall not be obligated, liable or responsible for any failure by the Public Agency to (i) comply with procedures or requirements of applicable law, or (ii) obtain the due authorization and approval necessary to purchase under the Master Agreement. NCPA makes no representations or guaranties with respect to any minimum purchases required to be made by Region 14 ESC, any Public Agency, or any employee of Region 14 ESC or Public Agency under this Agreement or the Master Agreement.

- The Public Agency participating in the NCPA contract and Vendor may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this contract i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement developed as a result of this contract is exclusively between the Public Agency and Vendor. NCPA, its agents, members and employees shall not be made party to any claim for breach of such agreement.

◆ **Term of Agreement**

- This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the obligation to pay all amounts owed by Vendor to NCPA through the termination of this Agreement and all indemnifications afforded by Vendor to NCPA shall survive the term of this Agreement.

◆ **Fees and Reporting**

- The awarded vendor shall electronically provide NCPA with a detailed monthly or quarterly report showing the dollar volume of all sales under the contract for the previous month or quarter. Reports shall be sent via e-mail to NCPA offices at [reporting@ncpa.us](mailto:reporting@ncpa.us). Reports are due on the fifteenth (15<sup>th</sup>) day after the close of the previous month or quarter. It is the responsibility of the awarded vendor to collect and compile all sales under the contract from participating members and submit one (1) report. The report shall include at least the following information as listed in the example below:

Entity Name	Zip Code	State	PO or Job #	Sale Amount

**Total** \_\_\_\_\_

- Each quarter NCPA will invoice the vendor based on the total of sale amount(s) reported. From the invoice the vendor shall pay to NCPA an administrative fee based upon the tiered fee schedule below. Vendor's annual sales shall be measured on a calendar year basis. Deadline for term of payment will be included in the invoice NCPA provides.

<u>Annual Sales Through Contract</u>	<u>Administrative Fee</u>
0 - \$30,000,000	2%
\$30,000,001 - \$50,000,000	1.5%
\$50,000,001+	1%



- Supplier shall maintain an accounting of all purchases made by Public Agencies under the Master Agreement. NCPA and Region 14 ESC reserve the right to audit the accounting for a period of four (4) years from the date NCPA receives the accounting. In the event of such an audit, the requested materials shall be provided at the location designated by Region 14 ESC or NCPA. In the event such audit reveals an underreporting of Contract Sales and a resulting underpayment of administrative fees, Vendor shall promptly pay NCPA the amount of such underpayment, together with interest on such amount and shall be obligated to reimburse NCPA's costs and expenses for such audit.
- General Provisions
  - This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.
  - Awarded vendor agrees to allow NCPA to use their name and logo within website, marketing materials and advertisement. Any use of NCPA name and logo or any form of publicity regarding this contract by awarded vendor must have prior approval from NCPA.
  - ❖ WAXIE requests reciprocity using the following language:  
 NCPA and Region 14 ESC agree to allow WAXIE to use their names and logos within website, marketing materials and advertisement. Any use of WAXIE name and logo or any form of publicity regarding this contract by NCPA or Region 14 ESC must have prior approval by WAXIE.
  - If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement or to recover any administrative fee and accrued interest, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which such party may be entitled.
  - Neither this Agreement nor any rights or obligations hereunder shall be assignable by Vendor without prior written consent of NCPA. Any assignment without such consent will be void.
  - This Agreement and NCPA's rights and obligations hereunder may be assigned at NCPA's sole discretion, to an existing or newly established legal entity that has the authority and capacity to perform NCPA's obligations hereunder
  - All written communications given hereunder shall be delivered to the addresses as set forth below.

Except where indicated otherwise, WAXIE acknowledges and agrees to all other aspects of Tab 2.



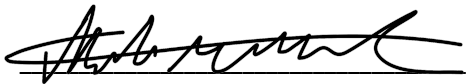
**National Cooperative Purchasing Alliance:**

Name: Matthew Mackel

Title: Director, Business Development

Address: PO Box 701273

Houston, TX 77270

Signature: 

Date: April 11, 2016

**Vendor:** WAXIE Sanitary Supply

Name: Mike Muscara

Title: Corporate Accounts Director

Address: 9353 Waxie Way

San Diego, CA 92123

Signature: 

Date: March 28, 2016





## Region XIV Education Service Center

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1850 Highway 351  
Abilene, TX 79601-4750  
325-675-8600  
FAX 325-675-8659

Friday, October 12<sup>th</sup>, 2018

Waxie's Enterprises, Inc. dba Waxie Sanitary Supply  
ATTN: Mike Muscara  
9353 Waxie Way  
San Diego, CA. 92123

Re: Annual Renewal of NCPA contract #02-27

Dear Mike:

Region XIV Education Service Center is happy to announce that Waxie's Enterprises, Inc. dba Waxie Sanitary Supply has been awarded a three-year term contract renewal for Comprehensive Operational and Janitorial Supplies Solutions based on the proposal submitted to Region XIV ESC.

The contract will expire on April 30<sup>th</sup>, 2022, completing the sixth year of a possible eight year term. If your company is not in agreement, please contact me immediately.

If you have any questions or concerns, feel free to contact me at 325-675-8600.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shane', is written over a light blue, textured rectangular background.

Shane Fields  
Region XIV, Executive Director





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: PUBLIC HEARING TO CONSIDER WEST COVINA AUTO PLAZA BUSINESS  
IMPROVEMENT DISTRICT FISCAL YEAR 2020-2021 ANNUAL REPORT AND  
ASSESSMENT**

---

### RECOMMENDATION:

It is recommended that the City Council conduct the public hearing and then adopt the following resolution:

**RESOLUTION NO. 2020-69 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, CONFIRMING THE ANNUAL REPORT FILED BY THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD AND LEVYING AN ANNUAL ASSESSMENT FOR THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2020-2021**

### BACKGROUND:

The Parking and Business Improvement Area Law of 1989 (Streets and Highways Code Section 36500 et seq.) (PBIA Law) establishes the framework for Business Improvement Districts (BID). The State wanted to make it possible for groups of businesses to band together and invest in their commercial neighborhoods for the purposes of revitalization, stability and growth. On June 1, 1993, the City Council adopted Ordinance No. 1923, which established the West Covina Auto Plaza Business Improvement District (Auto Plaza BID). The City created this BID at the request of the businesses located in the area. Each year, the City Council holds a noticed public hearing before deciding to renew the BID for another year.

The assessment revenue is collected from businesses located within the Auto Plaza BID and is used to pay for the capital costs, operation and maintenance of a LED reader board sign located in the West Covina Auto Plaza, adjacent to the I-10 freeway, and for the operation and maintenance of the Auto Plaza entry monument sign and landscaping located at the southeast corner of Azusa Avenue and Garvey Avenue South. Assessment revenue is also used for landscaping maintenance along the I-10 freeway immediately facing and parallel to the Auto Plaza dealerships.

On April 19, 1994, the City Council appointed an Advisory Board consisting of the owners (and/or their representatives) of the auto dealerships located at the Auto Plaza. The function of the Advisory Board is to make recommendations to the City Council on the expenditure of revenues derived from the levy of assessments, on the classification of businesses, and on the method and basis of levying the assessments. Pursuant to the PBIA Law, for each fiscal year that assessments will be levied, the Advisory Board is required cause a report to be prepared



containing the following: (1) any proposed changes in the boundaries of the BID or in any benefit zones within the area, (2) the improvements and activities to be provided for that fiscal year, (3) an estimate of the cost of providing the improvements and the activities for that fiscal year, (4) the method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year, (5) the amount of any surplus or deficit revenues to be carried over from a previous fiscal year, and (6) the amount of any contributions to be made from sources other than assessments levied.

The purpose of this item is to request that the City Council conduct the required public hearing and then adopt the resolution to confirm the Advisory Board's annual report as originally filed and levy the assessment for FY 2020-21.

#### **DISCUSSION:**

On June 9, 2020, the Auto Plaza BID Advisory Board held its annual meeting and approved the Annual Report. The Annual Report was filed with the City Clerk as required by the PBIA Law. The Annual Report is included as Attachment No. 2 to this report.

At the June 23, 2020 City Council meeting, the City Council approved the annual report and adopted Resolution 2020-67, declaring the intention to levy the annual assessment and setting the public hearing for July 7, 2020 at 7:00 p.m. in the City Council Chambers.

The Annual Report includes a total budget of \$122,326.39, with an assessment of \$16,524.00 per dealership site. The gross estimated annual cost for operating expenditures including programming, maintenance, electricity, and insurance for the readerboard sign, landscaping, landscape maintenance, taxes and preparation costs, is \$70,202.78. The annual loan repayment is \$52,123.61, totaling \$122,326.39 in annual expenditures. The Advisory Board voted to assess themselves \$16,524.00 (the same as last year), which would generate \$115,668.00 for FY 2020-21. Since the annual expenditures increased, the assessments will not cover the total annual expenditures, with a deficit of \$6,658.39. The Advisory Board elected to utilize a portion of the FY 2019-20 year-end fund balance of \$156,508.36 to cover the deficit and to cover the required six (6) month operating reserve (\$35,101.39). An assessment of \$16,524.00 for each of the seven (7) dealership sites in the Auto Plaza BID will be placed on the tax rolls by the County of Los Angeles Department of Auditor-Controller.

The anticipated year-end fund balance for FY 2019-20 is anticipated to be \$156,508.36, which includes the operating reserves.

At the conclusion of the hearing, the City Council may order changes in the proposed assessment, the proposed improvements to be funded, and/or the proposed boundaries of the BID. If the Council determines to levy the assessment as proposed, it may adopt the attached resolution (Attachment No. 1), which confirms the Annual Report and levies the assessment for FY 2020-21. Adoption of the resolution places direct assessments on the auto dealers of the West Covina Auto Plaza BID. The BID boundaries are included as Exhibit A to the resolution.

#### **LEGAL REVIEW:**

The City Attorney's Office has reviewed the resolution and approved it as to form.

#### **OPTIONS:**

The City Council has the following options:

1. Approve staff's recommendation; or
2. Provide alternative direction.

#### **ENVIRONMENTAL REVIEW:**

The proposed item is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines in that it consists of review of the annual report which does not have the potential for causing a significant effect on the environment.



**Prepared by:** Gerardo Rojas, Economic Development Project Coordinator

**Additional Approval:** Paulina Morales, Economic Development & Housing Manager

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### **Fiscal Impact**

#### **FISCAL IMPACT:**

There is no impact to City funds by adopting the attached resolution that levies the assessment for the Auto Plaza BID. All costs are covered by assessments collected from the West Covina Auto Plaza Business Improvement District dealerships. In addition, the Auto Plaza BID is charged a nominal administrative fee for City staff's time to administer the West Covina Plaza BID and monitor the annual budget.

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### **Attachments**

Attachment No. 1 - Resolution No. 2020-69

Attachment No. 2 - Annual Report

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**CITY COUNCIL GOALS & OBJECTIVES:** Engage in Proactive Economic Development



**RESOLUTION NO. 2020-69**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, CONFIRMING THE ANNUAL REPORT FILED BY THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD AND LEVYING AN ANNUAL ASSESSMENT FOR THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2020-2021**

**WHEREAS**, in adopting the Parking and Business Improvement Area Law of 1989 (Streets & Highways Code sections 36500 et seq.), the California Legislature authorized cities to levy assessments on businesses in order to promote economic revitalization and tourism, create jobs, attract new businesses, and prevent erosion of business districts; and

**WHEREAS**, on June 1, 1993, the City Council adopted Ordinance No. 1923, which established the West Covina Auto Plaza Business Improvement District (“District”) for purposes of levying an assessment within the District to fund the construction, operation and maintenance of an electronic readerboard to be located adjacent to the I-10 freeway and benefit the West Covina Auto Plaza dealerships to be assessed. The District was established with one hundred percent (100%) property owner consent; and

**WHEREAS**, on April 19, 1994, the City Council appointed the owners and/or their representatives of the auto dealerships located in the West Covina Auto Plaza as the advisory board of the District as required by Streets and Highways Code section 36530 (“Advisory Board”); and

**WHEREAS**, on June 16, 2015, the Advisory Board modified the benefits zones within the District, increasing the number of benefit zones from six (6) dealership sites to seven (7) dealership sites. The boundaries and benefit zones of the District are set forth in Exhibit A, attached hereto and incorporated herein; and

**WHEREAS**, the Advisory Board has caused the annual report for Fiscal Year 2020-21 required by Streets and Highways Code section 36533 to be prepared and filed with the City Clerk; and

**WHEREAS**, the City Council has approved said annual report; and

**WHEREAS**, the City Council proposes to levy and collect an assessment within the District for Fiscal Year 2020-21; and

**WHEREAS**, on June 23, 2020, the City Council adopted Resolution No. 2020-67, a resolution of intention to levy the assessment within the District for FY 2020-21 and setting the date for a public hearing for July 7, 2020, in accordance with the requirements of Streets and Highways Code section 36534; and



**WHEREAS**, the City Council has conducted a public hearing as required by Streets and Highways Code section 36535; and

**WHEREAS**, the City Council now desires to confirm the annual report as filed by the Advisory Board and adopt this Resolution to levy the assessment for the 2020-2021 Fiscal Year.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1. Annual Report.** The City Council hereby confirms the annual report on the District as originally filed by the Advisory Board in accordance with Streets and Highways Code section 36535. The report shall be kept on file in the City Clerk's Office.

**SECTION 2. Assessment.** An annual assessment for the District for Fiscal Year 2020-21 shall be levied pursuant to Streets & Highways Code sections 36500 et seq. The boundaries of the District are set forth in Exhibit A. The amount of the annual assessment is \$16,524.00. Pursuant to Streets & Highways Code section 36531, new businesses commenced after the effective date of the resolution levying the assessment will be exempt from the levy of the assessment for Fiscal Year 2020-21.

**SECTION 3. Types of Activities to Be Funded.** The assessment revenue collected through the levy of the annual assessment will be used for financing the operation and maintenance of an LED readerboard sign located in the West Covina Auto Plaza adjacent to the San Bernardino Interstate 10 Freeway as well as financing of the operation and maintenance costs for the entry monument to the Auto Plaza, which includes the sign and landscaping located at the southwest corner of Azusa Avenue and Garvey Avenue South.

**SECTION 4. Method and Basis of Levy.** The method and basis of levying the assessment will be pursuant to Ordinance No. 1923, which was adopted by the City Council on June 1, 1993.

**SECTION 5. Certification; Effective Date.** The City Clerk shall certify to the adoption of this Resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 7th day of July, 2020.

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Tony Wu  
Mayor



**APPROVED AS TO FORM**

**ATTEST**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-69 as duly adopted by the City Council of the City of West Covina at a regular meeting thereof held on the 7th day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk



**EXHIBIT A**

**WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT  
BOUNDARIES**



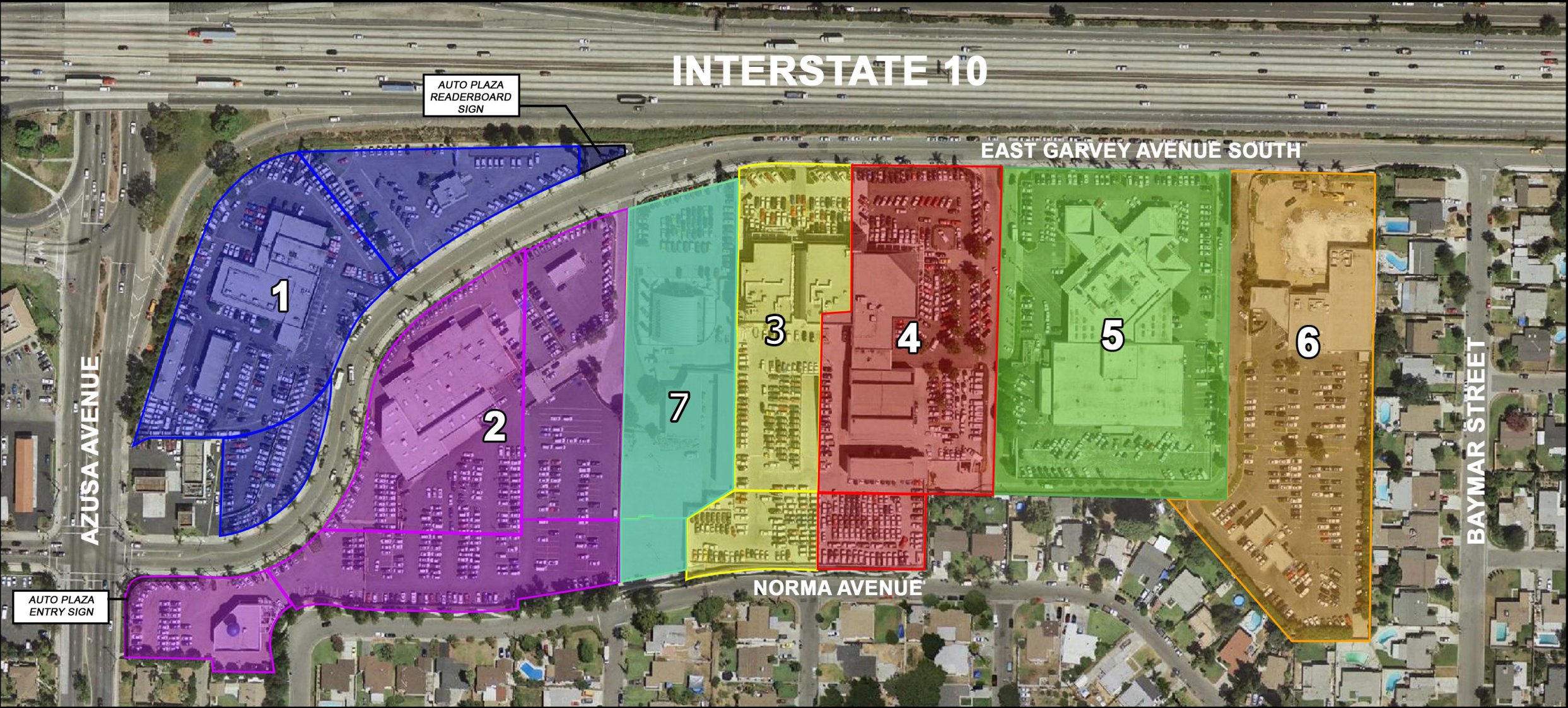


IMAGE NOT TO SCALE

**WEST COVINA AUTO PLAZA**  
**BUSINESS IMPROVEMENT DISTRICT BOUNDARIES**  
New Proposed Benefit Zones

	DEALERSHIPS	APN	LOT SIZE
1	Envision Toyota of West Covina	8478-007-025, 30, 31	4.17 acres
2	Norm Reeves Honda Super Store	8478-007-028, 34, 38, 8478-008-015	5.52 acres
3	Former Clippinger Chevrolet	8474-004-047, 048	2.27 acres
4	Performance Ford	8478-004-046, 49	3.42 acres
5	Envision Mercedes Benz of West Covina	8478-004-042	4.16 acres
6	Envision Audi of West Covina	8478-004-026	3.72 acres
7	Former DriveTime	8474-007-039, 040	2.23 acres



**WEST COVINA AUTO PLAZA  
BUSINESS IMPROVEMENT DISTRICT**

**ANNUAL REPORT  
FOR  
FISCAL YEAR 2020-2021**

**1. Any proposed changes in the boundaries of the business improvement district area.**

None.

**2. The improvements and activities to be provided for Fiscal Year 2020-2021.**

Financing the operation and maintenance of an LED readerboard sign located in the West Covina Auto Plaza adjacent to the San Bernardino Interstate 10 Freeway as well as financing of the operation and maintenance costs for the entry monument to the Auto Plaza, which includes the sign and landscaping located at the southwest corner of Azusa Avenue and Garvey Avenue South. Financing also includes landscape maintenance along Interstate 10 Freeway immediately facing and parallel to the Auto Plaza Dealerships.

**3. Estimate of the cost of providing the improvements and the activities for Fiscal Year 2020-2021.**

Gross estimated annual cost for operating expenditures including programming, maintenance, electricity, and insurance for the readerboard sign, landscaping, landscape maintenance, taxes and preparation costs, is \$70,202.78. The annual loan repayment is \$52,123.61, totaling \$122,326.39 in annual expenditures. The Advisory Board voted to assess themselves \$16,524.00 (the same as last year) which would generate \$115,668.00 for FY 2020-21. As the annual expenditures increased, the assessments will not cover the total annual expenditures with a deficit of \$6,658.39. The Advisory Board elected to utilize a portion of the fund balance of \$156,508.36 to cover the deficit of \$6,658.39 and to cover the required six (6) month operating reserve (\$35,101.39). An assessment of \$16,524.00 for each of the seven (7) dealership sites in the business improvement district will be placed on the tax rolls by the County of Los Angeles Department of Auditor-Controller.

**4. Method and basis of levying the assessment for Fiscal Year 2020-2021.**

The method and basis of levying the assessment will be pursuant to Ordinance No. 1923, which was adopted by the City Council on June 1, 1993.

**5. Amount of any surplus or deficit revenues to be carried over from Fiscal Year 2019-2020.**

FY 2019-2020 is anticipated to have a surplus of \$1,473.76 which will be carried over to FY 2020-21. The anticipated fund balance starting for FY 2020-21 is \$156,508.36. This includes the six (6) month operating reserve of \$35,101.39.

**6. Amount of any contributions to be made from sources other than the assessments levied.**

None.



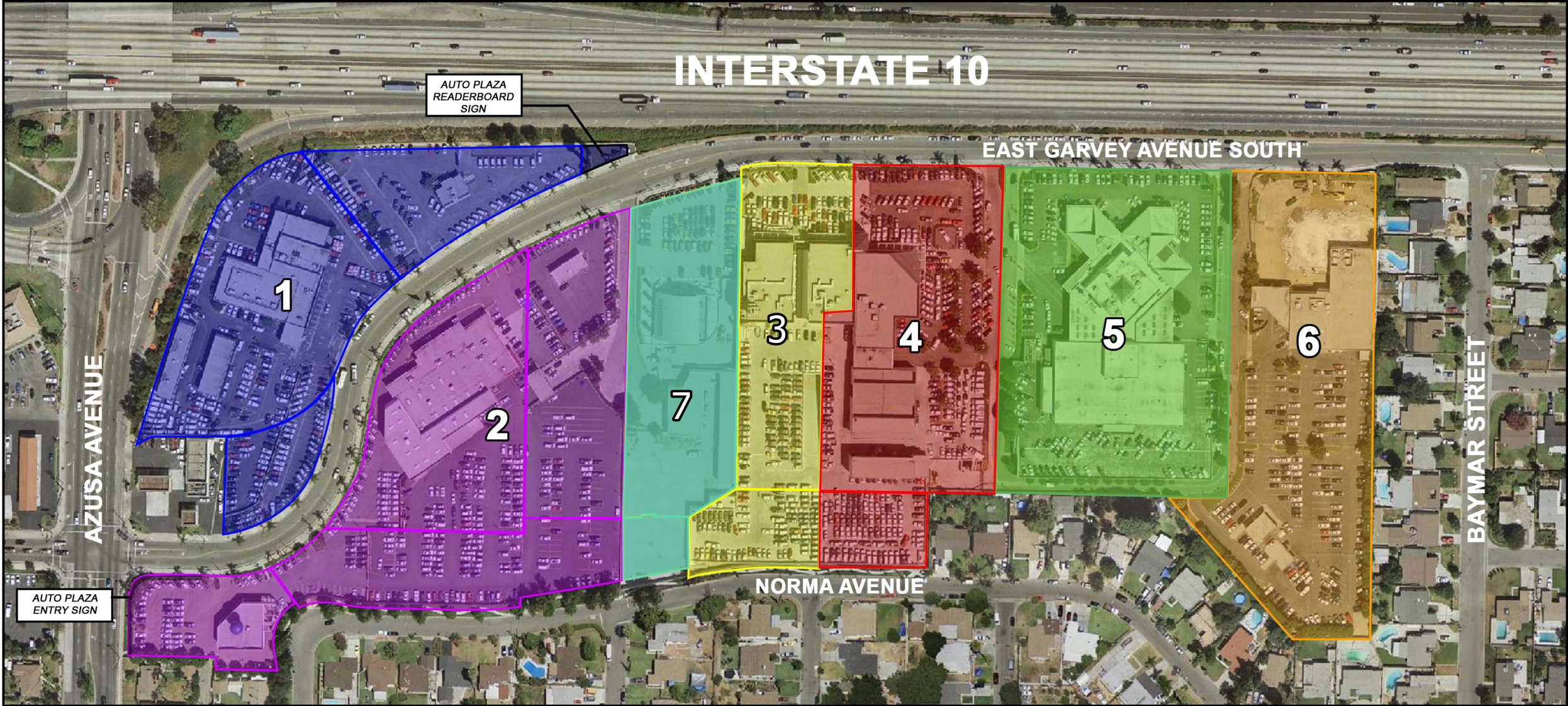


IMAGE NOT TO SCALE

**WEST COVINA AUTO PLAZA**  
**BUSINESS IMPROVEMENT DISTRICT BOUNDARIES**  
New Proposed Benefit Zones

	DEALERSHIPS	APN	LOT SIZE
1	Envision Toyota of West Covina	8478-007-025, 30, 31	4.17 acres
2	Norm Reeves Honda Super Store	8478-007-028, 34, 38, 8478-008-015	5.52 acres
3	Former Clippinger Chevrolet	8474-004-047, 048	2.27 acres
4	Performance Ford	8478-004-046, 49	3.42 acres
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6	Envision Audi of West Covina	8478-004-026	3.72 acres
7	Former DriveTime	8474-007-039, 040	2.23 acres



**West Covina Auto Plaza  
Business Improvement District  
2020 - 2021 (July 1 - June 30)**

	FY 2015-2016	FY 2016-2017	FY 2017-2018	FY 2018-2019	2019-2020 (92% of Year Complete)				FY 2020-2021
	Assessment Among 7 Dealership/Sites Actual	Assessment Among 7 Dealership/Sites Actual	Assessment Among 7 Dealership/Sites Actual	Assessment Among 7 Dealership/Sites Actual	Adopted Budget	As of 06/02/20	% Budget	Projected	Keeping Assessment the Same
<b>Fund Balance</b>									
Beginning Balance as of July 1	\$ 67,404.67	\$ 88,695.68	\$ 128,044.05	\$ 129,556.55	\$ 139,325.77	\$ 206,131.17		\$ 156,508.36	\$ 156,508.36
<b>TOTAL Revenues</b>					\$ 115,668.00	\$ 99,115.93		\$ 115,668.00	\$ 115,668.00
<b>TOTAL Expenditures</b>					\$ 118,326.40				\$ 122,326.39
<b>OPERATING</b>									
<b>Operating Revenues</b>									
Revenues from Assessments	67,323.18	97,667.93	66,072.17	65,077.34	\$ 65,077.34	\$ 65,077.34	100%	\$ 65,077.34	\$ 63,544.39
Interest Income / Other	1,016.24	2,114.78	-	-	\$ -	\$ 501.58		\$ 501.58	\$ -
Total Operating Revenues	68,339.42	99,782.71	66,072.17	65,077.34	\$ 65,077.34	\$ 65,578.92	101%	\$ 65,578.92	\$ 63,544.39
<b>Operating Expenditures</b>									
Professional Services (EMI-Programming*)	3,120.00	3,120.00	4,500.00	4,500.00	\$ 4,560.00	\$ 4,125.00	90%	\$ 4,500.00	\$ 4,560.00
Other Contractual Services	4,538.02	32,472.18							\$ 26,500.00
Accounting			6,180.00	5,182.68	\$ 6,000.00	\$ 7,805.86	130%	\$ 10,805.86	\$ 10,000.00
Project Improvements			5,000.00	3,290.00	\$ 5,000.00	\$ -	0%	\$ -	\$ 5,000.00
Insurance			10,300.00	10,054.00	\$ 10,500.00	\$ 7,026.00	67%	\$ 10,500.00	\$ 10,500.00
Other Services			1,000.00		\$ 1,000.00	\$ -	0%	\$ -	\$ 1,000.00
Electricity	14,138.82	10,800.29	10,800.00	14,261.45	\$ 12,500.00	\$ 9,046.93	72%	\$ 11,009.47	\$ 12,500.00
Telephone	467.25	2,341.09	720.00	720.00	\$ 800.00	\$ 660.00	83%	\$ 720.00	\$ 800.00
Equipment M & R (EMI-Maintenance)	11,856.00	11,856.00	10,140.00	10,140.00	\$ 10,440.00	\$ 9,295.00	89%	\$ 10,140.00	\$ 10,440.00
Insurance	4,236.00	-	-	-	\$ -	\$ -		\$ -	
Project Improvements (Landscape)	2,502.36	-	-	-	\$ -	\$ -		\$ -	
Admin and Overhead	6,189.96	-	8,000.00	-	\$ 8,500.00	\$ -	0%	\$ 8,500.00	\$ 8,500.00
Interest Expense (Sign Repayment)		10,233.85	9,433.00	8,936.64	\$ 7,929.83	\$ -	0%	\$ 7,929.83	\$ 6,902.78
Total Operating Expenditures	47,048.41	70,823.41	66,073.00	57,084.77	\$ 67,229.83	\$ 37,958.79		\$ 64,105.16	\$ 70,202.78
Operating Reserve					33,614.92	\$ 33,614.92			\$ 35,101.39
<b>Operating Surplus / (Deficit)</b>	<b>21,291.01</b>	<b>28,959.30</b>	<b>(0.83)</b>	<b>7,992.57</b>	<b>\$ (2,152.49)</b>	<b>\$ 27,620.13</b>		<b>1,473.76</b>	<b>\$ (6,658.39)</b>
<b>NON-OPERATING (Sign Loan)</b>									
<b>Non-Operating Revenues</b>									
Sign Loan	532,582.00	-	-	-	-	-		-	\$ -
Revenues from Assessments (Sign Repayment)	-	47,795.07	49,593.83	50,089.76	\$ 51,096.57			\$ 51,096.57	\$ 52,123.61
Total Non-Operating Revenues	532,582.00	47,795.07	49,593.83	50,089.76	\$ 51,096.57			\$ 51,096.57	\$ 52,123.61
<b>Non-Operating Expenditures</b>									
Sign Purchase	-	532,582.00	-	-	\$ -			\$ -	\$ -
Sign Loan Repayment			49,593.83	50,089.76	\$ 51,096.57			\$ 51,096.57	\$ 52,123.61
Total Non-Operating Expenditures	-	532,582.00	49,593.83	50,089.76	\$ 51,096.57			\$ 51,096.57	\$ 52,123.61
<b>Non-Operating Surplus / (Deficit)</b>	<b>532,582.00</b>	<b>(484,786.93)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>		<b>-</b>	<b>-</b>
<b>RESERVES</b>									
Fund Balance	88,695.68	117,654.98	117,654.15	125,646.72	\$ 137,173.28	\$ 203,978.68		\$ 156,508.36	149,849.97
Fund Balance Minus Operating Reserve									114,748.58
Loan Balance	(532,582.00)	(484,786.93)	(434,371.54)	(384,281.78)	\$ (306,286.00)			(306,286.00)	(254,162.39)
<b>ASSESSMENT PER DEALER (7)***</b>	<b>\$ 9,625.00</b>	<b>\$ 20,943.59</b>	<b>\$ 20,943.59</b>	<b>\$ 16,524.00</b>	<b>\$ 16,524.00</b>				<b>\$ 16,524.00</b>

\*EMI Agreements expire March 2022

\*\* Association meets minimum six month operating reserve fund requirement for FY 2017-18, FY 2018-19 and FY 2019-20, per LED Sign Replacement Loan Agreement

\*\*\*Assessment changes to 7 dealerships in FY 15-16

Exhibit B





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: PUBLIC HEARING TO CONSIDER WEST COVINA CITYWIDE SEWER SERVICE CHARGES TO BE COLLECTED ON TAX ROLL FOR FY 2020-21 (CONTINUED FROM JUNE 23, 2020)**

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### RECOMMENDATION:

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2020-61 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE SEWER SERVICE CHARGES TO BE COLLECTED ON THE FISCAL YEAR 2020-21 TAX ROLL**

### BACKGROUND:

From 1968 to 1978, the City of West Covina funded the costs of sewer maintenance and operation through the Improvement Act of 1911 (1911 Act), which provided an ad-valorem (according to value) levy used to pay for these costs. With the passage of Proposition 13, the revenues generated from the 1911 Act were reduced considerably, which made it necessary to find an alternative method of funding sewer maintenance and operation costs. In Fiscal Year 1978-79, the City Council established the Citywide Sewer Service Charge pursuant to Section 38902 of the Government Code as that alternative method.

The Sewer Service Charge funds the maintenance and operation of the City's sewer system assuring that lines are clear and flowing properly. This includes routine video inspections, jetting, and cleaning of sewer lines. The fees also fund capital improvements including purchase of sewer equipment and rehabilitation/replacement of sewer mainlines and appurtenances.

The Sewer Service Charge is charged annually to property owners on the property tax bill. The Sewer Service Charge is based on general land use categories: residential and non-residential. A fixed fee is charged for each dwelling unit for residential property and every 667-square feet of floor area for non-residential uses. Properties not connected to the sewer main lines are exempt from the charge.

State law requires that a specific procedure be followed to collect the Citywide Sewer Service Charge on the annual property tax bill. The initial step is to adopt a resolution setting a date for a public hearing on the proposed rates and method of collection. The process requires that a public notice be published in a locally circulated newspaper announcing the public hearing. At the regular meeting of May 5, 2020, the City Council reviewed the proposed rate increase and set June 16, 2020 as the date for the public hearing. On June 16, 2020, the City Council continued the



public hearing to June 23, 2020. On June 23, 2020, the City Council continued the public hearing to July 7, 2020.

## **DISCUSSION:**

Although sewer charges are exempt from voter approval under Proposition 218, if a new or increased sewer charge is to be imposed (more than the CPI), the City Council must conduct a protest hearing 45 days after mailed notice to property owners. If more than 50% of the property owners protest against the fees, the fees may not be imposed.

In June 2017, the City Council conducted a protest hearing regarding a five-year schedule of sewer rates. Under this schedule, rates were proposed to increase from the proposed Fiscal Year 2017-18 rate by 5% each year. The City did not receive majority protest against the proposed increase. Following the hearing, the City Council adopted the rate increases for the subsequent five years. The remaining rates approved in those proceeds are as follows:

For Fiscal Year 2020-21

- \$78.12 per Service Unit

For Fiscal Year 2021-22

- \$82.02 per Service Unit

The Council approved these rates in 2017 through the adoption of Resolution No. 2017-55. The rates automatically take effect each year. Rates were set for five years to coincide with the five-year Capital Improvement Budget. Unfortunately due to staff turnover and departmental reorganization, capital projects were delayed. The new team is back on track and working through the backlog of projects.

On May 5, 2020, the City Council adopted Resolution No. 2020-36, declaring its intention to collect sewer service charges on the County tax roll for Fiscal Year 2020-21 and setting June 16, 2020 for the public hearing regarding the charges to be collected. On June 16, 2020, the City Council continued the public hearing to June 23, 2020. On June 23, 2020, the City Council continued the public hearing to July 7, 2020. The purpose of the hearing is to allow property owners to object if they believe that the amount the City intends to collect against their parcel is incorrect. After the hearing, the City Council can adopt a resolution that approves the charges listed on the report and orders the report be transmitted to the County for collection on the tax roll.

The increase to the Sewer Service Charge for Fiscal Year 2020-21 is from \$74.40 to \$78.12 (an increase of about 31 cents per month or \$3.72 per year) for residential dwelling units, and per 667-square feet of floor area for commercial units.

A revised version of the Preliminary Financial Report for Fiscal Year 2020-2021, prepared by Willdan Financial Services, is included as Attachment 2.

## **LEGAL REVIEW:**

The City Attorney's Office has reviewed the resolution and approved it as to form.

## **OPTIONS:**

The City Council has the following options:

1. Adopt Staff's recommendation to increase assessment rate by 5% based on the Sewer System Revenue Sufficiency Analysis to increase revenues and stabilize the reserves for Fiscal Year 2020-21; or
2. Maintain the assessment rates at their current level; reserves would be depleted sooner and result in the need to reduce services or subsidize the district with General Funds; or
3. Provide alternative direction.

**Prepared by:** Michael Ackerman, City Engineer



**FISCAL IMPACT:**

For Fiscal Year 2020-21, the Citywide Sewer Service Charge rates are proposed to be increased by 5% from \$74.40 to \$78.12 per unit per year and generate an additional \$178,942 in sewer service charge. The total proposed sewer rate is projected to generate a total of \$3,698,376. In addition, \$210,000 is projected to be received from the pre-existing ad valorem (according to value) and \$4,948, from cash balance interest. The total projected revenue is \$3,913,324. Including the \$7,845,263 balance from the previous year, the total funds available is \$11,758,587.

The preliminary operating budget for Fiscal Year 2020-21 is \$2,277,377. This includes an administration and overhead charge of \$139,901. The administration and overhead costs are derived from support services provided by various departments including: City Manager's office, City Attorney's office, City Clerk's office, Finance Department, and Human Resources Department. Support services include, but not limited to payroll, personnel recruitment, insurance claims, audits, budgets, and purchasing.

There are five Capital Improvement Projects scheduled to begin in Fiscal Year 2020-21:

1. Upgrades for Sewer Lift Station. Budget: \$600,000
2. Sewer Main Replacement – Portions of Glenview Rd., Michelle St., Azusa Ave. Budget: \$2,000,000
3. Sewer Main Replacement – Portion of Azusa Ave. Budget: \$295,000
4. Sewer Main Replacement – Portion of Citrus St. Budget: \$230,000
5. Upgrades for 2700 Azusa Sewer Lift Station. Budget: \$2,811,090

The ending fund balance for Fiscal Year 2020-21 of \$3,545,120 will be used to fund upcoming scheduled Capital Improvement Projects (CIP) according to the Sewer Maintenance Capital Improvement Program from the 2016 SSMP.

The Preliminary Financial Report for Fiscal Year 2020-21 contains the following components:

1. Budget and Revenue Summary
2. Capital Improvement Project Fund
3. Proposed Assessment Rate
4. Revised Projected Reserve (Fiscal Year 2019-20)
5. Preliminary Sewer Charge Roll

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**Attachments**

Attachment No. 1 - 15 Year Rate History

Attachment No. 2 - Preliminary Financial Report for FY 2020-21

Attachment No. 3 - Sewer Maintenance CIP from 2016 SSMP

Attachment No. 4 - Resolution No. 2020-61 (Citywide Sewer Service Charges)

Attachment No. 5 - 10 Year Fiscal Projection

Attachment No. 6 - Sewer Capacity Evaluation (Edited in October 2016)

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**CITY COUNCIL GOALS & OBJECTIVES:** Enhance City Facilities and Infrastructure  
Enhance the City Image and Effectiveness



**West Covina  
Citywide Sewer Service Charges  
15 Rate History**

<b>Fiscal Year</b>	<b>Per Dwelling Unit/Month</b>	<b>Per Dwelling Unit/Year</b>
<b>Proposed Rate</b>		
2020-21	\$6.51	\$78.12
2019-20	\$6.20	\$74.40
2018-19	\$5.91	\$70.86
2017-18	\$5.62	\$67.49
2016-17	\$4.69	\$56.24
2015-16	\$4.61	\$55.30
2014-15	\$4.59	\$55.02
2013-14	\$4.54	\$54.48
2012-13	\$4.44	\$53.31
2011-12	\$4.36	\$52.26
2010-11	\$4.19	\$50.25
2009-10	\$3.81	\$45.68
2008-09	\$2.76	\$33.10
2007-08	\$2.34	\$28.05
2006-07	\$2.16	\$25.97





# **City of West Covina**

## **Citywide Sewer Service Charge**

**FISCAL YEAR 2020/2021  
PRELIMINARY FINANCIAL REPORT**

**Intent Meeting: May 5, 2020  
Public Hearing: June 16, 2020**

27368 Via Industria  
Suite 200

Temecula, CA 92590

T. 951.587.3500 | 800.755.6864

F. 951.587.3510 | 888.326.6864

Property Tax Information Line

T. 866.807.6864

[www.willdan.com](http://www.willdan.com)





## BUDGET AND REVENUE SUMMARY

**City of West Covina  
Citywide Sewer Service Charge  
Fiscal Year 2020-21  
Estimated Costs for Landscape Maintenance**

<b>Previous Fiscal Year Fund Balance</b>	<b>\$7,845,263</b>
<b>Revenues</b>	
Assessment Income (Total Balance to Levy)	\$3,698,376
Property Tax Revenue (Ad Valorem)	210,000
Interest	4,948
<b>Total Projected Revenue</b>	<b>\$3,913,324</b>
<b>Expenditures</b>	
<b>Operating</b>	
<b>Maintenance</b>	
Personnel Services	\$1,043,972
Material and Services	43,989
Professional Services	291,852
Maintenance Contracts	105,541
Utilities	10,000
Vehicles	24,700
Fuel and Oil	15,617
Property & Liability Insurance	146,098
<b>Total Maintenance</b>	<b>\$1,681,769</b>
<b>Engineering &amp; Incidental</b>	
Personnel Services	\$383,553
Materials & Services	10,330
Consultant Services	23,767
Property & Liability Insurance	5,272
Administration & Overhead	139,901
<b>Total Engineering &amp; Incidental</b>	<b>\$562,823</b>
<b>Community Enhancement</b>	
Personnel Services	\$32,785
<b>Total Community Enhancement</b>	<b>\$32,785</b>
<b>Capital Improvement <sup>(1)</sup></b>	<b>\$5,936,090</b>
<b>Total Operating and Capital Budget</b>	<b>\$8,213,467</b>
<b>Ending Fund Balance</b>	<b>\$3,545,120</b>

(1) See Capital Improvement Project Fund Section



## ***CAPITAL IMPROVEMENT PROJECT FUND***

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For Fiscal Year 2020-21, below are the Capital Improvement Projects scheduled:

Project	Project 2020-21 Budget
Upgrades for Sewer Lift Station	\$600,000
Sewer Main Replacement - Portions of Glenview Rd, Michelle St, and Azusa Ave	\$2,000,000
Sewer Main Replacement - Portion of Azusa Ave	\$295,000
Sewer Main Replacement - Portion of Citrus St	\$230,000
Upgrades for 2700 Azusa Sewer Lift Station	\$2,811,090



## PROPOSED ASSESSMENT RATE

In Fiscal Year (FY) 2017-18, the Citywide Sewer Service Charge (the "Sewer Service Charge") rate was increased by 20% and is proposed to increase by 5% thereafter for four (4) years. For FY 2020-21, the rate will increase from \$74.40 to \$78.12 per unit, for an increase of approximately 31 cents per month or \$3.72 per year. The following table shows proposed rate increases:

Assessment Rate Summary				
FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
\$67.49	\$70.86	\$74.40	\$78.12	\$82.02

Residential	1 DU = 1 unit
Commercial	667 sq. ft = 1 unit

Notice of said increases were sent to landowners in FY 2017-18 in accordance with the provisions of Proposition 218 indicating the proposed rates and the date of public hearing. The City of West Covina (the "City") did not receive majority protest against the proposed increase, the City may now impose the Sewer Service Charge at the maximum proposed level or less.

## REVISED PROJECTED RESERVE

Projected Reserve Fiscal Year 2020-21	
<b>Fund Balance (as of 6/30/20)</b>	<b>\$7,845,263</b>
Projected Revenue for FY 2020-21	3,913,324
Appropriations (Operating & Capital) for FY 2020-21	(8,213,467)
<b>Projected Fund Balance (as of 6/30/21)</b>	<b>\$3,545,120</b>

## PRELIMINARY SEWER CHARGE ROLL

The FY 2020-21 preliminary sewer charge roll is voluminous, has been submitted to the City Clerk, and is hereby included by reference.



Table 3 Sewer Maintenance Capital Improvement Program									
Project Description	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
	\$ 900,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Cameron Avenue Sewer Rehabilitation									
Azusa Lift Station Construction	600,000	-	-	-	-	-	-	-	-
Closed Circuit TV inspection	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
New Sewer Maintenance Truck and Camera	190,000	-	-	-	-	-	-	-	-
Sewer Cured In Place Pipe Lining	152,600	152,600	152,600	152,600	152,600	152,600	152,600	152,600	152,600
	-	1,345,200	-	-	-	-	-	-	-
82-1; Sewer Main Replacement Area 82 POWER; Install Emergency Backup Power at City Lift Stations	-	64,800	-	-	-	-	-	64,800	259,200
SCADA; Install SCADA Controls at City Lift Stations	-	56,700	56,700	-	56,700	56,700	-	56,700	56,700
4-1; Sewer Main Replacement Area 4	-	-	286,400	-	-	-	-	-	-
80-1; Sewer Main Replacement Area 80	-	-	-	-	-	-	-	-	-
116-3; Sewer Main Replacement Area	-	-	254,000	-	-	-	-	-	-
62-2; Sewer Main Replacement Area 62	-	-	-	191,800	-	-	-	-	-
116-2; Sewer Main Replacement Area	-	-	-	825,000	-	-	-	-	-
132-1; Sewer Main Replacement Area	-	-	-	390,700	-	-	-	-	-
117-1; Sewer Main Replacement Area	-	-	-	-	939,100	-	-	-	-
82-3; Sewer Main Replacement Area 82	-	-	-	-	-	804,200	-	-	-
82-4; Sewer Main Replacement Area 82	-	-	-	-	-	399,200	-	-	-
62-1; Sewer Main Replacement Area 62	-	-	-	-	-	-	1,359,800	-	-
82-2; Sewer Main Replacement Area 82	-	-	-	-	-	-	-	1,391,400	-
116-1; Sewer Main Replacement Area	-	-	-	-	-	-	-	-	666,000
161-1; Sewer Main Replacement Area	-	-	-	-	-	-	-	-	143,900
Total	\$ 1,942,600	\$ 1,719,300	\$ 849,700	\$ 1,660,100	\$ 1,248,400	\$ 1,512,700	\$ 1,612,400	\$ 1,765,500	\$ 1,378,400

## Outstanding Debt Service

Based on review of the City's financial documents, as well as discussions with the City, it is our understanding that the City does not have any outstanding sewer related debt. For the purpose of this Analysis, any forecasted future debt is assumed to have a 1.50X debt service coverage requirement.

## General Assumptions

In order to develop the financial and rate projections, certain assumptions were made with regard to elements of the Analysis. A summary of those assumptions is presented below.

### Growth

Based on discussion with the City, the Utility is mostly built-out. As such, it was assumed that growth in the Utility's customer base, and requisite flows, would be 0.0% per year during the forecast period.

### Operating Projections

For the purposes of forecasting Operating requirements of the Utility, the following escalation factors are used for the various budget line-items.

- Personnel Services – 5.0%
- Materials & Services – 3.0%
- Capital Assets – 2.0%
- Allocations – 3.0%



**RESOLUTION NO. 2020-61**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WEST COVINA, CALIFORNIA, APPROVING THE SEWER  
SERVICE CHARGES TO BE COLLECTED ON THE FISCAL  
YEAR 2020-21 TAX ROLL**

**WHEREAS**, on June 26, 1978, in accordance with Section 38902 of the California Government Code, the City Council adopted Resolution No. 5726, establishing a sewer service charge exclusively for sewer operation, maintenance, and capital costs. The City collects the sewer service charge as part of the property tax roll; and

**WHEREAS**, on April 27, 1987, the City Council adopted Resolution No. 8019, amending Resolution No. 5726 to adjust the schedule of charges so that the fees collected bear a reasonable relationship to the cost of providing the services; and

**WHEREAS**, on June 6, 2017, the City Council adopted Resolution No. 2017-55, adopting a five-year schedule of annual sewer service charges for Fiscal Years 2017-18, 2018-19, 2019-20, 2020-21, and 2021-22; and

**WHEREAS**, the five-year schedule was adopted following proceedings conducted pursuant to Article XIII D, Section 6(a) of the California Constitution, which was added to the California Constitution in 1996 as part of Proposition 218; and

**WHEREAS**, a report has been filed with the City Clerk containing a description of each parcel of real property receiving sewer services and the amount of the charge for each parcel for Fiscal Year 2020-21, computed in conformity with the schedule of charges previously adopted by the City Council (the "Report"); and

**WHEREAS**, the Report is on file in the Office of the City Clerk, available for public inspection, and incorporated herein by reference; and

**WHEREAS**, by Resolution No. 2020-36, adopted on May 5, 2020, the City Council elected to collect the sewer service charges for Fiscal Year 2020-21 on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, the City's general taxes; and

**WHEREAS**, Resolution No. 2020-36 also set June 16, 2020, at 7:00 p.m. in the City Council Chambers located at 1444 West Garvey Avenue South in the City of West Covina as the time and place for a public hearing (the "Hearing") on the Report. On June 16, 2020, the City Council continued the Hearing to June 23, 2020. On June 23, 2020, the City Council continued the Hearing to July 7, 2020; and

**WHEREAS**, notice of the Hearing was published as required by law; and



**WHEREAS**, at the Hearing, the City Council heard and considered all objections or protests, if any, to the Report; and

**WHEREAS**, the City Council now desires to cause the collection of the sewer service charges as listed in the Report.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council determines that the charges set forth in the Report are correct and approves each such charge.

**SECTION 2.** The City Clerk is directed to file a copy of the Report with the Los Angeles County Auditor-Controlled pursuant to Section 5473.4 of the California Health & Safety Code.

**SECTION 3.** The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 7th day of July, 2020.

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Tony Wu  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk



**ATTACHMENT NO. 4**

I, LISA SHERRICK, Assistant City Clerk of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-61 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7th day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick, CMC  
Assistant City Clerk



**West Covina Citywide Sewer Charges**  
**10 Year Fiscal Projection**

Percent Increase	5%	5%	0%	0%	0%	0%	0%	0%	0%	0%
Fiscal Year	20-21	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30
<b>Assessment Income</b>	<b>\$3,698,376</b>	<b>\$3,883,295</b>	<b>\$3,883,295</b>	<b>\$3,883,295</b>	<b>\$3,883,295</b>	<b>\$3,883,295</b>	<b>\$3,883,295</b>	<b>\$3,883,295</b>	<b>\$3,883,295</b>	<b>\$3,883,295</b>
Interest (1)	4,948	7,090	6,600	5,967	5,189	4,259	3,174	1,928	517	(1,065)
Property Tax Revenue (Ad Valorem)	210,000	210,000	210,000	210,000	210,000	210,000	210,000	210,000	210,000	210,000
Prior Year Balance	7,845,263	3,545,120	3,299,806	2,983,631	2,594,342	2,129,617	1,587,066	964,228	258,564	(532,537)
<b>Total Funding</b>	<b>\$11,758,587</b>	<b>\$7,645,505</b>	<b>\$7,399,701</b>	<b>\$7,082,893</b>	<b>\$6,692,825</b>	<b>\$6,227,171</b>	<b>\$5,683,536</b>	<b>\$5,059,451</b>	<b>\$4,352,376</b>	<b>\$3,559,693</b>
Maintenance Costs (2)	2,277,377	2,345,699	2,416,070	2,488,552	2,563,208	2,640,105	2,719,308	2,800,887	2,884,914	2,971,461
Capital Improvements	5,936,090	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
<b>Total Cost</b>	<b>\$8,213,467</b>	<b>\$4,345,699</b>	<b>\$4,416,070</b>	<b>\$4,488,552</b>	<b>\$4,563,208</b>	<b>\$4,640,105</b>	<b>\$4,719,308</b>	<b>\$4,800,887</b>	<b>\$4,884,914</b>	<b>\$4,971,461</b>
<b>Ending Balance</b>	<b>\$3,545,120</b>	<b>\$3,299,806</b>	<b>\$2,983,631</b>	<b>\$2,594,342</b>	<b>\$2,129,617</b>	<b>\$1,587,066</b>	<b>\$964,228</b>	<b>\$258,564</b>	<b>(\$532,537)</b>	<b>(\$1,411,768)</b>
Cash Flow	1,138,689	1,172,849	1,208,035	1,244,276	1,281,604	1,320,052	1,359,654	1,400,444	1,442,457	1,485,731
Over/Under	2,406,431	2,126,957	1,775,596	1,350,066	848,013	267,014	(395,426)	(1,141,879)	(1,974,994)	(2,897,499)
Charges per Unit	\$78.12	\$82.02	\$82.02	\$82.02	\$82.02	\$82.02	\$82.02	\$82.02	\$82.02	\$82.02

Notes: (1) Interest is 0.4% of one-half of the previous year ending balance.

(2) 3% increase in maintenance cost each year due to inflation.



**City of West Covina**  
**SEWER SYSTEM CAPACITY EVALUATION**  
**2008-2009, Edited October 2016**

The City's previous system capacity analysis was completed in 2009. Since there have been no significant capital improvements since then, the hydraulic model was not updated in this SSMP report. The primary purpose of this Appendix is to capture the methodology that was used in developing the 2009 sewer capacity analysis. The primary update of this Appendix is the cost of the recommended Capital Improvement Projects. The updated (2016 dollars) estimate project costs are provided in Appendix 'P'. These estimates reflect the cost to replace select pipe segments at certain locations as determined by operating condition. Appendix 'P' includes a more detailed list of recommended CIP projects that considers both calculated pipe operating condition as well as feasibility of updating adjacent pipe segments of differing capacity thresholds as part of the same project rather than as separate projects. The exhibits of the recommended project locations provided in Appendix 'O-1' have not been updated in this report as the hydraulic model has not changed.

### **Introduction and Summary**

The City owns and operates its local wastewater collection system consisting of approximately 227 miles of gravity flow sewer pipelines and two segments of force main (varying in size from 4-inch to 18-inch pipe) and 5,187 manholes. The existing sewer system discharges to trunk sewers that are owned and operated by the County Sanitation Districts of Los Angeles County and to the adjacent Cities of Baldwin Park and Covina, and some areas of unincorporated county.

The purpose of this evaluation is to identify deficiencies in the existing sewer mainline system, recommend alternatives to eliminate the deficiencies, prioritize the deficient reaches, and provide the City with a basis on which to build a future infrastructure management system.

The 227 miles of local sewer were modeled using HYDRA® 6.4 by PIZER. Of the total length, approximately 19,096 feet of the existing system were identified as being critically capacity deficient (Greater than 85% full). These are grouped as priority-one projects requiring timely resolution. The deficient reaches of sewer mainlines are located within SMZs 4, 62, 80, 82, 116, 117, 132 and 161. Please refer to exhibit maps A, B, & C in this Appendix 'O-1' for the deficient reach locations. The cost to repair the deficient reaches is estimated to be \$8,820,000. Those pipe segments classed as seriously capacity deficient, approximately 30,048 feet of the existing system ( between 64% and 85% full), are grouped as priority-two projects requiring resolution in the near future. The deficient reaches of sewer mainlines are located within SMZs 2, 4, 5, 62, 74, 75, 80, 81, 82, 83, 105, 116, 117, 132, 139, 140, 151, 153 and 161. Please refer to exhibit maps A, B, & C in this Appendix 'O-1' for the deficient reach locations. The cost to repair the deficient reaches is estimated to be \$11,840,000.

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The modeling function was performed utilizing generally accepted sewage generation coefficients in the Los Angeles county region, and land use zoning as shown on a CAD file map identified as: "annZoning CAD Map 04-06" received on December 29, 2008. The zoning map was utilized as representative of the City's current development condition. This map was overlaid on the sewer system map, developed as part of this project, thereby allowing the modeler to apply the sewage generation coefficients for the respective land zoning within each SMZ throughout the City. This method resulted in defining the cumulative sewage generated and carried through the piping within each SMZ and delivered to the receiving system. However, there was no flow monitoring performed to otherwise validate the modeling data result. In months and years ahead, as maintenance inspections are performed, the modeled areas nearing capacity should be closely monitored for signs of exceeding capacity in order to avoid SSOs, and to refine design parameters for replacement.

As future land use changes occur in the General Plan, the model should be updated to reflect consequences of such changes. The model should also be updated to reflect flow monitoring results as well as the construction of new relief facilities, upgrades, and/or the construction of new sewer lines in order to be fully representative of the community sewer system.

### **Study Approach**

The following tasks were performed in the preparation of this Sewer System Capacity Evaluation Report.

1. The City provided copies of existing sewer system as-built construction plans for use in preparing the initial GIS sewer system mapping and attributes base and for the exhibit maps A, B & C of this Appendix 'O-1'.
2. The City provided an electronic CAD file of its land use zoning map for use in creating an overlay map of the parcels and sewer maintenance zones in the city system.
3. Willdan developed a computer model (Pizer Hydra) of the City wastewater collection system utilizing the above data.
4. Analysis of the existing wastewater collection system capacity and determination of any capacity deficiencies (refer to the deficiency criteria section of this report and see the exhibit maps in this Appendix 'O-1').
5. Development of recommendations for system improvements to correct deficiencies.
6. Preparation of cost estimates for the recommended improvements.
7. Preparation of evaluation findings and recommendations to correct identified deficiencies in a Sewer System Capacity Evaluation Report (this Appendix).

### **System Criteria and Alternatives**

In designing or evaluating a wastewater collection system, the engineer must establish certain criteria upon which to base the design. These include such things as available pipe sizes,

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materials, slope, bury or cover, connections, etc. Such criteria are established to ensure that the wastewater collection system can operate effectively under all flow conditions. Each pipe segment must be capable of carrying the peak flows without surcharging the system. Surcharging the system occurs when the pipe is flowing under pressure. However, many of the initial design assumptions are unnecessary in the analysis of a collection system when the pipe already exists and its diameter and slope are fixed.

In the analysis of an existing sewer system, the Hydra program compares the capacity of each pipe in the system with the peak wastewater flow projected for that particular link or reach of pipe. If the existing pipe size is surcharged, the Hydra program automatically increases the pipe diameter to the next largest standard pipe size that will carry the design flow without being surcharged. At a minimum, all pipes should be 8 inches or larger in diameter and the velocity of flow in the pipe should be greater than 2 feet per second (ft/s). This velocity will prevent deposition of solids in the sewer and help to re-suspend any materials that may have already settled in the pipe. The minimum corresponding slopes to maintain 2 ft/s for various pipe sizes are shown in Table 1.

**Table 1**  
**Minimum Pipe Slopes ft/ft**

Sewer Size	Slope
8"	0.0028
10"	0.0021
12"	0.0016
15"	0.0012
18"	0.0010

It is important to note that the slopes listed above assume the depth of flow in the pipe is 0.64 percent full. If there is insufficient flow to create this condition, greater slopes than those shown may be required in order to maintain the minimum self cleaning velocity condition.

The design and analysis of gravity sewer pipes is typically based upon the depth to diameter ratio (d/D). Common design criteria for proposed new sewer design is 0.50 (50% full) for 8 to 15-inch diameter pipes and 0.75 (75% full) for 18-inch and larger pipes. The area above the water surface (residual capacity) helps to keep the sewage aerated, reducing the possibility of septic conditions and odors. Existing wastewater systems are typically allowed to flow with less residual capacity because development and redevelopment has occurred or is foreseeable in the near future.

This report establishes the hydraulic design criteria for existing sewer pipes by classifying "over capacity" pipes as any with a d/D greater than 0.64. This d/D ratio was arrived at by taking 75 percent of the depth to diameter ratio of a pipe having maximum stable flow capacity, which is at a d/D of 0.85 (75% of 85% is 64%). The area above a d/D of 0.85 is considered hydraulically unstable. This reduction results in approximately 35 percent of the pipe's full flow capacity being reserved for variations in discharges, periodic peaking of



flow, seasonal variations and minor or temporary obstructions. Again, this residual capacity helps to keep the sewage aerated, reducing the possibility of septic conditions and odors.

The residual capacity allows for the possibility that actual wastewater flows may be slightly higher than anticipated, especially during the hours when instantaneous or intermittent peaks may occur. These peaks are generally observed between the hours of 6:00 a.m. and 8:00 a.m. Monday thru Friday and between the hours of 9:00 a.m. and 11:00 a.m. Saturday and Sunday. Peak flows may also be observed during rainfall events due to inflow and infiltration conditions.

Exhibit maps A, B, & C in Appendix 'O-1' shows the pipes that are capacity deficient per the 0.64 criteria and also shows the pipes that are deficient per the 0.50 criteria. Only the pipes that exceed the 0.64 criteria are recommended for correction projects.

The design capacity of a gravity pipeline is the calculated capacity of the pipeline based on the Manning formula:

$$Q = 1.486 R^{2/3} S^{1/2} / n \quad \text{where, } Q = \text{flow in cubic feet per second}$$

$R$  = hydraulic radius in feet =  $A / P$   
 $A$  = cross-sectional area of the pipe in square feet  
 $P$  = wetted perimeter in feet  
 $S$  = slope of the pipe in feet of rise per foot of length  
 $n$  = Manning's friction factor

Sewer system capacity is established using a Manning's friction factor of 0.013 for vitrified clay pipe.

### Alternatives

The following alternatives were considered in developing the recommended schedule of deficiency correction projects.

1. Construction of a parallel sewer facility to carry the excess sewage flow is an obvious solution to most of the deficiencies; however, this solution is not necessarily the most economical or practical approach. In some instances rerouting of tributary areas or the construction of a single relief sewer line can be planned in such a way that it will relieve several main sewer lines thereby avoiding the construction of parallel or replacement facilities and the related cost.
2. In other instances, replacement of the existing sewer with a larger size may be the preferred alternative. The replacement or upsizing of the line may include open trench installation or pipe bursting (if surrounding condition are conducive), and the use of temporary bypass pumping. The decision as to which correction alternative to construct is typically made just prior to the design phase after careful consideration of all design constraints such as existing utilities and the costs associated with potential



utility relocation to provide additional space for the construction of a replacement sewer line.

The engineer's opinion of budget figures (See Appendix 'P') was prepared based on the cost to remove and replace the existing sewer with a larger size, as this is the most conservative cost approach.

It is suggested the where the depth of flow exceeds the design criteria of 0.64 d/D, but does not exceed the maximum stable flow capacity of 0.85 d/D, that consideration be given to allowing these sewers to flow in a slightly overloaded condition in lieu of building a more costly relief facility. This overloading occurs only during peak flow conditions that are short in duration. However, the City should frequently monitor these sewers in order to under take a future corrective action as the overloading problem becomes worse.

### **Analysis of Existing Sewer System**

The City's sewer system was modeled using Pizer Hydra Ver. 6.4. The Hydra program is designed to provide analysis of both the existing sewer system and the design of any new sewer lines.

After defining (laying out) the existing sewer system, the network was divided into 179 SMZ's or sewer drainage areas, based upon city sewer records, for input into the computer model. The input data consisted of a numerical designation for each manhole and length of sewer pipe between manholes, the slope of the line, and flow line elevation of each manhole.

### **Computation of Wastewater Inflows**

Once the schematic of the sewer system network was established, data was compiled on each SMZ, General Plan land uses (zoning), and related factors that affect the volume of wastewater generated. Next, it was necessary to compute the area of each type of land use; e.g., low-density residential, medium-density residential, high-density residential, commercial, industrial, schools, etc., within each drainage boundary. The unit flow coefficients (see Table 2) were then applied to the computed areas of land use within each SMZ. The unit flow coefficients, when applied to the land use areas, provide peak flow rates for each particular land use category. The wastewater inflows calculated for the various land use categories within the SMZ were then accumulated to provide the calculated peak flow for the entire drainage area. The accumulation of estimated wastewater flow is accomplished totally within the computer program.

**Table 2**  
**Unit Flow Coefficients for Peak Flow Rates**

Zone	Cu. Ft. per sec. per acre	Gallons per day per acre
R-1	0.004	2585
R2	0.008	5171
R3	0.012	7756



R-P, Commercial	0.015	9695
Manufacturing	0.021	13573
Institutional	0.015	9695

### **Flow Monitoring**

There was no flow monitoring performed under the contract services for preparation of this SSMP. However, flow confirmation work can be undertaken at any time in the future. Typically, as maintenance inspection findings indicate changed pipeline capacity conditions for those pipe segments near capacity as indicated in the modeling evaluation results. Flow monitoring results can be used to verify and/or calibrate the sewer flow modeling work for a SMZ as affected by changes in development or observed manhole inspections of flow conditions. Also, additional future flow monitoring is recommended at near capacity locations, during periods of rain, to verify or deny potential inflow and infiltration problems, and to refine design parameters, especially for the higher density residential zones.

For each site monitored, the flow data should be reviewed and compared to the contributing SMZ area. The peak monitored flow rate must be compared to the design flow rate and the shape of the outflow curve compared to the SMZ modeled result. An expected difference between the monitored flow and the design flow is between 150 to 250 percent. This difference is expected because the design flow rate includes the maximum flow rate expected from each development type which contains both wet weather inflow/infiltration and design peaking safety factors.

### **Summary of Findings and Recommendations**

Within the initial introduction and summary section, both the critically deficient (> 85% full) and seriously deficient (between 64% and 85% full) pipe segments were described and referenced. Before undertaking design and construction or identifying further project priorities, the performance of select flow monitoring is recommended at crucial locations, especially during periods of rain to verify or deny any potential inflow and infiltration problems. Also to confirm the actual in-system flow conditions which can and do vary do to water usage and customer practices in waste disposal. The findings identified in this evaluation and report are for planning guidance in addressing the sewer system capacity conditions. Further pre-design refinement and analysis will be necessary before initiation of a final design of improvements for the facilities is under taken.

In the event of any land use changes to the General Plan, upon which this study was based, the model should be updated to reflect the consequences of such changes. The model should also be updated to reflect the construction of new sewer lines.



## **Recommended Deficiency Correction Projects**

Presented in the engineer's opinion of cost (Appendix 'P') is a remove and replace approach to correct the identified deficient pipe segments. This is usually a conservative approach to costing and should be refined by thorough engineering evaluation and assessment of the specific conditions and replacement options before proceeding with a specific correction project.

The following criteria for defining and prioritizing relief facility need was used:

### Priority 1

Sewers with critical deficiencies of  $d/D > 0.85$ , are recommended for correction first. Sewers meeting these criteria are ranked highest.

### Priority 2

Sewers with critical deficiencies of  $0.64 < d/D < 0.85$  are recommended for correction second. Sewers meeting these criteria are ranked lower.

### Priority 3

Sewers with a  $d/D < 0.64$  are not capacity deficient; therefore, are not ranked here.

## Sewer System Improvements Costs

The unit prices shown in the engineer's opinion of cost (see Appendix 'P') represent the anticipated construction cost only as applicable for mid 2016. Bid prices received on jobs of similar nature in Southern California area were one source of information used to derive the cost figure. In addition, manufacturers, suppliers of material and equipment, and local contractors were consulted on various cost items. An additional 35% of construction cost is added to cover the cost of contingencies, design engineering, contract administration and construction observation.

The engineer's opinion of cost does not include an adjustment for inflation. Construction costs can be expected to fluctuate as corresponding changes occur in the national or local economy. One available indicator of these changes is the Engineering News-Record Construction Cost Index for the Los Angeles metropolitan area. This index is compiled from actual construction cost data for materials and labor and is reported in Engineering News-Record magazine. It is suggested that this index be used to update the unit prices presented in Appendix 'P' and in adjusting the estimate from the date of the initial estimates.

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## **Financing of Improvements**

### General

Funding considerations are often the deciding factor in scoping and implementation of a project. There are, of course, numerous methods or mix of methods, which could be used to finance the implementation of a sewer system capital improvement plan (CIP), and the ongoing operations and maintenance activities. Among these methods are:

1. Pay-as-You-Go Financing (rates, fees and charges based)
2. State Assistance Programs
3. Municipal Securities
4. Improvement Districts
5. Federal Assistance Programs

In the discussion that follows, the above funding options are briefly described and their adaptability to specific circumstances of a sewer system CIP are noted. In evaluating specific funding programs, services of financial and legal experts in such issues are recommended.

### Methods of Financing

#### 1. Pay-as-You-Go Financing:

Development of cash reserves or capital improvement funds, from an agency's revenue base, is often referred to as "pay-as-you-go" funding. This method avoids interest payments on other types of debt financing. Under this form of financing, the initial capital cost of a project must be accumulated in advance of construction, which can cause a delay in project implementation. If delay is not a crucial factor, this is a cost effective method due to the absence of debt financing costs. This method has sometimes been used together with various forms of short-term financing to construct needed sewer infrastructure.

#### 2. State Assistance Programs:

Under the rules and regulations of the Federal Water Pollution Control Act (Clean Water Act or CWA) and the Federal Safe Drinking Water Act (SDWA), the State has enacted the Clean Water State Revolving Fund (CWSRF) and the Drinking Water Revolving Fund (DWSRF), respectively. These programs are funded by Federal grants, State funds and Revenue bonds. The CWSRF Loan Program provides low-interest loan funding for construction of publicly-owned wastewater treatment facilities, sewers, sewer interceptors, water recycling facilities, as well as implementation of non-point source (NPS) projects or programs. There are different types of funding assistance available under these programs.

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[www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/srf/](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/)

The Department of Water Resources administers the State bond law programs for Water supply/Water quality, Water conservation, Flood management and Regional water management. [www.grantsloans.water.ca.gov](http://www.grantsloans.water.ca.gov)

The State Water Resources Control Board administers the State revolving fund loans, Water recycling grants & loans, Small community grants, Agricultural drainage loans, Agricultural drainage management loans, Clean beaches initiative grants, Agricultural water quality grants, Areas of special biological significance (ASBS) grants, Storm water grants, and Santa Monica bay restoration commission grants. [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

The State Department of Public Health administers the DWSRF, Proposition 84 funding for public water systems, and Proposition 50 for the water security, clean drinking water, coastal and beach protection act of 2002 loans. [www.cdph.ca.gov](http://www.cdph.ca.gov)

Various types of infrastructure improvement/construction loans can be arranged through the California Infrastructure and Economic Development Bank (IBank) [www.ibank.ca.gov](http://www.ibank.ca.gov)

Limited amounts of public works grant funds have been available to agencies from the State Office of Economic Development. Use of such grant funds must result in the creation of new, permanent jobs in the private sector. In order to ensure that the funds are ultimately assisting those in most need, projects eligible for consideration must be those in areas designated eligible for HUD Urban Development Action Grants (UDAG), EDA Sudden or Long-term Economic Deterioration, or EDA Designated Special Impact Area.

### 3. Municipal Securities:

Historically, general obligation bonds (GOB's) had been a prevalent method of financing various public works improvements. They are secured by an agency's total assets and payable from ad valorem taxes levied on all taxable properties within the agency's boundary. However, the Jarvis-Gann Amendment (Proposition 13 of 1978) prohibits the levying of ad valorem property taxes beyond pre-existing authorizations and levels (pre-July 1, 1978). Therefore, authorization and issuance of GOB's is not considered feasible under current law.

An option to GOB's is the issuance of a specific type note or bond form, such as a revenue anticipation note (RAN) or a tax anticipation note (TAN) or a certificate of participation (COP) or various combinations of available authorities that can be used to fund public infrastructure needs. These types of municipal securities (Munis) are generally tax-exempt and commonly used to fund public works infrastructure and facilities. Many states also exempt their securities from their own taxes, which makes those securities particularly attractive investments for their own residents.

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TAN's and RAN's are instruments backed by anticipated taxes or revenues respectively. When these types of notes are considered for funding of needed infrastructure, a specified source of tax or revenue stream is identified and pledged for repayment of the debt. For example, with sewer facilities, all or a portion of the sewer service revenue fees/charges could be used as backing for the debt instrument selected. Then other local revenue sources could be considered for ongoing operations and maintenance (O&M) or some acceptable mix and match of funds specified to secure the debt and accomplish the O&M.

COP's are another form of municipal funding instrument available. These generally require the facility improvement being funded to be named as security for the investment with a lease back of the facility by the municipality. In turn, the municipality pledges some revenue stream(s) that would be used to repay the investor held notes.

When Munis are being considered for funding of improvements, consultation with an experienced and qualified financing consultant and bond counsel are a must.

#### 4. Improvement Districts:

In general, special assessment district procedures have been established by statute to provide for financing of construction and/or acquisition of public works improvements, such as sewer systems, and for assessing the cost of such improvements to the benefiting properties. Under all assessment proceedings, the cost of the work is assessed against properties within the benefited area. The assessments are levied in specific amounts against each individual property on the basis of the benefit each parcel receives. The property owner may pay the assessment in cash during the cash collection period of 30 days. But, if any assessments are not paid in cash during that period, bonds are usually issued to represent the unpaid assessments and the benefited properties are assessed on their annual property tax bill over a usual period of 10 to 20 years.

The City of West Covina utilizes Government Code Section 38902 to establish sewer service charges. While an assessment district proceeding may be a reasonable and equitable means for financing sewer system improvements, further evaluation and stakeholder involvement is a usual practice to determine the viability and practicality of utilizing such financing method.

#### 5. Federal Assistance Programs:

There are, and have been, a series of federal grant and loan programs which may be applicable to public infrastructure projects. However, the qualification criteria for such programs vary from time to time and their funding or continuation is subject to congressional appropriations. Therefore, such programs should not be considered as a likely source of funds unless a funding commitment letter has been received.

Historically, federal programs administered by the Economic Development Administration (EDA) provide financial and technical assistance to aid the economic development of areas with high unemployment or low family income levels. Communities must make long-range plans for economic growth in order to be eligible for EDA financial assistance, in the form of grants and loans for public works and

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development that generates jobs and economic opportunity. Typical public works projects include construction of roads, water and sewer lines, and public facilities. To determine the status requires timely monitoring.

Under the rules and regulations of the Housing and Community Development Act of 1974, the Community Development Block Grant (CDBG) program can fund housing and community development needs. This includes part or all of improvements necessary to upgrade existing sewer facilities. Those qualifying geographic areas within the City that have the greatest overall deficiency in physical infrastructure receive the highest priority according to CDBG criteria. When the sewer system has a defined deficiency, then it is appropriate to use CDBG funds to meet health and safety standards as well as to encourage up-grading of abutting housing and physical environment.

The primary statutory objective of the CDBG program is to develop viable communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low- and moderate-income. Communities receiving CDBG funds through the State may use the funds for many kinds of community development activities including, but not limited to:

- acquisition of property for public purposes;
- construction or reconstruction of streets, water and sewer facilities, neighborhood centers, recreation facilities, and other public works;
- demolition;
- rehabilitation of public and private buildings;
- public services;
- planning activities;
- assistance to nonprofit entities for community development activities; and
- assistance to private, for profit entities to carry out economic development activities (including assistance to micro-enterprises).

[www.hcd.ca.gov/ca/cdbg/about/html](http://www.hcd.ca.gov/ca/cdbg/about/html)

The United State Department of Agriculture Rural Development Program provides communities with population less than 50,000 a variety of direct-guaranteed-loans and /or grants. These include water and wastewater system improvement funding.

[www.rurdev.usa.gov/ca](http://www.rurdev.usa.gov/ca)

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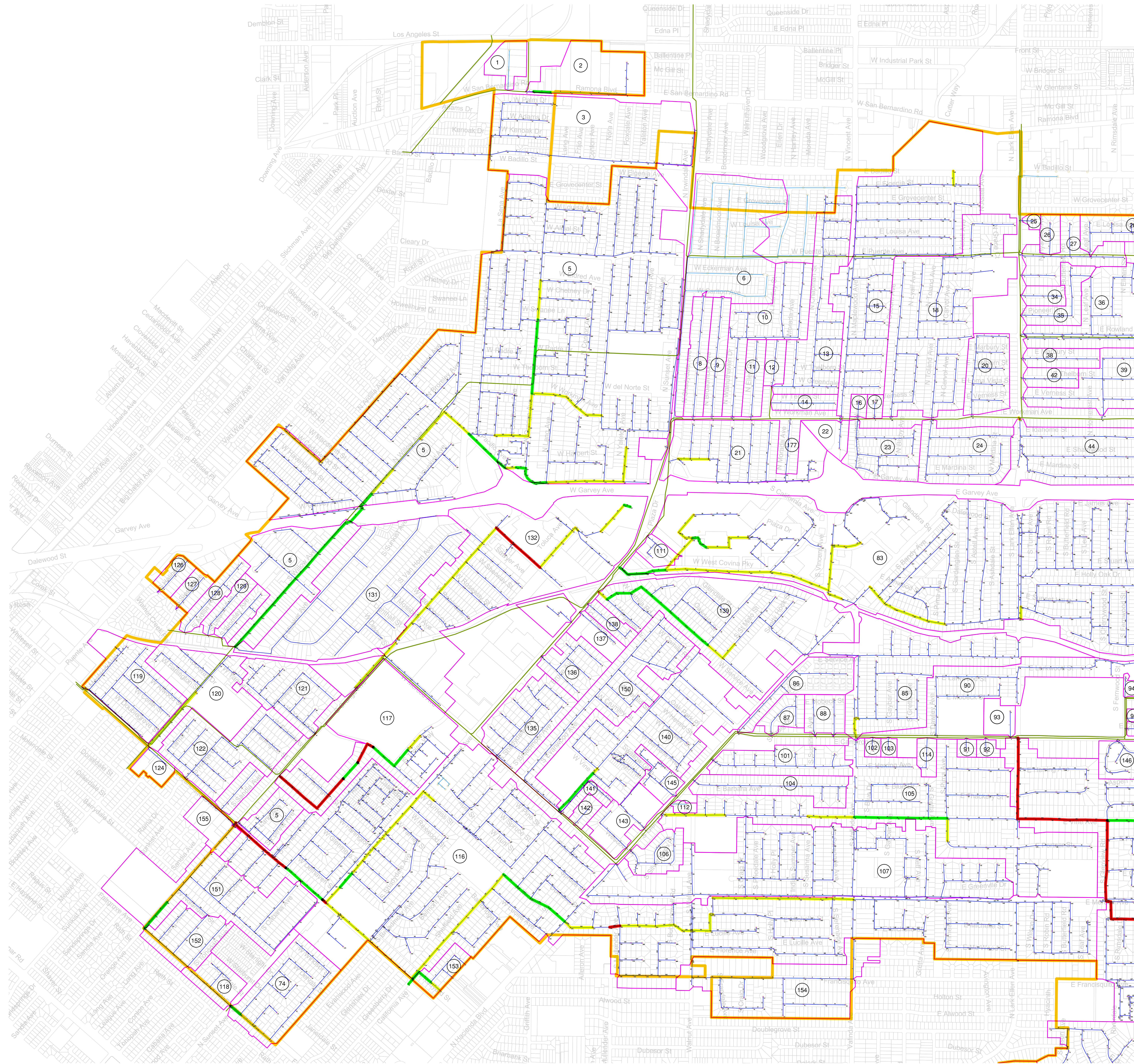


## **APPENDIX 'O-1'**

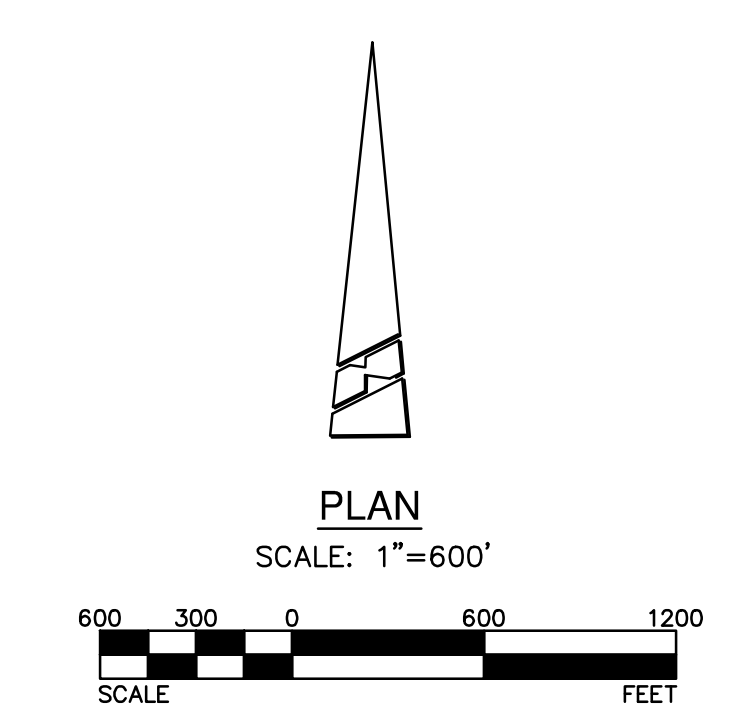
### **Sewer System Capacity Analysis Deficient Pipes Exhibits**







- LEGEND:**
- EXISTING CSD TRUNK SEWERS
  - SANITARY SEWER PIPE
  - 0.85 < d/D
  - 0.64 < d/D < 0.85
  - 0.50 < d/D < 0.64
  - CITY BOUNDARY
  - SEWER DRAINAGE AREA BORDER
  - SEWER MAINTENANCE ZONE



SEE EXHIBIT B

**APPENDIX O:**  
**SEWER SYSTEM**  
**CAPACITY ANALYSIS**  
**DEFICIENT PIPES**  
**EXHIBIT A**

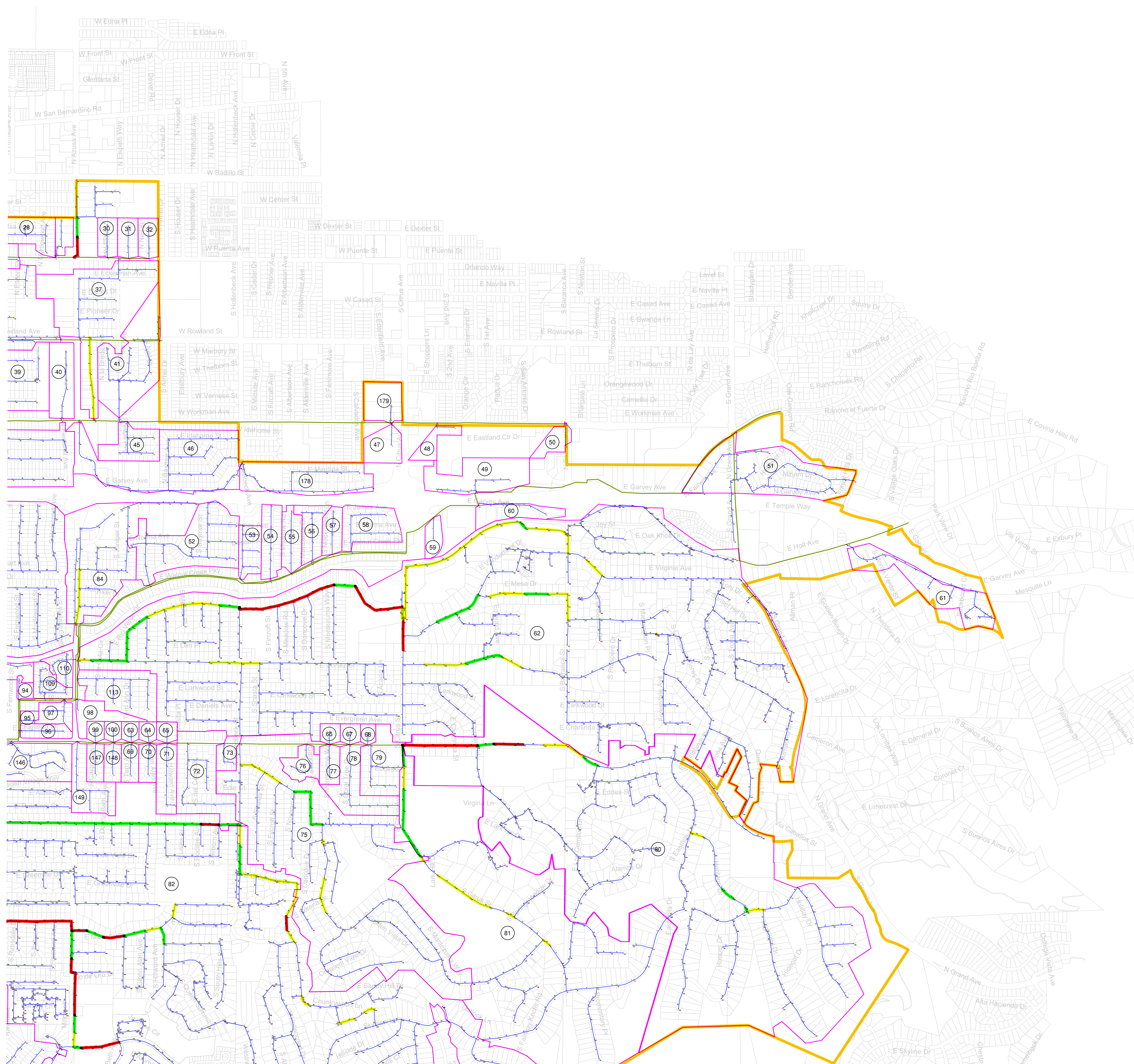


2401 E. Katella Avenue, Suite 450  
 Anaheim, CA 92806  
 (714)978-8200 fax (714)978-8299

SEE EXHIBIT C











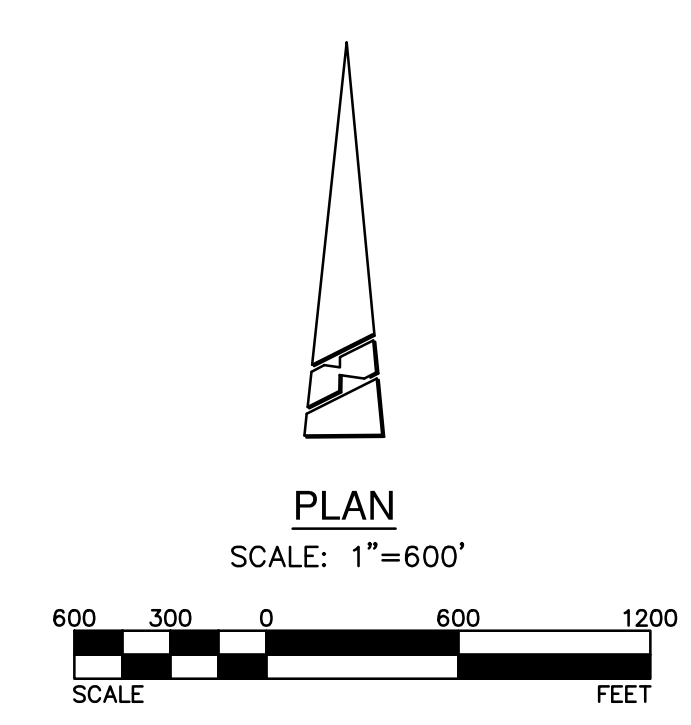
SEE EXHIBIT A



SEE EXHIBIT C

**LEGEND:**

-  EXISTING CSD TRUNK SEWERS
-  SANITARY SEWER PIPE
-  0.85 < d/D
-  0.64 < d/D < 0.85
-  0.50 < d/D < 0.64
-  CITY BOUNDARY
-  SEWER DRAINAGE AREA BORDER
-  SEWER MAINTENANCE ZONE



**APPENDIX O:**  
**SEWER SYSTEM**  
**CAPACITY ANALYSIS**  
**DEFICIENT PIPES**  
**EXHIBIT B**

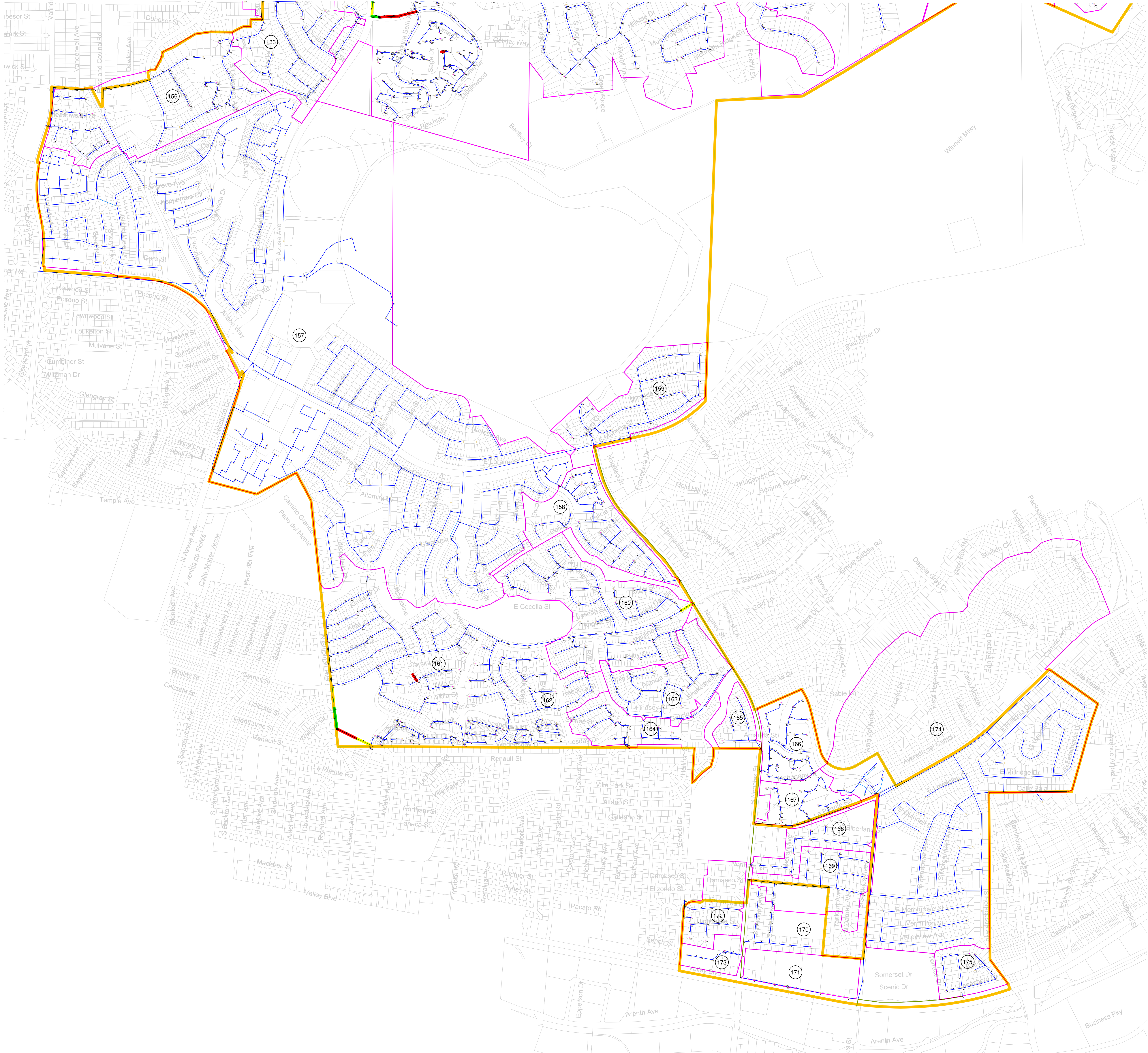


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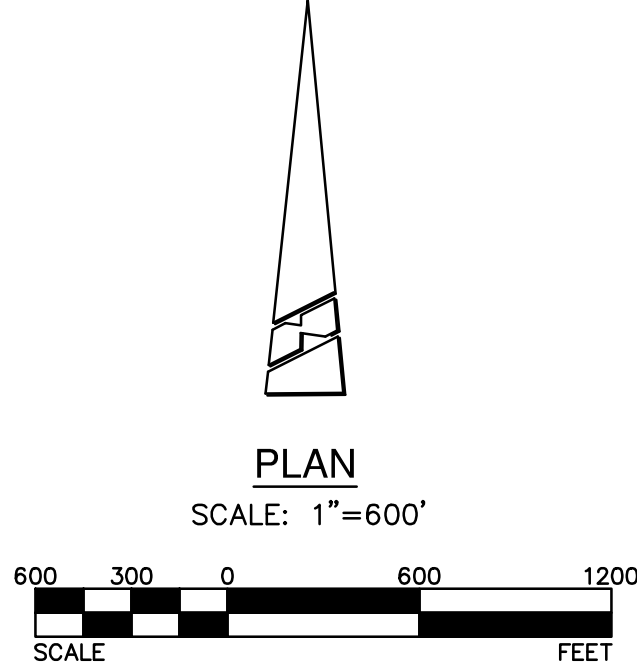


SEE EXHIBIT A

SEE EXHIBIT B



- LEGEND:**
- EXISTING CSD TRUNK SEWERS
  - SANITARY SEWER PIPE
  - 0.85 < d/D
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  - CITY BOUNDARY
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  - SEWER MAINTENANCE ZONE



**APPENDIX O:**  
**SEWER SYSTEM**  
**CAPACITY ANALYSIS**  
**DEFICIENT PIPES**  
**EXHIBIT C**



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## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT: CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA AND A RESOLUTION OF THE WEST COVINA PUBLIC FINANCE AUTHORITY APPROVING THE ISSUANCE OF LEASE REVENUE BONDS, 2020 SERIES A (FEDERALLY TAXABLE) BY THE WEST COVINA PUBLIC FINANCING AUTHORITY; AUTHORIZING AND APPROVING A SITE AND FACILITY LEASE, A LEASE AGREEMENT, A PRELIMINARY OFFICIAL STATEMENT, A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE AGREEMENT; APPROVING CERTAIN PROFESSIONALS; RESCISSION OF RESOLUTION RELATING TO PENSION OBLIGATION BONDS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

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### RECOMMENDATION:

It is recommended that the City Council of the City of West Covina adopt:

**A RESOLUTION NO. 2020-72 - RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, APPROVING THE ISSUANCE OF LEASE REVENUE BONDS, 2020 SERIES A (FEDERALLY TAXABLE) BY THE WEST COVINA PUBLIC FINANCING AUTHORITY; AUTHORIZING AND APPROVING A SITE AND FACILITY LEASE, A LEASE AGREEMENT, A PRELIMINARY OFFICIAL STATEMENT, A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE AGREEMENT; APPROVING CERTAIN PROFESSIONALS; RESCISSION OF RESOLUTION RELATING TO PENSION OBLIGATION BONDS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

It is recommended that the West Covina Public Financing Authority (the "Authority") adopt:

**A RESOLUTION NO. 2020-30 (PFA) - RESOLUTION OF THE WEST COVINA PUBLIC FINANCING AUTHORITY APPROVING THE ISSUANCE OF LEASE REVENUE BONDS, 2020 SERIES A (FEDERALLY TAXABLE); APPROVING A SITE AND FACILITY LEASE, A LEASE AGREEMENT, AN ASSIGNMENT AGREEMENT, AN INDENTURE, A PRELIMINARY OFFICIAL STATEMENT AND BOND PURCHASE AGREEMENT; APPROVING CERTAIN PROFESSIONALS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

### BACKGROUND:



## GENERAL

City and Authority staff recommend that fixed rate Bonds be issued through the Authority on behalf of the City on a taxable basis through a negotiated sale to Hilltop Securities Inc., as underwriter for the Bonds. The proposed Bonds would be issued on a taxable basis in the aggregate principal amount not to exceed \$205,000,000 for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) working capital for the City; (iii) a reserve for the Bonds; and (iv) costs of issuing the Bonds. The final maturity will not exceed 25 years.

The Bonds would be issued by the Authority under the provisions of the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 of Chapter 5 of Division 7 of Title 1 (commencing with Section 6584) of the California Government Code. The Bonds would be issued pursuant to an Indenture (the "Indenture"), by and between the Authority and U.S. Bank National Association (the "Trustee").

Debt service on the Bonds would be payable from certain revenues pledged to the payment of the Bonds under the Indenture, primarily consisting of rental payments to be made by the City to the Authority under a lease agreement (the "Lease Agreement"). To allow for this lease arrangement, the City will first enter into a site and facility lease (the "Site Lease") with the Authority, whereby the City will lease all or a portion of certain property of the City to be specified by City staff (the "Leased Property") to the Authority. Under the Lease Agreement, and as a means to provide a revenue stream for the debt service on the Bonds, the City would lease the Leased Property from the Authority and the City would make rental payments in each year in consideration for the use of that property in an amount sufficient to pay the annual principal of and interest on the Bonds. Rent owed to the Authority by the City under the Lease Agreement would be assigned to the Trustee pursuant to an assignment agreement between the Authority and the Trustee (the "Assignment Agreement").

City staff also recommends that City Council rescind Resolution No. 2020-08, adopted on February 4, 2020, since the Bonds provide alternative financing for the same purpose with respect to the City's CalPERS Obligation.

## PENSION BACKGROUND

The California Public Employees' Retirement System ("CalPERS") was founded in 1932 as the State Employees' Retirement System and has grown to include 2,890 member agencies including the State, counties, cities, school districts and special districts. The City of West Covina joined CalPERS in May 1966. CalPERS is a defined benefit plan, in which employees receive fixed benefits that are based upon length of service and salary earned at the time of retirement. A defined benefit plan is contrasted with a defined contribution plan (e.g. 401k plan) where the retirement benefit is generally based upon the amount invested and the growth of those investments.

The City has two main employee groups - safety and miscellaneous - each with different retirement benefits. The formula represents the percentage of salary for each year employed with the City that a member will receive at or after the specified age. Historically, more than 60% of all funds paid to CalPERS retirees comes from investment earnings. When CalPERS does not meet its investment return goals, the member agencies pay more. Over the past few decades the CalPERS system went from having an excess of cash (i.e. super-funded, or funded above 100%) to being under-funded. This is mainly due to investment losses by CalPERS during the Great Recession, which impacted all California agencies' retirement plans managed by CalPERS. Currently, the City's combined CalPERS plans are funded at approximately 64.8%. Additional factors have also contributed to increasing costs:

- Long-term investment returns not meeting expectations (e.g. 8.1% over the last five years, 5.6% over the last 10 years, and 6.1% over the last 20 years);
- The resulting changes in the CalPERS anticipated return-on-investment rate over the past 15 years, from 8.25% to 7.00%;
- CalPERS retirees living longer; and
- The ratio of workers to retirees has been decreasing.

As a result of the above factors, which contributed to the decline in overall retirement plan funding levels, California public entities such as the City of West Covina must increase their future payments into the CalPERS system. The payment levels are determined by CalPERS, and they are increasing annually.

Over the last five years, the City's unfunded actuarial accrued liability ("UAAL") for its CalPERS Miscellaneous



and Safety Plans has grown from \$145 million (6/30/2016 estimate) to about \$200 million (estimated as of 6/30/2020 by CalPERS). The UAAL represents the shortfall/gap between what is needed to pay retiree benefits versus how much in current assets the City actually has in its accounts with CalPERS. The \$200 million UAAL is not required to be repaid all at once but is amortized over a longer period (different components are amortized over different time periods, with most between 15 and 30 years) currently at an interest rate of 7.0%. Pension cost increases are the largest financial challenge facing most cities throughout the state and are primarily due to factors outside of the cities' control, including discount rate changes, assumption changes made by CalPERS and investment returns that were below expectations.

## **DISCUSSION:**

Given unfunded pension obligations of the City, the challenge is: How to effectively secure the financial future of the City, its employees, and its retirees while ensuring the delivery of public services and stewardship of public resources. Numerous cities throughout California have recently issued bonds to restructure the payment pattern of their UAAL and increase the funding of their pension plan. The proposed Bonds can be an effective tool to achieve several objectives:

- Maintain Service Levels: Reduce chance of service reductions, public safety layoffs, deferred maintenance.
- Achieve Fiscal Stability: Change the payment pattern (e.g., a smooth pattern for bond repayment, vs a sharply increasing pattern with no bonds). Smoother payment patterns make budgeting easier.
- Realize Savings: Obtain higher expected investment returns on investments at retirement system (e.g., 7%) than borrowing cost (e.g., ~3.5-5.0% as of 6/30/2020).
- Increase the pension plan's level of funding: from 64.8% to 98.1%.
- Establish a Long-Term Plan; Incorporating best practices, operate the City on an actuarially sound basis to meet and reduce future liabilities.

## **CITY RESOLUTION AND DOCUMENTS**

Approval of the Resolution of the City Council of the City (the "City Resolution") (Attachment 1) will provide for the security and source of repayment for the Bonds. The City Resolution, if adopted, would authorize the execution and delivery of the following documents in connection with Bonds, including any modifications recommended by Bond Counsel.

- Site and Facility Lease - The Site and Facility Lease will be entered into by the City and the Authority. To generate a stream of revenue for the payment of debt service on the Bonds, the City first will lease to the Authority the Leased Property. No money is exchanged under this document. (Attachment 4)
- Lease Agreement - Under the Lease Agreement, by and between the City and the Authority, the City will lease back from the Authority the Leased Property and agree to make rental payments to the Authority thereunder. The Lease provides that the City will make such payments over time in the amounts necessary to repay the Bonds. This document specifies required insurance coverage for the leased property. The City anticipates leasing certain streets within the City as the Leased Property for the financing. The use of streets as the leased asset for lease revenue bonds has been implemented by other cities such as Pacifica, El Centro, and Redondo Beach. (Attachment 5)
- Bond Purchase Agreement - Under this document, which will be signed the day the Bonds are priced, the Underwriter agrees to purchase all of the Bonds from the Authority at an established price. Immediately prior to the Authority's executing the Bond Purchase Agreement, the Underwriter will "price" the Bonds in the public market – that is, to identify the interest rate which the Bonds will represent when sold to investors. A final underwriting discount (the Underwriter's compensation) will be established at the same time and incorporated into the terms of the Bond Purchase Agreement. (Attachment 6)
- Continuing Disclosure Agreement – Pursuant to the Continuing Disclosure Agreement by and between the City and a dissemination agent to be selected by the City Manager, the City will be obligated to provide certain annual financial and operating information and notices of enumerated events to the Electronic Municipal Market Access ("EMMA") website for purposes of complying with Rule 15c2-12 ("Rule 15c2-12") of the U.S. Securities and Exchange Commission promulgated under the Securities Exchange Act



of 1934, as amended. (Attachment 7)

- Preliminary Official Statement – The Preliminary and final Official Statements describe the terms of the Bonds, including the security for repayment of the Bonds, the prepayment provisions and other material information, statistics, and summaries from the Indenture and Lease Agreement that prospective purchasers of the Bonds are likely to consider material in making an investment decision. The information, statistics, and summaries included in the Preliminary Official Statement have been provided and/or reviewed by City staff. (Attachment 8)

#### **AUTHORITY RESOLUTION AND DOCUMENTS**

Approval of the Resolution of the Board of the Authority (the “Authority Resolution”) (Attachment 2) will provide for issuance of the Bonds by the Authority. The Authority Resolution, if adopted, would authorize the execution and delivery of the following documents in connection with Bonds, including any modifications recommended by Bond Counsel.

- Indenture. The Indenture is the contract between the Authority, as issuer of the Bonds, and the Trustee for the benefit of the bondowners (the “Owners”). The Indenture provides for the issuance of the Bonds and assigns certain fiduciary duties to the Trustee and to establish the way in which the Owners will be paid on their investment. (Attachment 9)
- Assignment Agreement. Under the Assignment Agreement, by and between the Authority and the Trustee, the rental payments made by the City under the Lease Agreement are assigned by the Authority to the Trustee to provide for the payment of debt service on the Bonds. (Attachment 10)
- Other Documents. The Authority Resolution also provides for authorization of the following documents on behalf of the Authority, each presented in the form and for the purpose described above in connection with City Resolution:
  - Site Lease;
  - Lease Agreement;
  - Preliminary Official Statement; and
  - Bond Purchase Agreement.

#### **PROFESSIONAL SERVICES**

The City and Authority Resolutions approve the appointment of (a) Norton Rose Fulbright US LLP to perform Bond Counsel and Disclosure Counsel services; (b) Wolf & Company Inc. and NHA Advisors LLC, to perform Co-Municipal Advisor services; and (c) Hilltop Securities Inc., to serve as Underwriter. The City Manager/Executive Director are authorized and directed to execute or amend services agreements with these financing team members.

#### **SB 450 Good Faith Estimates**

See Attachment 3.

#### **FISCAL IMPACT**

Debt service on the Bonds will be payable from the City’s General Fund.

#### **LEGAL REVIEW:**

The City Attorney has reviewed and approved the Resolutions as to form.

#### **OPTIONS:**

The options available to the City Council and Public Finance Authority are as follows:

1. Approve the staff recommendations.
2. Approve a smaller bond amount.
3. Provide staff further direction.

**Prepared by:** Mark Persico, Assistant City Manager



**Additional Approval:** Robbeyn Bird, CPA, Finance Director

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**Attachments**

Attachment No. 1 - Resolution 2020-72 - City Council  
Attachment No. 2 - Resolution 2020-30 (PFA) - Public Finance Authority  
Attachment No. 3 - Good Faith Estimates  
Attachment No. 4 - Site and Facility Lease  
Attachment No. 5 - Lease Agreement  
Attachment No. 6 - Bond Purchase Agreement  
Attachment No. 7 - Continuing Disclosure Agreement  
Attachment No. 8 - Preliminary Official Statement  
Attachment No. 9 - Indenture Agreement  
Attachment No. 10 - Assignment Agreement  
Attachment No. 11 - Lease Revenue Bond Presentation

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**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability  
Enhance City Facilities and Infrastructure  
Enhance the City Image and Effectiveness  
Enhance Public Safety  
Enhance City Programs and Activities



## **Attachment No. 1**

### **RESOLUTION NO. 2020-72**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE ISSUANCE OF LEASE REVENUE BONDS, 2020 SERIES A (FEDERALLY TAXABLE) BY THE WEST COVINA PUBLIC FINANCING AUTHORITY; AUTHORIZING AND APPROVING A SITE AND FACILITY LEASE, A LEASE AGREEMENT, A PRELIMINARY OFFICIAL STATEMENT, A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE AGREEMENT; APPROVING CERTAIN PROFESSIONALS; RESCISSION OF RESOLUTION RELATING TO PENSION OBLIGATION BONDS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

**WHEREAS**, the City of West Covina, California (the “City”) and the West Covina Housing Authority, have previously entered into a Joint Exercise of Powers Agreement, dated as of June 1, 1990, as amended from time to time, establishing the West Covina Public Financing Authority (the “Authority”) for the purpose of assisting the City by issuing bonds and other obligations for authorized purposes; and

**WHEREAS**, the City is obligated by the Public Employees’ Retirement Law, commencing with Section 20000 of the Government Code of the State of California, as amended (the “Retirement Law”), to make payments relating to pension benefits accruing to the California Public Employees’ Retirement System’s (“CalPERS”) members, including the City; and

**WHEREAS**, the City is obligated specifically to make certain payments to CalPERS in respect of current and retired public safety employees and miscellaneous employees under the pension programs of CalPERS that amortize such obligations over a fixed period of time, including normal costs (collectively, the “CalPERS Obligation”); and

**WHEREAS**, the Pension Obligation is evidenced by a contract or contracts with CalPERS with respect to public safety employees and miscellaneous employees of the City, as heretofore and hereafter amended from time to time (collectively, the “CalPERS Contract”); and

**WHEREAS**, the City desires that the Authority issue its Lease Revenue Bonds, 2020 Series A (Federally Taxable) (the “2020A Bonds”) for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) working capital for the City; (iii) a reserve for the 2020A Bonds; and (iv) costs of issuing the 2020A Bonds; and

**WHEREAS**, the 2020A Bonds are to be issued pursuant to an Indenture (the “Indenture”), by and between the Authority and a trustee to be named therein (the “Trustee”), and pursuant to



the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “Act”); and

**WHEREAS**, it is proposed that the City and the Authority enter into a Site and Facility Lease (the “Site Lease”), by and between the City and the Authority, the proposed form of which is on file with the Secretary of the Authority, pursuant to which the City will lease property of the City as an Authorized Representative of the City shall designate (the “Leased Property”) to the Authority; and

**WHEREAS**, it is proposed that the City and the Authority enter into a Lease Agreement (the “Lease”), by and between the Authority and the City, pursuant to which City will lease the Leased Property from the Authority, the proposed form of which is on file with the Secretary of the Authority; and

**WHEREAS**, under the Lease, the City will be obligated to make lease payments to the Authority which the Authority will use to pay debt service on the 2020A Bonds; and

**WHEREAS**, it is proposed that the City and the Authority deliver a Preliminary Official Statement and final Official Statement in connection with the marketing and sale of the 2020A Bonds; and

**WHEREAS**, it is proposed that the City and the Authority enter into a Bond Purchase Agreement (the “Bond Purchase Agreement”), by and between the Authority and the City in connection with the sale of the 2020A Bonds; and

**WHEREAS**, it is proposed that the City execute and deliver a Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”), by and between the City and a dissemination agent named therein in connection with the sale of the 2020A Bonds; and

**WHEREAS**, there have been presented at this meeting the proposed forms of the following documents:

- a) the Site Lease;
- b) the Lease;
- c) the Preliminary Official Statement;
- d) the Bond Purchase Agreement; and
- e) the Continuing Disclosure Agreement.

**WHEREAS**, the City Council has reviewed the above-referenced documents related to the issuance of the 2020A Bonds, which documents are on file with the City Clerk of the City of West Covina; and

**WHEREAS**, the City Council desires to rescind its Resolution No. 2020-08.



**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY DETERMINE, FIND, AND RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council hereby finds and determines that the foregoing recitals are true and correct.

**SECTION 2.** The City Council hereby finds and determines that the issuance of the 2020A Bonds will result in significant public benefits within the contemplation of Section 6586 of the Act.

**SECTION 3.** The City Council hereby approves the issuance by the Authority of the 2020A Bonds. The 2020A Bonds are hereby approved for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) working capital for the City; (iii) a reserve for the 2020A Bonds; and (iv) costs of issuing the 2020A Bonds.

**SECTION 4.** The Site Lease, in substantially the form on file with the City Clerk of the City and presented to the City Council at this meeting, is hereby approved. Any one of the City Manager, the Assistant City Manager, the Mayor of the City, or their respective designees (each, an "Authorized Representative"), is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Site Lease in substantially the form on file, with such revisions, amendments and completions as may be approved by the Authorized Representative executing the same, subject to the provisions of this Resolution, such approval to be conclusively evidenced by the execution and delivery thereof, and the City Clerk is hereby authorized to attest to such execution. Any Authorized Representative is hereby authorized to designate Leased Property under the Site Lease.

**SECTION 5.** The Lease, in substantially the form on file with the City Clerk of the City and presented to the City Council at this meeting, is hereby approved. Any Authorized Representative is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Lease in substantially the form on file, with such revisions, amendments and completions as may be approved by the Authorized Representative executing the same, subject to the provisions of this Resolution, such approval to be conclusively evidenced by the execution and delivery thereof, and the City Clerk is hereby authorized to attest to such execution.

**SECTION 6.** The proposed form of Preliminary Official Statement with respect to the issuance of the Bonds, substantially in the form on file with the City Clerk, is hereby approved, with such revisions, amendments and completions as shall be approved by an Authorized Representative with the advice of Disclosure Counsel, in order to make the Preliminary Official Statement final as of its date, except for the omission of certain information, as permitted by Section 240.15c2-12(b)(1) of Title 17 of the Code of Federal Regulations ("Rule 15c2-12"), and any certificate relating to the finality of the Preliminary Official Statement under Rule 15c2-12. Any Authorized Representative is hereby authorized and directed to execute and deliver a final Official Statement in the form of the Preliminary Official Statement, with such additions and changes as may be approved by any Authorized Representative executing the same, such approval to be conclusively evidenced by the execution and delivery thereof.



**SECTION 7.** The proposed form of Bond Purchase Agreement, on file with the City Clerk, is hereby approved. Any Authorized Representative is hereby authorized and directed, for and on behalf of the Authority with the advice of Bond Counsel, to execute and deliver the Bond Purchase Agreement, substantially in the form on file with the City Clerk, with such changes therein, deletions therefrom and additions thereto (including, but not limited to changes, deletions and additions as may be required) as such Authorized Representative shall approve, such approval to be conclusively evidenced by the execution and delivery of the Bond Purchase Agreement; provided, that the principal amount of the 2020A Bonds shall not exceed \$205,000,000, the true interest costs for the 2020A Bonds shall not exceed 5.80%, the underwriter's discount shall not exceed 0.318% of the principal amount of the Bonds and the final maturity of the Bonds shall not exceed 25 years.

**SECTION 8.** The proposed form of Continuing Disclosure Agreement, on file with the City Clerk, is hereby approved. Any Authorized Representative is hereby authorized and directed for and on behalf of the City, to execute and deliver the Continuing Disclosure Agreement, substantially in the form on file with the City Clerk, with such changes therein, deletions therefrom and additions thereto (including, but not limited to changes, deletions and additions as may be required) as such Authorized Representative shall approve, such approval to be conclusively evidenced by the execution and delivery of the Continuing Disclosure Agreement.

**SECTION 9.** The City Council hereby approves the appointment of (a) Norton Rose Fulbright US LLP to perform Bond Counsel and Disclosure Counsel services; (b) Wolf & Company Inc. and NHA Advisors LLC, to perform Co-Municipal Advisor services; and (c) Hilltop Securities Inc., to serve as Underwriter. The City Manager is hereby authorized and directed to execute or amend existing services agreements with these financing team members.

**SECTION 10.** Each Authorized Representative, the City Clerk and all other officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, with the concurrence of the City Attorney, to do any and all things and take any and all other actions, including the publication of any notices necessary or desirable in connection with the sale of the 2020A Bonds, procurement of municipal bond insurance and/or a reserve surety, and execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, terminations, warrants and other documents, which they, or any of them, deem necessary or advisable to consummate the lawful issuance and sale of the 2020A Bonds and the consummation of the transactions as described herein.

**SECTION 11.** All actions heretofore taken by any Authorized Representative or any officer, employee or agent of the City with respect to the issuance, delivery and sale of the 2020A Bonds or in connection with or related to any of the agreements referred to herein, are hereby approved, confirmed and ratified.

**SECTION 12.** The City Council hereby rescinds its Resolution No. 2020-08, adopted on February 4, 2020.

**SECTION 13.** The City Clerk shall certify to the adoption of this Resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.



**APPROVED AND ADOPTED** this 7th day of July, 2020.

---

Tony Wu  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2020-72 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 7th day of July, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick  
Assistant City Clerk



## Attachment No. 2

### RESOLUTION NO. 2020-30 (PFA)

**A RESOLUTION OF THE WEST COVINA PUBLIC FINANCING AUTHORITY APPROVING THE ISSUANCE OF LEASE REVENUE BONDS, 2020 SERIES A (FEDERALLY TAXABLE); APPROVING A SITE AND FACILITY LEASE, A LEASE AGREEMENT, AN ASSIGNMENT AGREEMENT, AN INDENTURE, A PRELIMINARY OFFICIAL STATEMENT AND BOND PURCHASE AGREEMENT; APPROVING CERTAIN PROFESSIONALS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

**WHEREAS**, the City of West Covina, California (the “City”) and the West Covina Housing Authority, have previously entered into a Joint Exercise of Powers Agreement, dated as of June 1, 1990, as amended from time to time, establishing the West Covina Public Financing Authority (the “Authority”) for the purpose of assisting the City by issuing bonds and other obligations for authorized purposes; and

**WHEREAS**, the City is obligated by the Public Employees’ Retirement Law, commencing with Section 20000 of the Government Code of the State of California, as amended (the “Retirement Law”), to make payments relating to pension benefits accruing to the California Public Employees’ Retirement System’s (“CalPERS”) members, including the City; and

**WHEREAS**, the City is obligated specifically to make certain payments to CalPERS in respect of current and retired public safety employees and miscellaneous employees under the pension programs of CalPERS that amortize such obligations over a fixed period of time, including normal costs (collectively, the “CalPERS Obligation”); and

**WHEREAS**, the Pension Obligation is evidenced by a contract or contracts with CalPERS with respect to public safety employees and miscellaneous employees of the City, as heretofore and hereafter amended from time to time (collectively, the “CalPERS Contract”); and

**WHEREAS**, the City desires that the Authority issue its Lease Revenue Bonds, 2020 Series A (Federally Taxable) (the “2020A Bonds”) for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) working capital for the City; (iii) a reserve for the 2020A Bonds; and (iv) costs of issuing the 2020A Bonds; and

**WHEREAS**, the 2020A Bonds are to be issued pursuant to an Indenture (the “Indenture”), by and between the Authority and a trustee to be named therein (the “Trustee”), and pursuant to the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “Act”); and



**WHEREAS**, it is proposed that the City and the Authority enter into a Site and Facility Lease (the “Site Lease”), by and between the City and the Authority, the proposed form of which is on file with the Secretary of the Authority, pursuant to which the City will lease property of the City as an Authorized Representative of the City shall designate (the “Leased Property”) to the Authority; and

**WHEREAS**, it is proposed that the City and the Authority enter into a Lease Agreement (the “Lease”), by and between the Authority and the City, pursuant to which City will lease the Leased Property from the Authority, the proposed form of which is on file with the Secretary of the Authority; and

**WHEREAS**, under the Lease, the City will be obligated to make lease payments to the Authority which the Authority will use to pay debt service on the 2020A Bonds; and

**WHEREAS**, the Authority will assign its rights under the Lease, including the right to receive lease payments, to the Trustee pursuant to an Assignment Agreement (the “Assignment Agreement”), by and between the Authority and the Trustee, the proposed form of which is on file with the Secretary of the Authority; and

**WHEREAS**, it is proposed that the City and the Authority deliver a Preliminary Official Statement and final Official Statement in connection with the marketing and sale of the 2020A Bonds; and

**WHEREAS**, it is proposed that the City and the Authority enter into a Bond Purchase Agreement (the “Bond Purchase Agreement”), by and between the Authority and the City in connection with the sale of the 2020A Bonds; and

**WHEREAS**, there have been presented at this meeting the proposed forms of the following documents:

- (a) the Indenture;
- (b) the Site Lease;
- (c) the Lease;
- (d) the Assignment Agreement;
- (e) the Preliminary Official Statement; and
- (f) the Bond Purchase Agreement.

**WHEREAS**, the City Council of the City has found and determined that the issuance of the 2020A Bonds will result in significant public benefits within the contemplation of Section 6586 of the Act; and

**WHEREAS**, the Authority has reviewed the above-referenced documents related to the issuance of the 2020A Bonds which documents are on file with the Secretary of the Authority.



**NOW, THEREFORE, BE IT RESOLVED BY THE WEST COVINA PUBLIC FINANCING AUTHORITY AS FOLLOWS:**

**Section 1.** The Authority hereby finds and determines that the foregoing recitals are true and correct.

**Section 2.** The Authority hereby approves the issuance of the 2020A Bonds in the aggregate principal amount not to exceed \$205,000,000 for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) working capital for the City; (iii) a reserve for the 2020A Bonds; and (iv) costs of issuing the 2020A Bonds.

**Section 3.** The Authority hereby approves the Site Lease in substantially the form on file with the Secretary of the Authority. Any one of the Chairman, the Executive Director or their respective designees (each, an "Authorized Officer"), is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Site Lease in substantially the form on file, with such revisions, amendments and completions as may be approved by the Authorized Officer executing the same, subject to the provisions of this Resolution, such approval to be conclusively evidenced by the execution and delivery thereof.

**Section 4.** The Authority hereby approves the Lease Agreement in substantially the form on file with the Secretary of the Authority. Any Authorized Officer is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Lease in substantially the form on file, with such revisions, amendments and completions as may be approved by the Authorized Officer executing the same, subject to the provisions of this Resolution, such approval to be conclusively evidenced by the execution and delivery thereof.

**Section 5.** The Authority hereby approves the Assignment Agreement in substantially the form on file with the Secretary of the Authority. Any Authorized Officer is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Assignment Agreement in substantially the form on file, with such revisions, amendments and completions as may be approved by the Authorized Officer executing the same, subject to the provisions of this Resolution, such approval to be conclusively evidenced by the execution and delivery thereof.

**Section 6.** The Authority hereby approves the Indenture in substantially the form on file with the Secretary of the Authority. Any Authorized Officer is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Indenture in substantially the form on file, with such revisions, amendments and completions as may be approved by the Authorized Officer executing the same, subject to the provisions of this Resolution, such approval to be conclusively evidenced by the execution and delivery thereof.

**Section 7.** The proposed form of Preliminary Official Statement with respect to the issuance of the Bonds, substantially in the form on file with the Secretary, is hereby approved, with such revisions, amendments and completions as shall be approved by an Authorized Representative with the advice of Disclosure Counsel, in order to make the Preliminary Official Statement final as of its date, except for the omission of certain information, as permitted by Section 240.15c2-12(b)(1) of Title 17 of the Code of Federal Regulations ("Rule 15c2-12"), and



any certificate relating to the finality of the Preliminary Official Statement under Rule 15c2-12. Any Authorized Representative is hereby authorized and directed to execute and deliver a final Official Statement in the form of the Preliminary Official Statement, with such additions and changes as may be approved by any Authorized Representative executing the same, such approval to be conclusively evidenced by the execution and delivery thereof.

**Section 8.** The proposed form of Bond Purchase Agreement, on file with the Secretary, is hereby approved. Any Authorized Representative is hereby authorized and directed, for and on behalf of the Authority with the advice of Bond Counsel, to execute and deliver the Bond Purchase Agreement, substantially in the form on file with the Secretary, with such changes therein, deletions therefrom and additions thereto (including, but not limited to changes, deletions and additions as may be required) as such Authorized Representative shall approve, such approval to be conclusively evidenced by the execution and delivery of the Bond Purchase Agreement; provided, that the principal amount of the 2020A Bonds shall not exceed \$205,000,000, the true interest costs for the 2020A Bonds shall not exceed 5.80%, the underwriter's discount shall not exceed 0.318% of the principal amount of the Bonds and the final maturity of the Bonds shall not exceed 25 years.

**Section 9.** In accordance with SB 450, good faith estimates of the following are set forth on Exhibit A attached hereto: (a) the true interest cost of the 2020A Bonds, (b) the sum of all fees and charges paid to third parties with respect to the 2020A Bonds, (c) the amount of proceeds of the 2020A Bonds expected to be received net of the fees and charges paid to third parties and any reserves or capitalized interest paid or funded with proceeds of the 2020A Bonds, and (d) the sum total of all debt service payments on the 2020A Bonds calculated to the final maturity of the 2020A Bonds plus the fees and charges paid to third parties not paid with the proceeds of the 2020A Bonds.

**Section 10.** The Authority hereby approves the appointment of approves the appointment of (a) Norton Rose Fulbright US LLP to perform Bond Counsel and Disclosure Counsel services; (b) Wolf & Company Inc. and NHA Advisors LLC, to perform Co-Municipal Advisor services; and (c) Hilltop Securities Inc., to serve as Underwriter. The Executive Director is hereby authorized and directed to execute or amend services agreements with these financing team members.

**Section 11.** Each Authorized Officer, the Secretary, and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including the publication of any notices necessary or desirable in connection with the sale of the 2020A Bonds, procurement of municipal bond insurance and/or a reserve surety, and execution and delivery of any and all assignments, certificates, escrow agreements, escrow instructions, requisitions, agreements, notices, consents, instruments of conveyance, terminations, warrants and other documents, which they, or any of them, deem necessary or advisable to consummate the lawful issuance and sale of the 2020A Bonds and the consummation of the transactions as described herein.

**Section 12.** All actions heretofore taken by any Authorized Officer or any officer, employee or agent of the Authority with respect to the issuance, delivery and sale of the 2020A



Bonds or in connection with or related to any of the agreements referred to herein, are hereby approved, confirmed and ratified.

**Section 13.** This Resolution shall become effective immediately upon adoption.

**Section 14.** The Secretary shall certify to the adoption of this Resolution. Notwithstanding the foregoing, such certification and any of the other duties and responsibilities assigned to the Secretary pursuant to this Resolution may be performed by an Assistant Secretary with the same force and effect as if performed by the Secretary hereunder.

**APPROVED AND ADOPTED** this 7th day of July, 2020.

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Tony Wu  
Chairman

**ATTEST:**

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Lisa Sherrick  
Assistant Secretary

**APPROVED AS TO FORM:**

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Thomas P. Duarte  
Authority Counsel



**RESOLUTION CERTIFICATION**

STATE OF CALIFORNIA                    )  
  ) ss  
COUNTY OF LOS ANGELES            )

I, Lisa Sherrick, Assistant Secretary of the West Covina Public Financing Authority, DO  
HEREBY CERTIFY that the foregoing Resolution No. 2020 -30 (PFA) was duly adopted at a  
regular meeting of the Authority held on the 7th day of July, 2020, by the following vote to wit:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Lisa Sherrick  
Assistant Secretary



## Attachment No. 3

### GOOD FAITH ESTIMATES

The following information was obtained from the Underwriter with respect to the bonds (the "Bonds") approved in the Resolution, and is provided pursuant to Senate Bill 450 (Chapter 625 of the 2017 - 2018 Session of the California Legislature) with respect to the Bonds:

1. *True Interest Cost of the Bonds.* Assuming an aggregate principal amount of \$204,100,000.00 of the Bonds are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the true interest cost of the Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Bonds, is 4.165881%.

2. *Finance Charge of the Bonds.* Assuming an aggregate principal amount of \$204,100,000.00 of the Bonds are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the finance charge of the Bonds, which means the sum of all fees and charges paid to third parties (or costs associated with the Bonds), is \$1,115,238.00, as follows:

a)	Underwriter's Discount	\$649,038.00
b)	Credit Enhancement*	[TBD]
c)	Bond Counsel and Disbursements	\$156,500.00
d)	Disclosure Counsel	\$40,000.00
e)	Municipal Advisor and Disbursements	\$97,500.00
f)	Rating Agency (est)	\$97,000.00
g)	Other Expenses	<u>\$65,200.00</u>
	Total	<u>\$1,115,238.00</u>

\* A municipal bond insurance policy with respect to the Bonds will be obtained only if economically advantageous as determined by an Authorized Representative.

3. *Amount of Proceeds to be Received.* Assuming an aggregate principal amount of \$203,538,284.25 of the Bonds are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the amount of proceeds expected to be received by the Authority for sale of the Bonds less the finance charge of the Bonds described in 2 above and any reserves or capitalized interest paid or funded with proceeds of the Bonds, is \$185,195,928.95.

4. *Total Payment Amount.* Assuming an aggregate principal amount of \$204,100,000.00 of the Bonds are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the total payment amount, which means the sum total of all payments the Authority will make to pay debt service on the Bonds plus the finance charge of the Bonds described in paragraph 2 above not paid with the proceeds of the Bonds, calculated to the final maturity of the Bonds, is \$337,519,888.96.

Attention is directed to the fact that the foregoing information constitutes good faith estimates only. The actual interest cost, finance charges, amount of proceeds and total payment amount may vary from the estimates above due to variations from these estimates in the timing of Bond sales, the amount of Bonds sold, the amortization of the Bonds sold and market interest rates at the time of each sale. The date of sale and the amount of Bonds sold will be determined by the Authority based on need for project funds and other factors. The actual interest rates at which the Bonds will be sold will depend on the bond market at the time of each sale. The actual amortization of the Bonds will also depend, in part, on market interest rates at the time of sale. Market interest rates are affected by economic and other factors beyond the City's and the Authority's control.



**Attachment No. 4**

**DRAFT**  
**07/01/2020**

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**SITE AND FACILITY LEASE**

Dated as of July 1, 2020

by and between

**CITY OF WEST COVINA**

and

**WEST COVINA PUBLIC FINANCING AUTHORITY**

Relating to the

    \$[Par Amount]  
West Covina Public Financing Authority  
Lease Revenue Bonds  
2020 Series A  
(Federally Taxable)

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EXHIBIT A — DESCRIPTION OF THE LEASED PROPERTY



## **SITE AND FACILITY LEASE**

This SITE AND FACILITY LEASE, dated as of July 1, 2020 (this "Site Lease"), is made by and between the CITY OF WEST COVINA, a general law city duly organized and existing under the laws of the State of California (the "City"), as lessor, and the WEST COVINA PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority, duly organized and existing under the laws of the State of California (the "Authority"), as lessee.

### **RECITALS:**

WHEREAS, the City is leasing the property more particularly described in Exhibit A attached hereto (the "Leased Property") to the Authority; and

WHEREAS, the Authority has determined to issue its \$[Par Amount] Lease Revenue Bonds, 2020 Series A (Federally Taxable) (the "2020A Bonds") pursuant to an Indenture, dated as of July 1, 2020 (the "Indenture"), by and between the Authority and U.S. Bank National Association, as trustee (the "Trustee"); and

WHEREAS, the Authority, concurrently with the execution of this Site Lease, will lease the Leased Property to the City pursuant to a Lease Agreement, dated as of July 1, 2020 (the "Lease"), by and between the City and the Authority, in consideration for base rental payments equal to the principal and interest coming due on the 2020A Bonds; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Site Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Site Lease;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

### **SECTION 1. DEFINITIONS.**

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Indenture or the Lease, as applicable.

### **SECTION 2. SITE LEASE.**

The City hereby leases the Leased Property to the Authority and the Authority hereby leases the Leased Property from the City, on the terms and conditions hereinafter set forth.



### **SECTION 3. TERM.**

The term of this Site Lease shall commence on July \_\_, 2020. This Site Lease shall constitute a lease of the City's interest in the Leased Property.

The term of this Site Lease shall expire on the earliest of (i) the Expiration Date; (ii) the date the last base rental payment is made under the provisions of the Lease; or (iii) the date of discharge of the Indenture pursuant to Section 10.03 thereof. Notwithstanding the foregoing, the term of this Lease shall automatically be extended for a period of ten (10) years, if, on the Expiration Date, the Indenture has not been fully discharged, and shall terminate on the date when the Indenture has been fully discharged.

### **SECTION 4. RENTAL.**

The Authority agrees to pay to the Trustee, on the Closing Date, the proceeds of the 2020A Bonds, as advance rental for the use and right to possession of the Leased Property for the term of this Site Lease. The rental shall be applied by the Trustee as provided in the Indenture.

### **SECTION 5. TITLE.**

Throughout the term of this Site Lease, title to the Leased Property shall remain in the City.

### **SECTION 6. DEFAULT.**

(a) If the Authority shall fail to keep, observe or perform any term, covenant or condition contained herein to be kept or performed by the Authority, or (b) if (1) the Authority's interest in this Site Lease or any part thereof is assigned or transferred without the written consent of the City, either voluntarily or by operation of law or otherwise, except as provided in Section 11 hereof, or (2) any proceeding under the United States Bankruptcy Code or any federal or state bankruptcy, insolvency or similar law or any law providing for the appointment of a receiver, liquidator, trustee or similar official of the Authority or of all or substantially all of its assets is instituted by or with the consent of the Authority, or is instituted without its consent and is not permanently stayed or dismissed within sixty (60) days, or if the Authority offers to the Authority's creditors to effect a composition or extension of time to pay the Authority's debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization or for readjustment of the Authority's debts, or if the Authority shall make a general assignment or any assignment for the benefit of the Authority's creditors, then the Authority shall be deemed to be in default hereunder and it shall be lawful for the City to exercise any and all rights and remedies available pursuant to law; provided however, that: (i) no merger of this Site Lease and of the Lease shall be deemed to occur as a result thereof; and (ii) so long as any 2020A Bonds remain outstanding the City shall have no power to terminate this Site Lease by reason of any default on the part of the Authority if such termination would prejudice the exercise of the remedies provided in Section 10 (captioned "DEFAULT") of the Lease.



Neither the City nor the Authority shall in any event be in default in the performance of any of its obligations hereunder or imposed by law unless and until the City or the Authority (as the case may be) shall have failed to perform such obligations within sixty (60) days after notice by the Authority or the City to the nonperforming party properly specifying wherein such party has failed to perform any such obligation.

#### **SECTION 7. EMINENT DOMAIN.**

If the whole or any part of the Leased Property shall be taken under the power of eminent domain, the interest of the Authority shall be recognized and is hereby determined to be the amount of the unpaid principal components of base rental payments due under the Lease, and all accrued interest thereon, and the amount of the unpaid Additional Rental Payments due under the Lease, and the balance of the award, if any, shall be paid to the City.

#### **SECTION 8. RIGHT OF ENTRY.**

The City and its assignees shall have the right to enter the Leased Property during reasonable business hours (and in emergencies at all times) (a) to inspect the same, (b) for any purpose connected with the City's or the Authority's rights or obligations under this Site Lease and (c) for all other lawful purposes.

#### **SECTION 9. TERMINATION.**

The Authority agrees, upon the termination of this Site Lease, to quit and surrender the Leased Property in the same good order and condition as the same were in at the time of commencement of the term hereunder, reasonable wear and tear excepted, and the Authority and the City agree that any permanent improvements and structures existing upon the Leased Property at the time of the termination of this Site Lease shall remain thereon and title thereto shall be vested in the City.

#### **SECTION 10. QUIET ENJOYMENT BY THE AUTHORITY.**

The Authority shall at all times during the term of this Site Lease peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the City, subject to the Authority's compliance with the terms and provisions hereof and of the Lease.

#### **SECTION 11. ASSIGNMENTS AND SUBLEASES.**

The Authority shall not assign, mortgage, hypothecate or otherwise encumber this Site Lease or any rights hereunder or the leasehold created hereby by trust agreement, indenture or deed of trust or otherwise or sublet the Leased Property without the written consent of the City, except as provided by the Lease and as security for the 2020A Bonds.



## **SECTION 12. WAIVER OF PERSONAL LIABILITY.**

All liabilities hereunder on the part of the Authority shall be solely liabilities of the Authority as a separate legal entity, and no member, officer or employee of the Authority shall at any time or under any circumstances be individually or personally liable hereunder for anything done or omitted to be done by the Authority hereunder.

## **SECTION 13. TAXES.**

The City agrees and covenants to pay, any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Leased Property (including both land and improvements thereon).

## **SECTION 14. GOVERNING LAW.**

This Site Lease shall be governed by and construed in accordance with the laws of the State of California.

## **SECTION 15. NOTICES.**

All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered or certified mail, return receipt requested, postage pre-paid, and,

if to the City:

City of West Covina  
1444 West Garvey Avenue  
West Covina, California 91790  
Attention: City Manager  
Telephone: (626) 939-8400

if to the Authority:

West Covina Public Financing Authority  
c/of City of West Covina  
1444 West Garvey Avenue  
West Covina, California 91790  
Attention: Executive Director  
Telephone: (626) 939-8400

or to such other addresses as the respective parties may from time to time designate by notice in writing.



## **SECTION 16. VALIDITY AND SEVERABILITY.**

If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

If for any reason this Site Lease shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the City or by the Authority, or if for any reason it is held by such a court that any of the covenants and conditions of the Authority hereunder is unenforceable for the full term hereof, then and in such event this Site Lease is and shall be deemed to be a lease from year to year and all of the rental and other terms, provisions and conditions of this Site Lease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

## **SECTION 17. PURPOSE OF THE LEASED PROPERTY.**

The Authority covenants that during the term of this Site Lease, it shall use the Leased Property for the purposes described in the Lease and for such other purposes as may be incidental thereto.

## **SECTION 18. WAIVER OF DEFAULT.**

Failure of the City to take advantage of any default on the part of the Authority shall not be, or be construed as, a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this Site Lease be construed to waive or to lessen the right of the City to insist upon performance by the Authority of any term, covenant or condition hereof, or to exercise any rights given the City on account of such default. A waiver of a particular default shall not be deemed to be a waiver of the same or any subsequent default. The acceptance of rent hereunder shall not be, nor be construed to be, a waiver of any term, covenant or condition of this Site Lease.

## **SECTION 19. SECTION HEADINGS.**

All section headings contained are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

## **SECTION 20. AMENDMENTS.**

This Site Lease may be amended in writing as may be mutually agreed by the Authority and the City.



**SECTION 21. EXECUTION.**

This Site Lease may be executed in any number of counterparts, each of which shall be deemed to an original, but all together shall constitute but one and the same Site Lease. It is also agreed that separate counterparts of this Site Lease may separately be executed by the City and the Authority, all with the same force and effect as though the same counterpart had been executed by both the City and the Authority.

[Remainder of page intentionally left blank.]



IN WITNESS WHEREOF, the City and the Authority have caused this Site Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

WEST COVINA PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Executive Director

ATTEST:

By \_\_\_\_\_  
Secretary

CITY OF WEST COVINA

By \_\_\_\_\_  
City Manager

ATTEST:

By \_\_\_\_\_  
City Clerk

**[REMOVE NOTARY PAGES IF LEASED  
PROPERTY CONSISTS ONLY OF STREETS]**



A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE  
VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE  
DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE  
TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF LOS ANGELES )

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

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

WITNESS my hand and official seal.

\_\_\_\_\_ [Seal]



A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE  
VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE  
DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE  
TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA )  
 )  
 ) SS:  
COUNTY OF LOS ANGELES )

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

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

WITNESS my hand and official seal.

\_\_\_\_\_ [Seal]



## **EXHIBIT A**

### **DESCRIPTION OF THE LEASED PROPERTY**

The Leased Property consists of the following streets, which are owned by the City:

[to come]

Such streets are approximately \_\_\_\_\_ feet in length and approximately \_\_\_\_\_ square feet (\_\_\_\_ acres).



**DRAFT**  
**07/01/2020**

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LEASE AGREEMENT

Dated as of July 1, 2020

by and between

WEST COVINA PUBLIC FINANCING AUTHORITY

and

CITY OF WEST COVINA

Relating to

    \$[Par Amount]  
West Covina Public Financing Authority  
Lease Revenue Bonds  
2020 Series A  
(Federally Taxable)

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EXHIBIT A — DESCRIPTION OF THE LEASED PROPERTY  
EXHIBIT B — 2020A BASE RENTAL PAYMENT SCHEDULE



## LEASE AGREEMENT

This Lease Agreement, dated as of July 1, 2020 (this “Lease”), is made by and between the WEST COVINA PUBLIC FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California (the “Authority”), as lessor, and the CITY OF WEST COVINA, a general law city duly organized and existing under the laws of the State of California (the “City”), as lessee.

### RECITALS:

**WHEREAS**, the City of West Covina, California (the “City”) and the West Covina Housing Authority, have previously entered into a Joint Exercise of Powers Agreement, dated as of June 1, 1990, as amended from time to time, establishing the West Covina Public Financing Authority (the “Authority”) for the purpose of assisting the City by issuing bonds and other obligations for authorized purposes; and

**WHEREAS**, the City is obligated by the Public Employees’ Retirement Law, commencing with Section 20000 of the Government Code of the State of California, as amended (the “Retirement Law”), to make payments relating to pension benefits accruing to the California Public Employees’ Retirement System’s (“CalPERS”) members, including the City; and

**WHEREAS**, the City is obligated specifically to make certain payments to CalPERS in respect of current and retired public safety employees and miscellaneous employees under the pension programs of CalPERS that amortize such obligations over a fixed period of time, including normal costs (collectively, the “CalPERS Obligation”); and

**WHEREAS**, the Pension Obligation is evidenced by a contract or contracts with CalPERS with respect to public safety employees and miscellaneous employees of the City, as heretofore and hereafter amended from time to time (collectively, the “CalPERS Contract”); and

**WHEREAS**, the City desires that the Authority issue its Lease Revenue Bonds, 2020 Series A (Federally Taxable) (the “2020A Bonds”) for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) working capital for the City; (iii) a reserve for the 2020A Bonds; and (iv) costs of issuing the 2020A Bonds; and

**WHEREAS**, the Authority has determined to issue its 2020A Bonds, in the aggregate principal amount of \$[Par Amount] pursuant to an Indenture, dated as of July 1, 2020 (the “Indenture”), by and between the Authority and U.S. Bank National Association, as trustee (the “Trustee”); and

**WHEREAS**, in connection with the issuance of the 2020A Bonds, the City and the Authority have entered into a Site and Facility Lease, dated as of July 1, 2020 (the “Site Lease”), whereby the Authority has agreed to lease the Leased Property described in Exhibit A, consisting of City Hall West in the City; and

**WHEREAS**, the Authority, pursuant to this Lease, will sublease the Leased Property described in Exhibit A to the City, in consideration for base rental payments to be made



by the City pursuant to this Lease, in accordance with the base rental schedule in Exhibit B, that corresponds in amount to the principal and interest coming due with respect to the 2020A Bonds; and

**WHEREAS**, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Lease;

**NOW, THEREFORE**, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

## **SECTION 1. DEFINITIONS**

Terms used herein and not otherwise defined herein but defined in the Indenture shall have the meanings ascribed to them in the Indenture. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Lease, have the meanings herein specified, the following definitions to be equally applicable to both the singular and plural forms of any of the terms herein defined:

“Additional Rental Payments” means Additional Rental Payments due under Section 3(b) hereof.

“Base Rental Payments” means the 2020A Base Rental Payments.

“Expiration Date” means \_\_\_\_\_, 20\_\_.

“Insurance Consultant” means an individual or firm retained by the City as an independent insurance consultant, experienced in the field of risk management.

“Interest Component” means the interest component of any Base Rental Payments as set forth in the exhibit to this Lease relating to such Base Rental Payments.

“Lease” means this Lease Agreement.

“Leased Property” means the Leased Property of the City, as more particularly described in Exhibit A.

“Net Proceeds” means proceeds if any casualty or title insurance or condemnation awards, paid with respect to the Leased Property remaining after payment therefrom of all expenses in the collection thereof.

“Permitted Encumbrances” means, with respect to the Leased Property, as of any particular time, (i) the Site Lease; (ii) this Lease, (iii) the Indenture, the Assignment Agreement and the Trustee’s and the Authority’s interests in the Leased Property, (iv) liens for taxes and assessments not then delinquent, (v) utility, access and other easements and rights of way,



restrictions and exceptions that as certified in a Certificate of the City will not interfere with or impair the use intended to be made of the Leased Property; (vi) encumbrances upon any additions and improvements to the Leased Property as permitted in this Lease and which do not materially impair the use intended to be made of the portions of the Leased Property other than such additions and improvements; (vii) any sublease or use permitted by this Lease, (viii) covenants, conditions or restrictions or liens of record relating to the Leased Property and existing on the Closing Date; and (xiv) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property similar in character to the Leased Property and as do not materially impair the use intended to be made of property affected thereby.

“Principal Component” means the principal component of any Base Rental Payments as set forth in the exhibit to this Lease relating to such Base Rental Payments.

“2020A Base Rental Payments” means Base Rental Payments to be made by the City hereunder in accordance with the base rental schedule attached hereto as Exhibit B in connection with the 2020A Bonds.

## **SECTION 2. TERM**

The Authority hereby leases to the City and the City hereby leases from the Authority, on the terms and conditions hereinafter set forth, the Leased Property. The term of this Lease shall commence on July \_\_\_\_, 2020.

The term of the leasehold interest created hereby shall expire on the earliest of (i) the Expiration Date; (ii) the date the last Base Rental Payment is made under the provisions hereof; or (iii) the date of discharge of all of the 2020A Bonds pursuant to Section 10.03 of the Indenture. Notwithstanding the foregoing, the term of this Lease shall automatically be extended for a period of ten (10) years, if, on the Expiration Date, the 2020A Bonds have not been fully discharged, and shall terminate on the date when the 2020A Bonds have been fully discharged.

## **SECTION 3. RENTAL**

Subject to the provisions of Sections 11 and 16 hereof, the City agrees to pay to the Authority, its successors or assigns, as rental for the use and possession of the Leased Property, the following amounts at the following times:

(a) Base Rental Payments; Additional Base Rental Payments. The City shall pay the Base Rental Payments to the Trustee, as assignee of the Authority, as hereinafter provided, in accordance with the Base Rental Payment Schedule attached hereto as Exhibit B, less any amounts credited against the Base Rental Payments pursuant to Section 4.02(d) of the Indenture. The City shall pay to the Trustee the Base Rental Payments coming due fifteen (15) Business Days prior to the next succeeding February 1 and August 1, respectively, as set forth in Exhibit B and such payments shall constitute payment in arrears in consideration for the City's use and possession of the Leased Property for the six-month period preceding the due date of such Base Rental Payments.



(b) Additional Rental Payments. The City shall also pay, as “Additional Rental Payments” hereunder, in addition to the Base Rental Payments, to the Trustee, as assignee of the Authority, as hereinafter provided, such amounts in each year as shall be required for the payment of all costs and expenses (not otherwise paid for or provided for out of the proceeds of sale of the 2020A Bonds) incurred by the Authority or the Trustee in connection with the execution, performance or enforcement of this Lease or the assignment hereof, the Indenture, or the Authority’s or the Trustee’s interest in the Leased Property, including, but not limited to, all fees, costs and expenses, all administrative costs of the Authority relating to the Leased Property (including, without limiting the generality of the foregoing, salaries and wages of employees, overhead, insurance premiums, taxes and assessments (if any), expenses, compensation and indemnification of the Trustee payable by the Authority under the Indenture), fees of auditors, accountants, attorneys or engineers, all other reasonable and necessary administrative costs of the Authority or charges required to be paid by it to comply with the terms of the 2020A Bonds or of the Indenture.

Such Additional Rental Payments shall be billed to the City by the Authority or the Trustee from time to time. Amounts so billed shall be paid by the City within sixty (60) days after receipt of the bill by the City.

(c) Fair Rental Value. Such payments of Base Rental Payments and Additional Rental Payments for each rental payment period shall constitute the total rental for such rental payment period, and shall be paid by the City in each rental payment period for and in consideration of the right of the use and possession of, and the continued quiet use and enjoyment of, the Leased Property during each such period for which said rental is to be paid. The City represents and covenants that the useful life of the Leased Property is not shorter than the final maturity of the 2020A Bonds. The parties to the Lease specifically acknowledge that the annual fair rental value of the Leased Property is in excess of the maximum annual Base Rental Payments. In making such determination, consideration has been given to other obligations of the parties under this Lease, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the City and the general public. The determination of fair rental value of the Leased Property pursuant to this paragraph shall not be deemed to be controlling in connection with a determination of fair value of the Leased Property by the parties hereto for any other purpose.

(d) Payment of Base Rental Payments. Each installment of Base Rental Payments payable hereunder shall be paid in lawful money of the United States of America to the order of the Trustee at the corporate trust office of the Trustee in Los Angeles, California, or such other place as the Trustee shall designate. The Base Rental Payments shall be made on a *pari passu* basis with each other. Notwithstanding any dispute between the City and the Authority, the City shall make all Base Rental Payments when due, without deduction or offset of any kind, and shall not withhold any Base Rental Payments pending the final resolution of any such dispute. In the event of a determination that the City was not liable for said Base Rental Payments or any portion thereof, said Base Rental Payments or excess of payments, as the case may be, shall, at the option of the City, be credited against subsequent Base Rental Payments due hereunder or be refunded at the time of such determination.



(e) Increases in Aggregate Base Rental Payments. The City covenants that it shall not permit an increase in the Base Rental Payments without first obtaining an opinion of Bond Counsel to the effect that the incurring of such increased Base Rental Payments will not impair the validity and enforceability of this Lease.

(f) Covenant to Budget and Appropriate. The City covenants to take such action as may be necessary to include all Base Rental Payments and Additional Rental Payments due hereunder in its annual budget and to make the necessary annual appropriations for all such Base Rental Payments and Additional Rental Payments, subject only to abatement as provided in Section 16 hereof. The City will furnish to the Authority and the Trustee annually, on or before December 1, a certificate stating that it has complied with the covenant set forth in this paragraph. The covenants on the part of the City herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the City.

The obligation of the City to make Base Rental Payments or Additional Rental Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the 2020A Bonds nor the obligation of the City to make Base Rental Payments or Additional Rental Payments constitutes an indebtedness of the City, the State or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

#### **SECTION 4. USE OF PROCEEDS**

The parties hereto agree that the proceeds of the 2020A Bonds will be used to for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) working capital for the City; (iii) a reserve for the 2020A Bonds; and (iv) costs of issuing the 2020A Bonds.

#### **SECTION 5. MAINTENANCE, UTILITIES, TAXES AND ASSESSMENTS**

During such time as the City or any assignee or sublessee thereof is in possession of the Leased Property, all maintenance and repair, ordinary or extraordinary, of the Leased Property shall be the responsibility of the City, and the City shall pay for or otherwise arrange for the payment of (a) all utility services supplied to the Leased Property, (b) the cost of operation of the Leased Property, and (c) the costs of maintenance of and repair to the Leased Property resulting from ordinary wear and tear or want of care on the part of the City. The City shall at the City's sole cost and expense keep and maintain the Leased Property clean and in a safe and good condition and repair. The Authority shall have no obligation to alter, remodel, improve, repair, decorate, or paint the Leased Property or any part thereof, and the parties hereto affirm that the Authority has made no representations or warranties to the City respecting the condition of the Leased Property.



The City shall comply with all statutes, ordinances, regulations, and other requirements of all governmental entities that pertain to the occupancy or use of the Leased Property. The Authority has no responsibility or obligation whatsoever to construct any improvements, modifications or alterations to the Leased Property.

The City waives the right to make repairs at the Authority's expense under Subsection 1 of Section 1932 and Section 1942 of the California Civil Code, or any other such law, statute, or ordinance now or hereafter in effect.

The parties hereto contemplate that the Leased Property will be used for public purposes by the City and, therefore, that the Leased Property will be exempt from all taxes presently assessed and levied with respect to real and personal property, respectively. If the use, possession or acquisition by the Authority or the City of the Leased Property is found to be subject to taxation in any form, the City will pay during the term hereof, as the same respectively become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Leased Property and any other property acquired by the City in substitution for, as a renewal or replacement of, or a modification, improvement or addition to the Leased Property; provided, that with respect to any governmental charges or taxes that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are accrued during such time as this Lease is in effect.

## **SECTION 6. CHANGES TO THE LEASED PROPERTY**

The City shall have the right during the term of this Lease to acquire and construct improvements or to attach fixtures, structures or signs to the Leased Property if such improvements, fixtures, structures or signs are necessary or beneficial for the use of the Leased Property by the City; provided, however, that no such acquisition or construction shall result in a material reduction in the value of the Leased Property, reduce the fair rental value thereof or substantially alter the nature of the Leased Property.

Upon termination of this Lease, the City may remove any fixture, structure or sign added by the City, but such removal shall be accomplished so as to leave the Leased Property, except for ordinary wear and tear and damage by casualty, in substantially the same condition as it was in before the fixture, structure or sign was attached.

## **SECTION 7. SUBSTITUTION AND RELEASE OF PROPERTY**

The parties to the Lease specifically acknowledge that the annual fair rental value of the Leased Property is in excess of the maximum annual Base Rental Payments. The City shall have, so long as this Lease is in effect, and is hereby granted, the option at any time and from time to time, to substitute other real property (the "Substitute Property") for any portion of the Leased Property (the "Former Property") or release any identifiable real property and/or improvements currently constituting the Leased Property (in such case, Substitute Property shall mean the Former Property less any portion released pursuant to this Section); provided, that the City shall satisfy all of the following requirements, which are conditions precedent to such substitution:



(a) No default under Section 10 hereof or Event of Default shall have occurred and be continuing;

(b) The City shall file with the Authority and the Trustee, and cause to be recorded in the office of the County Recorder, if necessary, sufficient memorialization of amendments to this Lease and the Site Lease which replaces Exhibit A hereto and Exhibit A to the Site Lease with a description of such Substitute Property which deletes therefrom the description of the Former Property;

(c) The City shall obtain an extended California Land Title Association ("CLTA") policy of title insurance insuring the City's fee or leasehold estate in such Substitute Property, if the Substitute Property are not streets of the City, the City's leasehold estate hereunder, and the Authority's leasehold estate under the Site Lease in such Substitute Property, subject only to Permitted Encumbrances, in an amount not less than the aggregate principal amount of the Outstanding Bonds; provided, however, that this requirement shall not apply to Substitute Property that consists only of Former Property less any released portion;

(d) The City shall provide a Certificate of the City to the Authority and to the Trustee that such Substitute Property constitutes property which the City is permitted to lease under the laws of the State of California;

(e) The substitution of the Substitute Property shall not cause the City to violate any of its covenants, representations and warranties made herein;

(f) The City shall file with the Authority and the Trustee a Certificate of the City or other evidence which establishes that the annual fair rental value of the Substitute Property after substitution or release will be at least equal to 100% of the maximum amount of the Base Rental Payments becoming due in the then current fiscal year or in any subsequent fiscal year and the useful economic life of the Substitute Property shall be at least equal to the maximum remaining term of this Lease; and

(g) The City shall furnish to the Trustee an opinion of Bond Counsel addressed to the Trustee, the City and the Authority to the effect that the substitution or release is permitted under this Lease.

Upon the satisfaction of all such conditions precedent, and upon the City delivering to the Authority and the Trustee a Certificate of the City certifying that the conditions set forth in subsections (a), (c) and (e) of this Section have been satisfied, the Term of this Lease shall thereupon end as to the Leased Property and shall thereupon commence as to the Substitute Property, and all references to the Leased Property shall apply with full force and effect to the Substitute Property. The City shall not be entitled to any reduction, diminution, extension or other modification of the Base Rental Payments whatsoever as a result of any substitution or removal hereunder.

## **SECTION 8. INSURANCE**

(a) The City shall secure and maintain or cause to be secured and maintained at all times with insurers of recognized responsibility or through a program of self-insurance to



the extent specifically permitted in this Section 8, all coverage on the Leased Property required by this Section 8.

Such insurance shall consist of:

(1) Comprehensive general liability coverage against claims for damages including death, personal injury, bodily injury or property damage arising from operations involving the Leased Property. Such insurance shall afford protection with a combined single limit of not less than \$1,000,000 per occurrence with respect to bodily injury, death or property damage liability, or such greater amount as may from time to time be recommended by the City's risk management officer or an independent insurance consultant retained by the City for that purpose, subject to a deductible clause of not to exceed \$500,000. The City's obligations under this clause (1) may be satisfied by self-insurance;

(2) The City shall maintain or cause to be maintained, throughout the term of this Lease, casualty insurance against loss or damage to any or all of the Leased Property by fire and lightning, with extended coverage and vandalism and malicious mischief insurance, and against loss of Leased Property by theft. Such extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. The insurance required by this paragraph shall be in an amount not less than the principal amount of the Outstanding Bonds. The City's obligations under this clause (2) may be satisfied by self-insurance; and

(3) Workers' compensation insurance issued by a responsible carrier authorized under the laws of the State to insure employers against liability for compensation under the Labor Code of the State, or any act enacted as an amendment or supplement thereto or in lieu thereof, such workers' compensation insurance to cover all persons employed by the City in connection with the Leased Property and to cover full liability for compensation under any such act; provided, however, that the City's obligations under this clause (3) may be satisfied by self-insurance.

All policies or certificates issued by the respective insurers for insurance, with the exception of workers' compensation insurance, shall provide that such policies or certificates shall not be canceled or materially changed without at least 30 days' prior written notice to the Authority and the Trustee. Certificates of comprehensive general liability and workers' compensation insurance shall be furnished by applicable insurers to the City, and, at least ten days prior to the expiration dates of such policies, if any, evidence of renewals shall be deposited with the Trustee.

If the City elects to provide self-insurance pursuant to clauses (1), (2) and/or (3) above, the City shall annually cause to be delivered to the Trustee, upon request, a certificate of an Insurance Consultant certifying to the adequacy of the City's reserves for such insurance.

All policies or certificates of insurance provided for herein shall name the City as a named insured and the Trustee as an additional insured. All proceeds of insurance maintained



under clauses (1) and (3) shall be deposited with the City and under clause (2) shall be deposited with the Trustee.

Notwithstanding the generality of the foregoing, the City shall not be required to maintain or cause to be maintained more insurance than is specifically referred to above or any policies of insurance other than standard policies of insurance with standard deductibles offered by reputable insurers at a reasonable cost on the open market.

(b) Form of Policies. The City shall deliver to the Trustee on or before the Closing Date and each anniversary of the Closing Date a Certificate of the City that all insurance required under this Lease is in full force and effect. If the City obtains insurance through a pooled insurance program of governmental entities, an annual statement or memorandum of coverage delivered to the Authority and the Trustee will satisfy the requirements of this subsection. The Trustee and the Authority shall not be responsible for the sufficiency of any insurance herein required or payment of premium and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the City.

(c) Advances. If the City shall fail to perform any of its obligations under this Section, then the Authority or the Trustee may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money on behalf of the City, and the City shall be obligated to repay all such advances as soon as possible.

## **SECTION 9. DAMAGE, DESTRUCTION AND CONDEMNATION; APPLICATION OF NET PROCEEDS**

If prior to the termination of the term hereof (a) the Leased Property is destroyed (in whole or in part) or is damaged by fire or other casualty, or (b) title to, or the temporary use of, any portion of the Leased Property or the estate of the Authority or the City in the Leased Property or any portion shall be taken under the exercise of the power of eminent domain by any governmental body or by any person or firm or corporation acting under governmental authority, then the City and the Authority shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted the repair or replacement thereof, unless the City elects not to repair or replace the Leased Property or portion thereof, in accordance with the provisions of this Section 9. If Net Proceeds are insufficient to repair or replace the Leased Property or portion thereof, the City shall, to the extent permitted by law, use its best efforts to fund any deficiency from any legally available funds.

If there is an abatement of rental payments pursuant to Section 16 hereof as a result of such casualty or event, and the City elects pursuant to Section 11(a) hereof to apply such insurance proceeds and such other sums as are deposited by the City pursuant to such Section to the prepayment of Base Rental Payments rather than replacing or repairing the destroyed or damaged portion of the Leased Property, then this Lease shall terminate with respect to the destroyed or damaged portion of the Leased Property as of the later of the date of such election by the City or the date the amount required by Section 11(a) hereof is received by the Trustee.



The provisions of Section 1932, Subdivision 2, and Section 1933, Subdivision 4, of the California Civil Code, including any amendments thereto and any other law which may hereinafter be in force during the term of this Lease which authorizes the termination of this Lease upon the partial or complete destruction of the Leased Property, are hereby waived by the City.

The City hereby covenants and agrees, to the extent it may lawfully do so, that so long as any of the 2020A Bonds remain outstanding and unpaid, the City will not exercise the power of condemnation with respect to the Leased Property. The City further covenants and agrees, to the extent it may lawfully do so, that if for any reason the foregoing covenant is determined to be unenforceable or if the City should fail or refuse to abide by such covenant and condemns the Leased Property, the value of the Leased Property shall not be less than the greater of (i) if Outstanding Bonds are then subject to redemption, the principal and interest due on the Outstanding Bonds through the date of their redemption, or (ii) if such Outstanding Bonds are not then subject to redemption, the amount necessary to defease such Outstanding Bonds to the first available redemption date in accordance with the Indenture.

The City shall deposit any proceeds received from insurance and condemnation awards with respect to the destruction or partial destruction of Leased Property with the Trustee for deposit into the: (a) 2020A Insurance and Condemnation Fund if the City elects to repair the Leased Property or (b) the Lease Revenue Fund if the City elects to redeem the Outstanding Bonds. The City shall have forty-five (45) days from the date of any such destruction or partial destruction to determine whether to repair the Leased Property or use insurance and condemnation award proceeds received to redeem such bonds. To the extent that the City determines not to repair the Leased Property and cannot use insurance and condemnation award proceeds to redeem such bonds, the City shall and hereby covenants to substitute property for such Leased Property of equivalent or greater value in accordance with the provisions of Section 7 hereof. If the City determines to repair the Leased Property, disbursements by the Trustee shall only be made upon presentation of a requisition in a form substantially similar to Exhibit C of the Indenture. If the City determines to cause the redemption of less than the full amount of the Outstanding Bonds, such redemption shall only be made to the extent the remaining fair rental value of the Leased Property is sufficient to support the remaining Base Rental Payments supporting debt service on the Outstanding Bonds.

## **SECTION 10.           DEFAULT**

(a) Each of the following events constitutes an Event of Default hereunder:

(1) Failure by the City to pay any Base Rental Payment or other payment (including Additional Rental Payments) required to be paid hereunder at the time specified herein.

(2) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in the preceding subsection (1), for a period of thirty (30) days after written notice



specifying such failure and requesting that it be remedied has been given to the City by the Authority. However, if the City notifies the Authority that in its reasonable opinion the failure stated in the notice can be corrected, but not within such thirty (30) day period, the failure will not constitute an Event of Default if the City commences to cure the failure within such thirty (30) day period and thereafter diligently and in good faith cures such failure in a reasonable period of time; provided, that such cure period shall not extend beyond sixty (60) days.

(3) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

The Authority expressly waives the right to receive any amount from the City pursuant to Section 1951.2(a)(3) of the California Civil Code.

(b) Whenever any Event of Default has happened and is continuing, the Authority may exercise any and all remedies available under law or granted under this Lease. Notwithstanding anything herein to the contrary, there shall be no right under any circumstances to accelerate the Base Rental Payments or otherwise declare any Base Rental Payments not then in default to be immediately due and payable. Notwithstanding anything herein to the contrary, there shall be no right under any circumstances for the Authority to terminate this Lease and re-let the property to any party. Each and every covenant hereof to be kept and performed by the City is expressly made a condition and upon the breach thereof the Authority may exercise any and all rights granted hereunder. Upon the occurrence and during the continuance of any Event of Default, the Authority may exercise each and every one of the following remedies:

(1) *Proceedings at Law or In Equity.* If an Event of Default occurs and continues hereunder, the Authority may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce any other of its rights hereunder.

(2) *Remedies under the Site Lease.* If an Event of Default occurs and continues hereunder, the Authority may exercise its rights under the Site Lease.

## **SECTION 11. PREPAYMENT AND CREDITS**

### **(a) Prepayment From Net Proceeds.**

(1) The City may prepay, from Net Proceeds of insurance or a condemnation award received by it pursuant to Section 9, the Principal Component of Base Rental Payments then unpaid (and corresponding Interest Component), in whole or in part on any date, pursuant to Section 9 hereof, at a prepayment price equal to the sum of the Principal Component prepaid plus accrued interest thereon to the date of prepayment.



(2) Prepayments made pursuant to this subsection (a) shall be allocated *pro rata* among the Principal Components of Base Rental Payments relating to the 2020A Bonds.

(b) Optional Prepayment.

The City may at its option prepay from any source of available moneys for redemption of 2020A Bonds pursuant to Section 2.03(b) of the Indenture, all or any part (in an integral multiple of \$5,000) of the Principal Component of Base Rental Payments (and corresponding Interest Component), so that the aggregate annual amounts of Principal Component of Base Rental Payments which shall be payable after such prepayment shall each be an integral multiple of \$5,000, at a prepayment price equal to the principal amount to be redeemed, plus accrued but unpaid interest to the prepayment date, without premium.

Before making any prepayment pursuant to this Section, the City shall give written notice to the Trustee specifying the date on which the prepayment will be made, which date shall be not less than forty-five (45) days from the date such notice is given unless the Trustee agrees to a shorter period.

The Authority and the City hereby agree that any prepayment in part under this Section and the redemption of any 2020A Bonds by the Authority pursuant to Section 2.03(b) of the Indenture shall be credited towards the City's obligations hereunder at the option of the City in any manner determined in writing delivered to the Trustee by the City. A prepayment made pursuant to this Section shall not cause a defeasance of any 2020A Bonds unless the requirements of Section 10.03 of the Indenture are satisfied.

In the event of prepayment in full of the Principal Component of all Base Rental Payments, such that this Lease shall be terminated by its terms as provided in Section 2, all amounts then on deposit under the Indenture which are to be credited to the City's obligations to make Base Rental Payments shall be credited towards the amounts then required to be so prepaid.

## **SECTION 12. MECHANICS' LIENS**

In the event the City shall at any time during the term of this Lease cause any improvements or other work to be done or performed or materials to be supplied, in or upon the Leased Property, the City shall pay, when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or for the City in, upon or about the Leased Property and which may be secured by any mechanics', materialmen's or other liens against the Leased Property or the Authority's interest therein, and will cause any such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or becomes due, except that, if the City desires to contest any such lien it may do so. If any such lien shall be reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and said stay thereafter expires, the City shall forthwith pay and discharge said judgment.



### **SECTION 13. QUIET ENJOYMENT**

The parties hereto mutually covenant that the City, so long as it keeps and performs the covenants and agreements herein contained, shall at all times during the term of this Lease peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the Authority.

### **SECTION 14. INDEMNIFICATION**

The City shall, to the full extent then permitted by law, indemnify, defend, protect and hold harmless the Authority, the Trustee and their members, officers, directors, agents and employees from and against any and all liabilities, obligations, losses, claims and damages whatsoever, regardless of the cause thereof (except for claims arising out of willful misconduct or negligence on the part of the Authority or the Trustee or their respective members, officers, directors or employees), and expenses in connection therewith, including, without limitation, reasonable counsel fees and expenses, penalties and interest arising out of or as the result of the entering into of this Lease and the Indenture, the payment of the costs of acquiring the Leased Property or any accident in connection with the operation, use, condition or possession of the Leased Property or any portion thereof resulting in damage to property or injury to or death to any person. The indemnification arising under this section shall continue in full force and effect notwithstanding the full payment of all rent obligations hereunder, the removal or resignation of the Trustee or the termination hereof for any reason. The City agrees not to withhold or abate any portion of the payments required pursuant hereto by reason of any defects, malfunctions, breakdowns or infirmities of the Leased Property. The Authority and the City mutually agree to promptly give notice to each other of any claim or liability hereby indemnified against following either party's learning thereof.

### **SECTION 15. ASSIGNMENT**

The parties understand that this Lease and the rights of the Authority hereunder, with certain exceptions, will be assigned to the Trustee as provided in the Indenture and the Assignment Agreement, to which assignments the City hereby consents.

Neither this Lease nor any interest of the City hereunder shall be mortgaged, pledged, assigned or transferred by the City by voluntary act or by operation of law or otherwise; provided, subject to the provisions of Section 17 hereof, that the Leased Property may be subleased in whole or in part by the City, but only subject to the following conditions, which are hereby made conditions precedent to any such sublease:

(a) This Lease and the obligation of the City to make all base rental payments and Additional Rental Payments hereunder shall remain the primary obligation of the City;

(b) The City shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Authority and the Trustee a true and complete copy of such sublease;

(c) No such sublease by the City shall cause the Leased Property to be used for a primary purpose other than a governmental or proprietary function authorized under the



provisions of the Constitution and laws of the State of California, as evidenced by a Certificate of the City that is delivered to the Trustee; and

(d) Any sublease of the Leased Property by the City shall explicitly provide that such sublease is subject to all rights of the Authority under this Lease.

#### **SECTION 16. ABATEMENT OF RENTAL**

The obligation of the City to pay Base Rental Payments and Additional Rental Payments shall be abated during any period in which by reason of any damage, destruction, condemnation or title defect there is substantial interference with the use by the City of the Leased Property or any portion thereof. Such abatement shall be in an amount such that the resulting Base Rental Payments in any year during which such interference continues does not exceed the fair rental value of the portions of the Leased Property as to which such damage, destruction, taking or title defect does not substantially interfere with the City's use and right of possession, as evidenced by a Certificate of the City. Such abatement shall continue for the period commencing with the date of interference resulting from such damage, destruction, condemnation, taking or title defect and, with respect to damage to or destruction of the Leased Property, ending with the substantial completion of the work of repair or replacement of the Leased Property, or the portion thereof so damaged or destroyed, and the term of this Lease shall be extended as provided in Section 2 hereof. Notwithstanding the foregoing, to the extent that moneys are available for the payment of base rental payments in any of the funds and accounts established under the Indenture, such base rental payments shall not be abated but shall be payable by the City as a special obligation payable solely from such funds and accounts.

#### **SECTION 17. RESERVED**

#### **SECTION 18. CONTINUING DISCLOSURE**

The City will comply with the continuing disclosure requirements applicable to it promulgated under U.S. Securities and Exchange Commission Rule 15c2-12 and will also comply with its obligations under the Continuing Disclosure Agreement, dated as of June 30, 2020, by and between the City and the Trustee related to the 2020A Bonds that are subject to Rule 15c2-12; provided, however, that the sole remedy hereunder in the event of any failure of the City to comply with this covenant shall be an action to compel performance and the City's failure to comply with any continuing disclosure requirement shall not be deemed a default or an Event of Default.



## **SECTION 19. WAIVER**

Failure of the Authority to take advantage of any default on the part of the City shall not be, or be construed as, a waiver thereof, nor shall any custom or practice which may be established between the parties in the course of administering this Lease be construed to waive or to lessen the right of the Authority to insist upon performance by the City of any term, covenant or condition hereof, or to exercise any rights given the Authority on account of such default. A waiver of a particular default shall not be deemed to be a waiver of the same or any subsequent default. The acceptance of rent hereunder shall not be, nor be construed to be, a waiver of any term, covenant or condition of this Lease.

## **SECTION 20. NET LEASE**

Subject to the provisions of Section 16 ("Abatement of Rental"), this Lease shall be deemed and construed to be a "Triple-Net-Lease" and the City hereby agrees that rental provided for herein shall be an absolute net return to the Authority, free and clear of any expenses, taxes, fees, insurance premiums, rebate payments, Leased Property costs, reserve deposits, charges or setoffs whatsoever.

## **SECTION 21. AMENDMENTS.**

This Lease may be amended in writing as may be mutually agreed by the Authority and the City; *provided*, that no such amendment which materially adversely affects the rights of the Owners shall be effective unless it shall have been consented to by the Owners of more than a majority in aggregate principal amount of the affected 2020A Bonds then Outstanding, and *provided further*, that no such amendment shall (a) extend the payment date of any Base Rental Payment, without the prior written consent of the Owner of each Bond so affected, or (b) reduce the percentage of the Outstanding Bonds the consent of the Owners of which is required for the execution of any amendment hereof.

This Lease and the rights and obligations of the Authority and the City hereunder may also be amended or supplemented at any time by an amendment hereof or supplement hereto which shall become binding upon execution by the Authority and the City without the written consents of any Owners, but only to the extent permitted by law and only for any one or more of the following purposes:

(a) to add to the agreements, conditions, covenants and terms required by the Authority or the City to be observed or performed herein and other agreements, conditions, covenants and terms thereafter to be observed or performed by the Authority or the City, or to surrender any right or power reserved herein to or conferred herein on the Authority or the City, and which in either case shall not materially adversely affect the interests of the Owners;

(b) to make such provisions for the purpose of curing any ambiguity of correcting, curing or supplementing any defective provision contained herein or in regard to questions arising hereunder which the Authority or the City may deem desirable or necessary and not inconsistent herewith, and which shall not materially adversely affect the interests of the Owners;



(c) to effect a Substitution or Removal;

(d) to increase the amount of Base Rental Payment payable hereunder for the purpose of allowing the Authority to add any real property to be acquired and leased hereunder; or

(e) for any other purpose which shall not materially adversely affect the interests of the Owners.

## **SECTION 22. ESSENTIALITY**

The City covenants and agrees that the Leased Property is essential to the City's exercise of its governmental functions.

## **SECTION 23. GOVERNING LAW**

This Lease shall be governed by and construed in accordance with the laws of the State of California.

## **SECTION 24. NOTICES**

All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be made as provided in the Indenture.

## **SECTION 25. VALIDITY AND SEVERABILITY**

If for any reason this Lease shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the Authority or by the City, or if for any reason it is held by such a court that any of the covenants of the City hereunder, including the covenant to pay rentals hereunder, is unenforceable for the full term hereof, then and in such event this Lease is and shall be deemed to be a lease from year to year under which the rentals are to be paid by the City semi-annually in consideration of the right of the City to possess, occupy and use the Leased Property, and all of the rental and other terms, provisions and conditions of this Lease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

## **SECTION 26. SECTION HEADINGS**

All section headings contained are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

## **SECTION 27. NO MERGER**

If both the Authority's and the City's estate under this or any other lease relating to the Leased Property or any portion thereof shall at any time or for any reason become vested



in one owner, this Lease and the estate created hereby shall not be destroyed or terminated by the doctrine of merger unless the City so elects as evidenced by recording a written declaration so stating, and unless and until the City so elects, the City shall continue to have and enjoy all of its rights and privileges as to the separate estates.

**SECTION 28. EXECUTION**

It is agreed that separate counterparts of this Lease may separately be executed by the Authority and the City, all with the same force and effect as though the same counterpart had been executed by both the Authority and the City.



IN WITNESS WHEREOF, the Authority and the City have caused this Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

WEST COVINA PUBLIC FINANCING  
AUTHORITY

ATTEST:

By \_\_\_\_\_  
Executive Director

By \_\_\_\_\_  
Secretary

CITY OF WEST COVINA

By \_\_\_\_\_  
City Manager

ATTEST:

By \_\_\_\_\_  
City Clerk

**[REMOVE NOTARY PAGES IF LEASED  
PROPERTY CONSISTS ONLY OF STREETS]**



A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE  
VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE  
DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE  
TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA )  
 )  
COUNTY OF LOS ANGELES ) ss:

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

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

WITNESS my hand and official seal.

\_\_\_\_\_ [Seal]



A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE  
VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE  
DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE  
TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA )  
 )  
 ) ss:  
COUNTY OF LOS ANGELES )

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

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

WITNESS my hand and official seal.

\_\_\_\_\_  
[Seal]



## **EXHIBIT A**

### **DESCRIPTION OF THE LEASED PROPERTY**

The Leased Property consists of the following streets, which are owned by the City:

[to come]

Such streets are approximately \_\_\_\_\_ feet in length and approximately \_\_\_\_\_ square feet (\_\_\_\_ acres).



**EXHIBIT B**  
**2020A BASE RENTAL PAYMENT SCHEDULE**

<u>Interest</u> <u>Payment Date</u> <sup>(1)</sup>	<u>Principal</u>	<u>Interest</u>	<u>Annual</u> <u>Payment</u>
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<sup>(1)</sup> 2020A Base Rental Payments are made fifteen (15) Business Days prior to each Interest Payment Date.



Quint &amp; Thimmig LLP

\$ \_\_\_\_\_  
**WEST COVINA PUBLIC FINANCING AUTHORITY**  
**Lease Revenue Bonds, 2020 Series A**  
**(Federally Taxable)**

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**BOND PURCHASE AGREEMENT**

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July \_\_, 2020

West Covina Public Financing Authority  
1444 West Garvey Avenue South  
West Covina, CA 91790

City of West Covina  
1444 West Garvey Avenue South  
West Covina, CA 91790

Ladies and Gentlemen:

Hilltop Securities Inc. (the "Underwriter") hereby offers to enter into this bond purchase agreement (the "Bond Purchase Agreement") with the West Covina Public Financing Authority (the "Authority") and the City of West Covina (the "City"). Upon the acceptance hereof by the Authority and the City, this offer will be binding upon the Authority, the City and the Underwriter. This offer is made subject to (a) the written acceptance hereof by the Authority and the City and (b) withdrawal by the Underwriter upon written notice (by telecopy or otherwise) delivered to the Authority and the City at any time prior to each of their acceptance hereof by the Authority and the City.

1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations, warranties and agreements set forth herein, the Underwriter hereby agrees to purchase on the Closing Date (as defined herein), and the Authority and the City hereby agree to sell and deliver to the Underwriter on the Closing Date, \$\_\_\_\_\_ principal amount of West Covina Public Financing Authority Lease Revenue Bonds, 2020 Series A (Federally Taxable) (the "Bonds"). The Bonds are being issued pursuant to Article 4, Chapter 5, Division 7, Title 1 of the California Government Code, a resolution of the Authority authorizing the issuance of the Bonds, adopted on July \_\_, 2020 (the "Authority Resolution"), and an Indenture of Trust, dated as of July 1, 2020 (the "Indenture"), by and between the Authority and U.S. Bank National Association, as trustee (the "Trustee"). The City will lease certain real property to the Authority, consisting of various streets throughout the boundaries of the City (collectively, the "Leased Property") to the Authority pursuant to a Site Lease, dated as of July 1, 2020 (the "Site Lease"). The Leased Property will be leased by the Authority to the City pursuant to the Lease Agreement, dated as of July 1, 2020 (the "Lease Agreement"), by and between the Authority and the City. Pursuant to an Assignment Agreement, dated as of July 1, 2020 (the "Assignment Agreement"), by and between the Authority and the Trustee, the Authority will assign, for the benefit of the owners of the Bonds, its right to receive Base Rental Payments (the "Base Rental Payments") made by the City



under the Lease Agreement and its right to exercise rights and remedies of the Authority under the Lease Agreement.

All capitalized terms not defined herein shall have the respective meaning specified in the Indenture.

Under the Lease Agreement, the City is required to make Base Rental Payments and Additional Rental Payments from legally available funds in amounts calculated to be sufficient to pay principal of and interest on the Bonds when due. All of the Authority's right, title and interest in and to the Lease Agreement (except for the right to receive Additional Rental Payments to the extent payable to the Authority and certain rights to indemnification), including the right to receive Base Rental Payments under the Lease Agreement, are assigned to the Trustee for the benefit of the Owners of the Bonds.

The Bonds are being issued for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) all or a portion of its PARS Obligation; (iii) working capital for the City; (iv) capitalized interest for the Bonds; and (v) costs of issuing the Bonds.

The purchase price to be paid by the Underwriter for the Bonds is hereby agreed to be \$\_\_\_\_\_, which amount represents the principal amount of the Bonds of \$\_\_\_\_\_, less \$\_\_\_\_\_, representing the Underwriter's discount, plus \$\_\_\_\_\_, representing an original issue premium (such payment and delivery of the Bonds and the other actions contemplated hereby to take place at the time of such payment and delivery being herein sometimes called the "Closing").

The Authority and the City acknowledge and agree that (i) the purchase and sale of the Bonds pursuant to this Bond Purchase Agreement is an arm's-length commercial transaction between the Authority and the City and the Underwriter; (ii) in connection with such transaction, the Underwriter is acting solely as a principal and not as an agent or a fiduciary of the Authority or the City; (iii) the Underwriter has not assumed a fiduciary responsibility in favor of the Authority or the City with respect to the offering of the Bonds or the process leading thereto (whether or not the Underwriter, or any affiliates of the Underwriter, has advised or is currently advising the Authority or the City on other matters) nor has it assumed any other obligation to the Authority or the City except the obligations expressly set forth in this Bond Purchase Agreement, (iv) the Underwriter has financial and other interests that differ from those of the Authority and the City; and (v) the Authority and the City have consulted with their own legal and financial advisors to the extent they deemed appropriate in connection with the offering of the Bonds.

The Authority and the City hereby acknowledge receipt from the Underwriter of disclosures required by the Municipal Securities Rulemaking Board ("MSRB") Rule G-17 (as set forth in MSRB Notice 2012-25 (May 7, 2012), relating to disclosures concerning the Underwriter's role in the transaction, disclosures concerning the Underwriter's compensation, conflict disclosures, if any, and disclosures concerning complex municipal securities financing, if any.

A Preliminary Official Statement of the City and the Authority, dated July \_\_, 2020 (together with the Appendices thereto, any documents incorporated therein by reference and any supplements or amendments thereto and as disseminated in its printed physical form or in electronic form in all respects materially consistent with such physical form, the "Preliminary Official Statement"), has been prepared for use in marketing the Bonds, and a final Official Statement relating to the Bonds, to be dated the date hereof, as amended to conform to the terms of this Purchase Contract, and with such changes and amendments as are mutually agreed to by the Authority, the City and the Underwriter, including the cover page, inside cover page, the



appendices and all information incorporated therein by reference, is herein collectively referred to as the "Official Statement," which shall be in substantially the form of the Preliminary Official Statement, with such changes and amendments thereto as may be mutually agreed upon by the Underwriter, the Authority and the City.

The Bonds shall be dated their date of delivery, and shall have the maturities, bear interest at the rates, have reoffering yields, and be subject to redemption as shown on Exhibit A hereto.

It shall be a condition to the Authority's obligation to sell and to deliver the Bonds to the Underwriter and to the obligation of the Underwriter to purchase, to accept delivery of and to pay for the Bonds that the entire \$\_\_\_\_\_ principal amount of the Bonds as authorized by the Indenture shall be sold and delivered by the Authority and accepted and paid for by the Underwriter at the Closing. The Underwriter may change the offering prices (or yields) of the Bonds from time to time at any time. The Bonds may be offered and sold to certain dealers at prices lower than such initial public offering prices. The obligation of the Authority to sell and deliver the Bonds to the Underwriter shall also be conditioned upon the delivery by Norton Rose Fulbright US LLP, Los Angeles, California, Bond Counsel ("Bond Counsel"), of its approving legal opinion with respect to the Bonds.

The Authority and the City hereby authorize the Underwriter to use and distribute the Site Lease, the Lease Agreement, the Assignment Agreement, the Indenture and the Preliminary Official Statement, and the information contained in such documents in connection with the public offering and sale of the Bonds. The Authority and the City have authorized the use of the Preliminary Official Statement in connection with the public offering of the Bonds by the Underwriter prior to the date hereof.

The obligation of the City to make Base Rental Payments under the Lease Agreement does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the Bonds nor the obligation of the City to make Base Rental Payments under the Lease Agreement constitutes a debt of the Authority, the City, the State of California or any of its political subdivisions in contravention of any constitutional or statutory debt limitation or restriction. The obligation of the City to make Base Rental Payments, as set forth in the Lease Agreement, shall be deemed to be and shall be construed to be a ministerial duty imposed by law and it shall be the ministerial duty of each and every public official of the City to take such actions and do such things as are required by law in the performance of such duty, subject to abatement in the event of damage or destruction to, or condemnation of, the Leased Property or a portion thereof.

2. Bona Fide Public Offering. The Underwriter agrees to make a bona fide public offering of all of the Bonds, at prices not in excess of the initial public offering yields or prices set forth on the cover page of the Official Statement. The Bonds may be offered and sold to certain dealers at prices lower than such initial public offering prices; provided, however, that the Underwriter may offer a portion of the Bonds for sale to selected dealers who are members of the Financial Industry Regulatory Authority, and the Underwriter reserves the right to change such offering prices or yields as the Underwriter shall deem necessary in connection with the marketing of the Bonds and to offer and sell the Bonds to certain dealers (including dealers depositing the Bonds into investment trusts) and others at prices lower than the initial offering prices or at yields higher than the initial yields set forth on Exhibit A attached hereto. The Underwriter also reserves the right to over-allot or effect transactions that stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market and to discontinue such stabilizing, if commenced, at any time. None of such activities shall affect the principal amounts, maturity dates, interest rates, redemption or other provision of the Bonds or the amount to be paid by the Underwriter to the Authority for the Bonds.



3. The Bonds. The Bonds will be issued, executed and delivered pursuant to the Indenture. The City Council of the City has adopted a resolution on July \_\_, 2020, relating to the Bonds (the "City Resolution"). This Bond Purchase Agreement, the Site Lease, the Lease Agreement and the Continuing Disclosure Agreement (hereinafter defined) are collectively referred to as the "City Documents." This Bond Purchase Agreement, the Indenture, the Site Lease, the Lease Agreement and the Assignment Agreement are collectively referred to as the "Authority Documents."

4. Official Statement, Continuing Disclosure.

(a) The Authority and the City represent that they have deemed the Preliminary Official Statement to be final as of its date, except for either revisions or additions to the offering price(s), interest rate(s), yield(s) to maturity, selling compensation, aggregate principal amount, principal amount per maturity, delivery date, rating(s) and other terms of the Bonds which depend upon the foregoing as provided in and pursuant to Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the "Rule").

(b) The Underwriter agrees that, prior to the time the final Official Statement is available, the Underwriter will send to any potential purchaser of the Bonds, upon the request of such potential purchaser, a copy of the most recent Preliminary Official Statement. Such Preliminary Official Statement shall be sent by first class mail (or other equally prompt means) not later than the second business day following the date upon which each such request is received.

(c) The Authority agrees to deliver to the Underwriter, at such addresses as the Underwriter shall specify, as many copies of the final Official Statement relating to the Bonds as the Underwriter shall reasonably request as necessary to comply with paragraph (b)(4) of the Rule and with Rule G-32, Rule G-36 and all other applicable rules of the Municipal Securities Rulemaking Board. The Authority agrees to deliver such copies of the Official Statement within seven business days after the execution hereof. The Underwriter agrees to give notice to the Authority on the date after which the Underwriter shall no longer be obligated to deliver copies of the Official Statement pursuant to paragraph (b)(4) of the Rule, which date shall be no earlier than 25 days after the "end of the underwriting period," as determined in accordance with Section 14 herein.

(d) Prior to the earlier of (i) receipt of notice from the Underwriter that no participating underwriter, as such term is defined in the Rule, remains obligated to deliver Official Statements pursuant to paragraph (b)(4) of the Rule or (ii) 25 days after the date of the Closing (as defined below), the Authority and the City shall provide the Underwriter with such information regarding the Authority and the City, each of their current financial conditions and ongoing operations as the Underwriter may reasonably request.

(e) The City hereby covenants and agrees that it will, on or prior to the Closing Date, execute a certificate for the benefit of the owners of the Bonds in which the City will undertake to provide financial information, operating data and notices of material events as required by paragraph (d)(2)(ii) of the Rule substantially in the form of Appendix D to the Official Statement (the "Continuing Disclosure Agreement").

5. Representations, Warranties and Agreements of the City. The City represents, warrants and agrees as follows:

(a) The City is a municipal corporation and general law city duly organized and validly existing under the Constitution and laws of the State of California.



(b) The City has full legal right, power and authority (i) to enter into, execute and deliver the City Documents; and (ii) to carry out and consummate the transactions on its part contemplated by the City Documents and the Official Statement.

(c) By all necessary official action, the City has duly authorized and approved the City Documents, has duly authorized and approved the Preliminary Official Statement and the Official Statement and approved the distribution thereof (including in electronic form), has duly authorized and approved the execution and delivery of, and the performance by the City of the obligations in connection with the execution and delivery of the Bonds on its part contained in the City Documents, and the consummation by it of all other transactions contemplated by the City Documents in connection with the execution and delivery of the Bonds, all pursuant to the City Resolution adopted at a meeting duly called and held in accordance with the requirements of all applicable laws and at which a quorum of the members of the City Council was continuously present. The City Resolution has not been modified, amended or rescinded since the date of its adoption.

(d) The City is not in any material respect in breach of or default under any applicable constitutional provision, law or administrative regulation of the State of California or of the United States, or any agency or instrumentality of either, or any applicable judgment or decree, or any loan agreement, indenture, bond, note, resolution, agreement (including, without limitation, the City Documents) or other instrument to which the City is a party which breach or default has or may have an adverse effect on the ability of the City to perform its obligations under the City Documents, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instrument; and the execution and delivery of the Bonds and the City Documents, and compliance with the provisions on the City's part contained therein, will not conflict in any material way with or constitute a material breach of or a material default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the Leased Property or assets of the City or under the terms of any such law, regulation or instrument, except as provided by the Bonds and the City Documents.

(e) All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by, the City of its obligations in connection with the execution and delivery of the Bonds under the City Documents or the consummation by it of all other transactions contemplated by the City Documents have been duly obtained, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Bonds; except as described in or contemplated by the Official Statement, all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by, the City of its obligations under the City Documents have been duly obtained.

(f) There is no action, suit, proceeding, inquiry or investigation, notice of which has been duly served on the City, at law or in equity before or by any court, government agency, public board or body, pending or to the best knowledge of the officer of the City executing this Bond Purchase Agreement, threatened against the City, affecting the existence of the City or the titles



of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the sale, execution or delivery of the Bonds pursuant to the Indenture, or contesting or affecting as to the City the validity or enforceability of the City Documents, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the powers of the City to cause the execution and delivery or adoption by the City of the City Documents, or in any way contesting or challenging the consummation of the transactions contemplated hereby or thereby; nor, to the best knowledge of the City, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity of the Bonds or the authorization, execution, delivery or performance by the City of the City Documents.

(g) The City will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue such qualifications in effect so long as required for the distribution of the Bonds; provided, however, that the City shall not be required to execute a general or special consent to service of process or qualify to do business in connection with any such qualification or determination in any jurisdiction, and the Underwriter shall bear all costs in connection with the foregoing.

(h) As of the date thereof, the Preliminary Official Statement (other than information therein regarding DTC or its book-entry system or any information provided by the Underwriter) did not, except for the omission of certain information permitted to be omitted in accordance with the Rule, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(i) At the time of the City's acceptance hereof, and (unless an event occurs of the nature described in paragraph (k) of this Section 5) at all times subsequent thereto up to and including the Closing Date, the Official Statement (other than information therein regarding DTC or its book-entry system or any information provided by the Underwriter) did not and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(j) If the Official Statement is supplemented or amended pursuant to paragraph (k) of this Section 5, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto up to and including the Closing Date, the Official Statement (other than information therein provided by the Underwriter) as so supplemented or amended will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(k) If between the date of this Bond Purchase Agreement and that date which is 25 days after the end of the underwriting period (as determined in accordance with Section 14 hereof) any event of which the officer of the City executing this Bond Purchase Agreement has knowledge shall occur affecting the City which might adversely affect the marketability of the Bonds or the market prices thereof, or which might cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the City shall notify the Underwriter thereof, and if in the opinion of the Underwriter such event requires the preparation and publication of a supplement or amendment



to the Official Statement, the City will at its expense prepare and furnish to the Underwriter a reasonable number of copies of such supplement to, or amendment of, the Official Statement in a form and in a manner approved by the City, Bond Counsel, Disclosure Counsel and the Underwriter.

(l) Any certificate signed by any officer of the City and delivered to the Underwriter pursuant to the City Documents or any document contemplated thereby or required for the valid execution and delivery of the Bonds shall be deemed a representation and warranty by the City to the Underwriter as to the statements made therein.

(m) The City will cause the proceeds from the sale of the Bonds to be paid to the Trustee for the purposes specified in the Indenture and the Official Statement. So long as any of the Bonds are outstanding and except as may be authorized by the Indenture, the City will not issue or sell, or cause to be issued or sold, any bonds or other obligations, other than the Bonds delivered thereunder, the interest on and premium, if any, or principal of which will be payable from Base Rental Payments.

6. Representations, Warranties and Agreements of the Authority. The Authority represents, warrants and agrees as follows:

(a) The Authority is a joint exercise of powers entity duly organized and validly existing under the laws of the State of California pursuant to a Joint Exercise of Powers Agreement between the City and the West Covina Housing Authority, dated as of June 1, 1990 (the "JPA Agreement").

(b) The Authority has full legal right, power and authority (i) to enter into, execute and deliver the Authority Documents and to sell and deliver the Bonds to the Underwriter as provided herein; and (ii) to carry out and consummate the transactions on its part contemplated by the Authority Documents and the Official Statement.

(c) By all necessary official action, the Authority has duly authorized and approved the issuance of the Bonds and the Authority Documents, has duly authorized and approved the Preliminary Official Statement and the Official Statement and approved the distribution thereof (including in electronic form), has duly authorized and approved the execution and delivery of, and the performance by the Authority of the obligations in connection with the execution and delivery of the Bonds on its part contained in the Bonds and the Authority Documents, and the consummation by it of all other transactions contemplated by the Authority Documents in connection with the execution and delivery of the Bonds, all pursuant to the Authority Resolution adopted at a meeting duly called and held in accordance with the requirements of all applicable laws and at which a quorum of the board members of the Authority was continuously present. The Authority Resolution has not been modified, amended or rescinded since the date of its adoption and each Authority Document is or will be, when delivered, as applicable, the valid and binding obligation of the Authority.

(d) The Authority is not in any material respect in breach of or default under any applicable constitutional provision, law or administrative regulation of the State of California or of the United States, or any agency or instrumentality of either, or any applicable judgment or decree, or the JPA Agreement, or any loan agreement, indenture, bond, note, resolution, agreement (including, without limitation, the Authority Documents) or other instrument to which the Authority is a party which breach or default has or may have an adverse effect on the ability of the Authority to perform its obligations under the Bonds or the Authority Documents, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instrument;



and the execution and delivery of the Bonds and the Authority Documents, and compliance with the provisions on the Authority's part contained therein, will not conflict in any material way with or constitute a material breach of or a material default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, Bond, note, resolution, agreement or other instrument to which the Authority is a party nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the Leased Property or assets of the Authority or under the terms of any such law, regulation or instrument, except as provided by the Bonds and the Authority Documents.

(e) All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by, the Authority of its obligations in connection with the issuance of the Bonds under the Authority Documents or the consummation by it of all other transactions contemplated by the Authority Documents, including all filings with the California Secretary of State, have been duly obtained, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Bonds; except as described in or contemplated by the Official Statement, all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by, the Authority of its obligations under the Bonds and the Authority Documents have been duly obtained.

(f) The Bonds, when executed, issued, authenticated and delivered in accordance with the Indenture, and sold to the Underwriter as provided herein, will be validly executed and outstanding obligations, entitled to the benefits of the Indenture, and upon such execution and delivery, the Indenture will provide, for the benefit of the Owners from time to time of the Bonds, the legally valid and binding security interest it purports to create.

(g) There is no action, suit, proceeding, inquiry or investigation, notice of which has been duly served on the Authority, at law or in equity before or by any court, government agency, public board or body, pending or to the best knowledge of the officer of the Authority executing this Bond Purchase Agreement, threatened against the Authority, affecting the existence of the Authority or the titles of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the sale, issuance, execution or delivery of the Bonds pursuant to the Indenture, or contesting or affecting as to the Authority the validity or enforceability of the Bonds or the Authority Documents, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the powers of the Authority to cause the issuance of the Bonds, or the execution and delivery or adoption by the Authority of the Authority Documents, or in any way contesting or challenging the consummation of the transactions contemplated hereby or thereby; nor, to the best knowledge of the Authority, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity of the Bonds or the authorization, execution, delivery or performance by the Authority of the Bonds or the Authority Documents.

(h) The Authority will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and (ii) to determine the eligibility of the Bonds for investment under the laws of such



states and other jurisdictions, and will use its best efforts to continue such qualifications in effect so long as required for the distribution of the Bonds; provided, however, that the Authority shall not be required to execute a general or special consent to service of process or qualify to do business in connection with any such qualification or determination in any jurisdiction, and the Underwriter shall bear all costs in connection with the foregoing.

(i) As of the date thereof, the Preliminary Official Statement did not, except for the omission of certain information permitted to be omitted in accordance with the Rule, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(j) At the time of the Authority's acceptance hereof, and (unless an event occurs of the nature described in paragraph (l) of this Section 6) at all times subsequent thereto up to and including the Closing Date, the information under the caption "THE AUTHORITY" in the Official Statement (other than information therein provided by the Underwriter) did not and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(k) If the Official Statement is supplemented or amended pursuant to paragraph (l) of this Section 6, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto up to and including the Closing Date, the Official Statement (other than information therein provided by the Underwriter) as so supplemented or amended will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(l) If between the date of this Bond Purchase Agreement and that date which is 25 days after the end of the underwriting period (as determined in accordance with Section 14 hereof) any event of which the officer of the Authority executing this Bond Purchase Agreement has knowledge shall occur affecting the Authority which might adversely affect the marketability of the Bonds or the market prices thereof, or which might cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Authority shall notify the Underwriter thereof, and if in the opinion of the Underwriter such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Authority will at its expense prepare and furnish to the Underwriter a reasonable number of copies of such supplement to, or amendment of, the Official Statement in a form and in a manner approved by the City, Bond Counsel, Disclosure Counsel and the Underwriter.

(m) Any certificate signed by any officer of the Authority and delivered to the Underwriter pursuant to the Authority Documents or any document contemplated thereby or required for the valid execution and delivery of the Bonds shall be deemed a representation and warranty by the Authority to the Underwriter as to the statements made therein.

(n) The Authority will cause the proceeds from the sale of the Bonds to be paid to the Trustee for the purposes specified in the Indenture and the Official Statement. So long as any of the Bonds are outstanding and except as may be authorized by the Indenture, the Authority will not issue or sell any bonds or other obligations, other than the Bonds delivered thereunder, the interest on and premium, if any, or principal of which will be payable from the Revenues.



(o) The Authority shall honor all other covenants on its part contained in the Indenture and the Lease Agreement which are incorporated herein and made a part of this Bond Purchase Agreement.

7. Closing. At 8:00 A.M., Pacific Daylight time, on July \_\_, 2020, or on such other date time, as may be mutually agreed upon by the Authority, the City and the Underwriter (the "Closing Date"), the Authority will, subject to the terms and conditions hereof, deliver to the Underwriter, through the facilities of The Depository Trust Company ("DTC"), or at such other place as the Authority, the City and the Underwriter may mutually agree, the Bonds in definitive, fully registered form (one Bond for each maturity), duly executed and registered in the name of Cede & Co. as nominee of DTC; and, subject to the terms and conditions hereof, the Underwriter shall wire to the Trustee immediately available funds in the amount of the purchase price of the Bonds.

8. Closing Conditions. The Underwriter has entered into this Bond Purchase Agreement in reliance upon the representations and warranties of the Authority and the City contained herein, and in reliance upon the representations and warranties to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Authority and the City of its obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Underwriter's obligations under this Bond Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds shall be conditioned upon the performance by the Authority and the City of their respective obligations to be performed hereunder and under such documents and instruments at or prior to the Closing Date, shall be subject, at the option of the Underwriter, to the accuracy in all material respects of the statements the officers and other officials of the Authority and of the City, as the Underwriter, authorized representatives of Bond Counsel, the Trustee, and the City Attorney made in any certification or other documents furnished pursuant to the provisions hereof, and shall also be subject to the following additional conditions:

(a) The respective representations and warranties of the Authority and the City contained herein shall be true, complete and correct on the date hereof and on and as of the Closing Date, as if made on the Closing Date;

(b) At the time of Closing, the City Documents and the Authority Documents shall be in full force and effect in accordance with their terms and shall not have been amended, modified or supplemented and the Official Statement shall not have been supplemented or amended, except in any such case as may have been agreed to by the Underwriter;

(c) All necessary official action of the Authority, the City and of the other parties thereto relating to the City Documents and the Authority Documents shall have been taken and shall be in full force and effect and shall not have been amended, modified or supplemented in any material respect;

(d) Subsequent to the date hereof, there shall not have occurred any change in or affecting particularly the Authority, the City or the Bonds, as the foregoing is described in the Official Statement, which in the reasonable opinion of the Underwriter materially impairs the investment quality of the Bonds; and

(e) At or prior to the Closing Date, the Underwriter shall have received copies of each of the following documents:

(i) The Official Statement and each supplement or amendment, if any, thereto, executed by authorized officers of the Authority and the City;



- (ii) A copy of the Indenture, executed by the parties thereto;
- (iii) A copy of the Lease Agreement, executed by the parties thereto;
- (iv) A copy of the Site Lease, executed by the parties thereto;
- (vi) A copy of the Continuing Disclosure Agreement, executed by the City and \_\_\_\_\_, as dissemination agent;
- (vii) A certified copy of the JPA Agreement;
- (viii) A certificate or certificates of the City, dated the Closing Date, to the effect that:

(A) the representations and warranties of the City contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date and the City has complied with all of the terms and conditions of this Purchase Agreement required to be complied with by the City at or prior to the Closing Date;

(B) none of the proceedings or authority for (i) the authorization, sale, execution and delivery of the Bonds, (ii) the adoption of the City Resolution, or (iii) the execution and delivery of the City Documents and performance of its obligations thereunder, has been repealed, modified, amended, revoked or rescinded;

(C) subsequent to June 30, 2019, and prior to Closing, there have been no material adverse changes in the financial position of the City;

(D) no event affecting the City has occurred since the date of the Official Statement that should be disclosed in the Official Statement for the purposes for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading in any material respect; and

(E) No consent is required for the inclusion of the City's 2018-19 audited financial statements in the Official Statement.

- (ix) A certificate or certificates of the Authority, dated the Closing Date, to the effect that:

(A) the representations and warranties of the Authority contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date and the Authority has complied with all of the terms and conditions of this Purchase Agreement required to be complied with by the Authority at or prior to Closing Date;

(B) none of the proceedings or authority for (i) the authorization, sale, execution and delivery of the Bonds, (ii) the adoption of the Authority Resolution, or (iii) the execution and delivery of the Authority Documents, has been repealed, modified, amended, revoked or rescinded; and

(C) no event affecting the Authority has occurred since the date of the Official Statement that should be disclosed in the Official Statement for the



purposes for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading in any material respect.

(x) An opinion or opinions, dated the Closing Date and addressed to the Underwriter and the Trustee, of Jones & Mayer, the City Attorney, to the effect that:

(A) The City is a municipal corporation and general law city duly organized and validly existing under the Constitution and laws of the State of California;

(B) The City Documents have been duly approved by a resolution of the City adopted at a meeting duly called and held in accordance with the requirements of all applicable laws, with all public notice required by law, and at which a quorum of the members of the City Council was continuously present and such resolution has not been modified, amended or rescinded since the date of its adoption;

(C) Except as described in the Official Statement, there is no litigation, inquiry, or investigation pending or to the best of such counsel's knowledge after due inquiry, threatened, which: (1) challenges the right or title of any member or officer of the City to hold his or her office or exercise or perform the powers and duties pertaining thereto; (2) challenges the validity or enforceability of the Bonds or the City Documents; (3) seeks to restrain or enjoin the sale of the Bonds or the execution and delivery by the City of, or the performance by the City of its legal obligations under, the City Documents or in which a final adverse decision could materially adversely affect the operations of the City with respect to the Leased Property; or (4) contests in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement, nor, to the best of such counsel's knowledge, is there any basis therefor;

(D) The execution and delivery by the City of, and the performance by the City of its obligations under, the City Documents, do not conflict with, violate or constitute a default under any provision of any law, court order or decree or any contract, instrument or agreement to which the City is a party or by which it is bound and of which such counsel has knowledge;

(E) As of the date hereof, the statements and information relating to the City contained in the Preliminary Official Statement and Official Statement did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and

(F) The City Documents have been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery of the City Documents by the parties thereto other than the City, the City Documents constitute legal, valid and binding agreements of the City, enforceable against the City in accordance with their respective terms except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights and remedies in general, or by the application of equitable principles if equitable remedies are sought.



(G) Except as may be required under the “blue sky” or securities laws of the United States or any state, there is no authorization, approval, consent or other order of, or filing with, or certification by, the State or any other governmental authority or agency within the State having jurisdiction over the City required for the issuance of the Bonds or the consummation by the City of the other financial transactions contemplated by the Official Statement and the City Documents.

(H) Based on the information made available to the City Attorney in its role as City Attorney to the City, and without having undertaken to determine independently or assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Official Statement, nothing has come to its attention which would lead it to believe that the Official Statement as of its date and as of the date of Closing (excluding therefrom the financial and statistical data and forecasts included therein, as to which no opinion is expressed and information relating to the Authority and the Depository Trust Company and its book entry system) contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(xi) An opinion or opinions, dated the Closing Date and addressed to the Underwriter and the Trustee, of the City Attorney, as counsel for the Authority, to the effect that:

(A) The Authority is a joint exercise of powers authority duly organized and validly existing under the laws of the State of California pursuant to the JPA Agreement;

(B) The Authority Documents have been duly approved by the Authority Resolution adopted at a meeting duly called and held in accordance with the requirements of all applicable laws, with all public notice required by law, and at which a quorum of the members of the Board of the Authority was continuously present and such resolution has not been modified, amended or rescinded since the date of its adoption;

(C) Except as described in the Official Statement, there is no litigation, inquiry, or investigation pending to the best of such counsel’s knowledge after due inquiry, or threatened, which: (1) challenges the right or title of any Board member or officer of the Authority to hold his or her office or exercise or perform the powers and duties pertaining thereto; (2) challenges the validity or enforceability of the Bonds or the Authority Documents; (3) seeks to restrain or enjoin the sale of the Bonds or the execution and delivery by the Authority of, or the performance by the Authority of its legal obligations under, the Authority Documents or in which a final adverse decision could materially adversely affect the operations of the Authority with respect to the Leased Property; or (4) contests in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement, nor, to the best of such counsel’s knowledge, is there any basis therefor;

(D) The execution and delivery by the Authority of, and the performance by the Authority of its obligations under, the Authority Documents, do not conflict with, violate or constitute a default under any provision of any law, court order or decree or any contract, instrument or agreement to which the Authority is a party or by which it is bound and of which such counsel has knowledge; and



(E) The Authority Documents have been duly authorized, executed and delivered by the Authority and, assuming due authorization, execution and delivery of the Authority Documents by the parties thereto other than the Authority, the Authority Documents constitute legal, valid and binding agreements of the Authority, enforceable against the Authority in accordance with their respective terms except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights and remedies in general, or by the application of equitable principles if equitable remedies are sought.

(F) Except as may be required under the "blue sky" or securities laws of the United States or any state, there is no authorization, approval, consent or other order of, or filing with, or certification by, the State or any other governmental authority or agency having jurisdiction over the Authority required for the issuance of the Bonds or the consummation by the Authority of the other financial transactions contemplated by the Official Statement and the Authority Documents.

(G) Based on the information made available to such City Attorney in its role as counsel to the Authority, and without having undertaken to determine independently or assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Official Statement under the captions entitled "THE AUTHORITY," and "LITIGATION", nothing has come to such City Attorney's attention that would lead it to believe that the statements contained in the above-referenced captions as of the date of the Official Statement and as of the date of Closing (excluding therefrom the financial and statistical data and forecasts included therein, as to which no opinion is expressed) contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(xii) An opinion, dated the Closing Date and addressed to the Authority, of Bond Counsel, substantially in the form set forth in Appendix E to the Official Statement, together with a letter or letters from such counsel, dated the Closing Date and addressed to the Underwriter and the Trustee, to the effect that the foregoing opinion may be relied upon by the Underwriter and the Trustee to the same extent as if such opinion was addressed to them;

(xiii) A supplemental opinion, dated the Closing Date and addressed to the Underwriter, of Bond Counsel, to the effect that:

(A) the Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended;

(B) the Bond Purchase Agreement has been duly executed and delivered by the Authority and the City and is a valid and binding agreement of the Authority and the City; and

(C) the statements contained in the Official Statement under the captions "DESCRIPTION OF THE 2020A BONDS," "SECURITY AND SOURCES OF PAYMENT FOR THE 2020A BONDS" and "TAX MATTERS" and in APPENDIX



C—"SUMMARY OF THE PRINCIPAL LEGAL DOCUMENTS" and APPENDIX E—FORM OF OPINION OF BOND COUNSEL," insofar as such statements expressly summarize certain provisions of the Indenture, the Lease Agreement, the Site Lease and the final opinion of Bond Counsel concerning certain tax matters relating to the Bonds, are accurate in all material respects;

(xiv) A letter, dated the Closing Date and addressed to the Authority, the City and the Underwriter of Norton Rose Fulbright US LLP, Los Angeles, California, as disclosure counsel ("Disclosure Counsel"), to the effect that, based on among other things, (i) inquiries and discussions of various legal matters, (ii) review of and reliance on certain documents, certificates, instructions, records and opinions of counsel, and (iii) participation in meetings and telephone conferences with representatives of the Authority and the City, Wolf & Company, Inc. and NHA Advisors, as municipal advisors to the City, and others including the City Attorney and Underwriter's counsel, during which the content of the Preliminary Official Statement and the Official Statement and related matters were discussed, no information has come to the attention of Disclosure Counsel with respect to the issuance of the Bonds which caused Disclosure Counsel to believe that (a) the Preliminary Official Statement as of its date or as of July \_\_, 2020 (excluding therefrom financial, demographic and statistical data; forecasts, projections, estimates, assumptions and expressions of opinions; information relating to DTC and its book-entry only system; information under the captions "TAX MATTERS" and "UNDERWRITING"; and the Appendices to the Preliminary Official Statement (other than Appendices A and E) as to which we express no view) contained any untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except for such information as is permitted to be excluded from the Preliminary Official Statement pursuant to Rule 15c2-12, including but not limited to information as to pricing, yields, interest rates, maturities, amortization, redemption provisions, ratings, debt service requirements, Underwriter's discount and CUSIP numbers; or (b) the Official Statement as of its date and as of the Closing Date (excluding therefrom financial, demographic, statistical or economic or demographic data; forecasts, numbers, charts, tables, graphs, projections, estimates, assumptions and expressions of opinions; information relating to DTC and its book-entry only system or CUSIP numbers; information under the captions "TAX MATTERS" and "UNDERWRITING"; and the Appendices to the Official Statement (other than Appendices A and E) as to which we express no view) contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading. However, in providing advice and assistance as Disclosure Counsel, Disclosure Counsel provided no independent diligence on the MSRB's Electronic Municipal Market Access website, and we express no view regarding the City's or the City's related entities' compliance with any obligation to file annual reports or provide notice of events, each as described in Rule 15c2-12;

(xv) the opinion of Quint & Thimmig LLP, as counsel to the Underwriter, dated the Closing Date and addressed to the Underwriter, in form and substance acceptable to the Underwriter.

(xvi) A certificate of an authorized officer of the Trustee satisfactory to the Underwriter, certifying substantially as follows:

(A) The Trustee is a national banking association duly organized and in good standing under the laws of the United States of America and has all necessary



power and authority to enter into the Indenture and to perform its duties under the Indenture;

(B) The Trustee is duly authorized to enter into the Indenture and to authenticate and deliver the Bonds to the Underwriter pursuant to the terms of the Indenture and, when executed by the other parties thereto, the Indenture will constitute a legal, valid and binding obligation of the Trustee enforceable in accordance with its terms;

(C) The Bonds have been duly authenticated and delivered to the Underwriter pursuant to direction from the Authority;

(D) The Trustee is not in breach of or default under any law or administrative rule or regulation of the State of California or of any department, division, agency or instrumentality thereof, of any applicable court or administrative decree or order, or any other material instrument to which the Trustee is a party or is otherwise subject or bound and which would materially impair the ability of the Trustee to perform its obligations under the Indenture;

(E) To its knowledge, no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body, is pending or threatened in any way against the Trustee affecting the existence of the Trustee or the titles of its directors or officers to their respective offices, or seeking to restrain or enjoin the execution, sale or delivery of the Bonds, the application of the proceeds thereof in accordance with the Indenture, or in any way contesting or affecting the validity or enforceability of the Bonds or the Indenture;

(F) The execution and delivery of the Indenture will not conflict with or constitute a breach of or default under the Trustee's duties under such documents, or any law, administrative regulation, court decree, resolution, articles of association, bylaws or other material agreement to which the Trustee is subject or by which it is bound; and

(G) No consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Trustee that has not been obtained is or will be required for the authentication and delivery of the Bonds, the execution and delivery of the Indenture, the performance of the Trustee's duties under the Indenture or the consummation by the Trustee of the other transactions contemplated by the Indenture, except as such may be required under the state securities or blue sky laws in connection with the distribution of the Bonds by the Underwriter.

(xvii) An opinion of counsel to the Trustee in form and substance acceptable to the Underwriter;

(xviii) 15c2-12 certificates of City and the Authority;

(xix) Certified copies of the City Resolution and the Authority Resolution;

(xx) Evidence, satisfactory to the Underwriter, that the Bonds have been assigned the rating of "\_\_\_" by S&P Global Ratings, a Standard & Poor's Financial Services LLC business;



(xxi) Transcripts of all proceedings relating to the authorization, issuance, execution and delivery of the Bonds certified by the City and the Authority as applicable; and

(xxii) Such additional legal opinions, certificates, instruments and other documents as the Underwriter may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the date of the Closing, of the City's representations and warranties contained herein and of the statements and information contained in the Official Statement and the due performance or satisfaction by the City and the Authority on or prior to the date of the Closing of all the agreements then to be performed and conditions then to be satisfied by each of them.

All the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Bond Purchase Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to Bond Counsel, Disclosure Counsel and the Underwriter.

If the City shall be unable to satisfy the conditions to the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds contained in this Bond Purchase Agreement, or if the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and none of the Underwriter, the Authority or the City shall be under any further obligation hereunder.

9. Termination. The Underwriter shall have the right to terminate the Underwriter's obligations under this Bond Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds by notifying the Authority and the City in writing, of its election to do so, if, after the execution hereof and prior to the Closing:

(a) the United States has become engaged in, or there has been an escalation of, hostilities which, in the reasonable opinion of the Underwriter, materially adversely affects the marketability or market price of the Bonds;

(b) there shall have occurred the declaration of a general banking moratorium by any authority of the United States or the State of New York or the State of California;

(c) an event shall have occurred, or been discovered as described in paragraph (k) of Section 5 or paragraph (l) of Section 6 hereof, which in the opinion of the Underwriter requires the preparation and publication of disclosure material or a supplement or amendment to the Official Statement;

(d) any legislation, ordinance, rule or regulation shall be introduced in, or be enacted by any governmental body, department or agency in the State of California, or a decision by any court of competent jurisdiction within the State of California shall be rendered which, in the Underwriter's reasonable opinion, materially adversely affects the market price of the Bonds;

(e) there shall have occurred or any notice shall have been given of any intended downgrading, suspension, withdrawal or negative change in credit watch status by any national rating service to any of the Authority's or the City's obligations;

(f) legislation shall be introduced, by amendment or otherwise, or be enacted by the House of Representatives or the Senate of the Congress of the United States, or a decision by a court of



the United States shall be rendered, or a stop order, ruling, regulation or official statement by or on behalf of the Securities and Exchange Commission or other governmental agency having jurisdiction of the subject matter shall be made or proposed, to the effect that the execution, issuance, delivery, offering or sale of obligations of the general character of the Bonds, or the Bonds, as contemplated hereby or by the Official Statement, is or would be in violation of any provision of the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect, or with the purpose or effect of otherwise prohibiting the issuance, offering or sale of obligations of the general character of the Bonds, or the Bonds, as contemplated hereby or by the Official Statement;

(g) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange;

(h) the New York Stock Exchange, or other national securities exchange or association or any governmental authority, shall impose as to the Bonds, or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by or the charge to the net capital requirements of broker-dealers;

(i) trading in securities on the New York Stock Exchange or other national securities exchange or association shall have been suspended or limited or minimum prices have been established on either such exchange;

(j) any action shall have been taken by any government in respect of its monetary affairs which, in the reasonable opinion of the Underwriter, has a material adverse effect on the United States municipal securities market; or as of the date hereof that in the Underwriter's reasonable opinion materially adversely affects the marketability or market price of the Bonds; or

(k) the marketability of the Bonds or the market price thereof, in the reasonable opinion of the Underwriter, has been materially and adversely affected by disruptive events, occurrences or conditions in the securities or debt markets.

If this Bond Purchase Agreement shall be terminated pursuant to this Section 9, or if the purchase provided for herein is not consummated because any condition to the Underwriter's obligations hereunder is not satisfied or because of any refusal, inability or failure on the part of the City or the Authority to comply with any of the terms or to fulfill any of the conditions of this Bond Purchase Agreement, or if for any reason the City or the Authority shall be unable to perform all of its respective obligations under this Bond Purchase Agreement, neither the City nor the Authority shall be liable to the Underwriter for damages on account of loss of anticipated profits arising out of the transactions covered by this Bond Purchase Agreement. The Underwriter may, in its sole discretion, waive any of the conditions set forth in Section 9 or this Section 9.

10. Changes in Official Statement. After the Closing, neither the Authority nor the City will adopt any amendment of or supplement to the Official Statement to which the Underwriter shall reasonably object in writing.

11. Payment of Costs and Expenses.

(a) All costs and expenses incident to the sale and delivery of the Bonds to the Underwriter shall be payable by the Authority from the proceeds of the Bonds, including, but not limited to:



(i) the fees and expenses of the City, its counsel and consultants; (ii) the fees and expenses of the Authority, its counsel and consultants; (iii) the fees and expenses of Bond Counsel; (iv) the fees and expenses of Disclosure Counsel; (v) the fees and expenses of Wolf & Company, Inc. and NHA Advisors, the City's municipal advisors; (vi) all expenses in connection with the preparation and printing of the Bonds; (vii) all expenses in connection with the preparation, printing, distribution and delivery of the Preliminary Official Statement, the Official Statement and any amendment or supplement thereto; (viii) the initial fees and expenses of the Trustee, including the reasonable fees and expenses of its counsel; (ix) the fees and expenses of any rating agency rating the Bonds; and (x) any credit enhancement costs for the Bonds.

(b) The Underwriter shall pay all expenses incurred by it in connection with the public offering and distribution of the Bonds including, but not limited to: (i) all advertising expenses in connection with the offering of the Bonds; (ii) the fees and disbursements of Underwriter's counsel, if any, and (iii) all out-of-pocket disbursements and expenses incurred by the Underwriter in connection with the offering and distribution of the Bonds, including, air travel and hotel accommodations in connection with the pricing of the Bonds; investor meetings, rating agency trips and meetings; the Closing; meals and transportation for the City, the Underwriter and other working group personnel during rating agency, investor meetings; pricing and Closing trips; expenses related to attending working group meetings, such as parking, meals and transportation and any other miscellaneous costs associated with the Closing; (iv) all other expenses incurred by the Underwriter in connection with the public offering and distribution of Bonds, except as provided in (a) above or as otherwise agreed to by the Underwriter and the City, and (v) the fees of the California Debt and Investment Advisory Commission.

12. Notices. Any notice or other communication to be given under this Bond Purchase Agreement may be given by delivering the same in writing:

To the Authority:	West Covina Public Financing Authority c/o City of West Covina 1444 West Garvey Avenue South West Covina, CA 91790 Attention: City Manager
To the City:	City of West Covina 1444 West Garvey Avenue South West Covina, CA 91790 Attention: City Manager
To the Underwriter:	Hilltop Securities Inc. 2533 South Coast Highway Suite #250 Cardiff, CA 92007 Attention: Mr. Todd Smith, Managing Director

13. Parties in Interest. This Bond Purchase Agreement is made solely for the benefit of the Authority, the City and the Underwriter (including the successors or assigns of the Underwriter) and no other person shall acquire or have any right hereunder or by virtue hereof. All of the Authority's and the City's representations, warranties and agreements contained in this Bond Purchase Agreement shall remain operative and in full force and effect, regardless of: (a) any investigations made by or on behalf of the Underwriter; (b) delivery of and payment for the Bonds pursuant to this Bond Purchase Agreement; and (c) any termination of this Bond Purchase Agreement.

14. Determination of End of the Underwriting Period. For purposes of this Bond Purchase Agreement, the end of the underwriting period for the Bonds shall mean the earlier of (a) the Closing Date unless the City and the Authority have been notified in writing by the Underwriter,



on or prior to the Closing Date, that the “end of the underwriting period” for the Bonds for all purposes of the Rule will not occur on the Closing Date, or (b) the date on which notice is given to the City and the Authority by the Underwriter in accordance with the following sentence. In the event that the Underwriter has given notice to the City and the Authority pursuant to clause (a) above that the “end of the underwriting period” for the Bonds will not occur on the Closing Date, the Underwriter agrees to notify the City and the Authority in writing as soon as practicable following the “end of the underwriting period” for the Bonds for all purposes of the Rule. The Underwriter agrees to file a copy of the Official Statement with each of the nationally recognized municipal securities information repositories.

15. No Assignment. This Bond Purchase Agreement is entered into between the City, the Authority and the Underwriter, and is solely for the benefit of the City, the Authority, the Underwriter and their respective successors or assigns, and no person other than the foregoing shall acquire or have any right under or by virtue of this Bond Purchase Agreement. All of the representations, warranties and agreements contained in this Bond Purchase Agreement shall survive the delivery of and payment for the Bonds and any termination thereof.

16. Effectiveness. This Bond Purchase Agreement shall become effective upon the execution of the acceptance by an authorized representative of the City and an authorized representative of the Authority and shall be valid and enforceable at the time of such acceptance.

17. Headings. The headings of the sections of this Bond Purchase Agreement are inserted for convenience only and shall not be deemed to be a part hereof.

18. Governing Law. This Bond Purchase Agreement shall be interpreted, governed and enforced in accordance with the laws of the State of California.

19. Counterparts. This Bond Purchase Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

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If the foregoing is in accordance with your understanding of this Bond Purchase Agreement please sign and return to us the enclosed duplicate copies hereof, whereupon it will



become a binding agreement among the City, the Authority and the Underwriter in accordance with its terms.

Very truly yours,

HILLTOP SECURITIES INC., as Underwriter

By \_\_\_\_\_  
Managing Director

WEST COVINA PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Title \_\_\_\_\_

CITY OF WEST COVINA

By \_\_\_\_\_  
Title \_\_\_\_\_

Time of Execution: \_\_\_\_\_



## EXHIBIT A

### MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES, PRICES AND YIELDS

\$ \_\_\_\_\_  
WEST COVINA PUBLIC FINANCING AUTHORITY  
Lease Revenue Bonds, 2020 Series A  
(Federally Taxable)

<u>Maturity (June 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>
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#### Redemption Provisions

*Optional Redemption.* The Bonds maturing on or before June 1, \_\_\_, are not subject to redemption prior to their respective stated maturities. The Bonds maturing on or after June 1, \_\_\_, are subject to redemption in whole, or in part at the election of the Authority among maturities on such basis as designated by the Authority and by lot within a maturity, at the option of the Authority, on any date on or after June 1, \_\_\_, from any available source of funds, [at a redemption price equal to 100% of the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium.]

*Mandatory Sinking Fund Redemption.* The Bonds maturing June 1, \_\_\_ (the "Term Bonds") are subject to mandatory redemption in part by lot, at a redemption price equal to 100% of the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts and on June 1 in the respective years as set forth in the following table; *provided, however*, that if some but not all of the Term Bonds have been optionally redeemed, the total amount of all future sinking fund payments shall be reduced by the aggregate principal amount of the Term Bonds so redeemed, to be allocated among such sinking fund payments in integral multiples of \$5,000 as determined by the Authority (as set forth in a schedule provided by the Authority to the Trustee).



Sinking Fund  
Redemption Date  
(June 1)

---

Principal Amount  
to be Redeemed

---

*Extraordinary Mandatory Redemption.* The Bonds are subject to mandatory redemption prior to maturity in whole or in part, among maturities as determined by the Authority, on any date, at a redemption price equal to 100% of the principal amount thereof to be redeemed (plus accrued but unpaid interest to the redemption date), without premium, from Net Proceeds received under from amounts deposited in the Insurance and Condemnation Fund under the Indenture, and any other funds available under the Indenture for purposes of that fund.



**DRAFT  
07/01/2020**

**CONTINUING DISCLOSURE AGREEMENT**

This Continuing Disclosure Agreement (the “Disclosure Agreement”), dated as of July 1, 2020, is executed and delivered by the City of West Covina (the “City”), and [Dissemination Agent], as dissemination agent (the “Dissemination Agent”) in connection with the issuance by the West Covina Public Financing Authority (the “Authority”) of its \$[Par Amount] aggregate initial principal amount of Lease Revenue Bonds, 2020 Series A (Federally Taxable) (the “Bonds”). The Bonds are being issued pursuant to an Indenture, dated as of July 1, 2020 (the “Indenture”), by and among the Authority, the City, and U.S. Bank National Association, as Trustee (the “Trustee”). The City and the Dissemination Agent covenant and agree as follows:

Section 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the City and the Dissemination Agent for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with the Rule (as defined below).

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement, unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

“Dissemination Agent” shall mean [Dissemination Agent], or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

“EMMA” shall mean the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access System for Municipal Securities disclosures, maintained on the internet at <http://emma.msrb.org>.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

“MSRB” shall mean the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934 or any other entity designated or authorized by the SEC to receive reports pursuant to the Rule. Until otherwise designated by the MSRB or the U.S. Securities and Exchange Commission, filings with the MSRB are to be made through the EMMA website.

“Official Statement” shall mean the final Official Statement, dated June 18, 2020, relating to the Bonds.

“Participating Underwriter” shall mean the original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“Rule” shall mean Rule 15c2-12 adopted by the U.S. Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.



Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later March 31 of each year, commencing March 31, 2021 with the report for the 2019-20 fiscal year, provide to the MSRB, in an electronic format accompanied by identifying information as prescribed by the MSRB, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report, and later than the date required above for the filing of the Annual Report if not available by that date. If the City's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(b).

(b) Not later than fifteen (15) business days prior to the date specified in subsection (a) above for providing the Annual Report to the MSRB, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by such date, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with the first sentence of this subsection (b). The City shall provide a written certification with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by it hereunder.

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to the MSRB by the date required in subsection (a), the Dissemination Agent shall send a notice to the MSRB in substantially the form attached as Exhibit A, or in such other form as prescribed or acceptable to MSRB.

(d) The Dissemination Agent (if other than the City) shall, if and to the extent, the City has provided an Annual Report in final form to the Dissemination Agent for dissemination, file a report with the City certifying that the Annual Report has been provided to the MSRB pursuant to this Disclosure Agreement, and stating the date it was provided.

Section 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following:

(a) Audited financial statements of the City prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the City's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) Financial information and operating data contained in the Official Statement presented on an annual basis for the immediately preceding Fiscal Year of the type set forth in Tables 1, 2, 5, 6 and 7 contained in the body of the Official Statement.

Any or all of the items listed above may be included by specific reference to other documents, including the audited financial statements, official statements of debt issues of the City or related public entities, which have been available to the public on the MSRB's internet website or filed with the U.S. Securities and Exchange Commission. The City shall clearly identify each such other document so included by reference in the applicable Annual Report.



Section 5.      Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the City shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Bonds, which notice shall be given in a timely manner, not in excess of ten (10) business days after the occurrence of such Listed Event:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the securities, if material
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the City;
- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) Incurrence of a financial obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City, any of which affect security holders, if material; and



- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the City, any of which reflect financial difficulties.

The term “financial obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term “financial obligation” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

(b) The Dissemination Agent shall, within one (1) business day after obtaining knowledge of the occurrence of any of the events listed in Section 5(a) (1), (3), (4), (5), (6), (9), (11), (12) or (16), inform the City of the occurrence of such event. As soon as reasonably practicable after obtaining knowledge of the occurrence of such event, the City shall, or shall cause the Dissemination Agent to, file in a timely manner, not in excess of ten (10) business days after the occurrence of any such event, a notice of such occurrence with the MSRB, in an electronic format accompanied by identifying information as prescribed by the MSRB.

(c) The Dissemination Agent shall, within one (1) business day after obtaining knowledge of the occurrence of any of any of the events listed in Section 5(a) (2), (7), (8), (10), (13), (14) or (15), inform the City of the occurrence of such event and request that the City promptly notify the Dissemination Agent in writing whether or not to report the event pursuant to subsection (d).

(d) Whenever the City obtains knowledge of the occurrence of any event specified in Section 5(a) (2), (7), (8), (10), (13), (14) and (15), the City shall as soon as possible, in order to meet the ten (10) business day deadline to file notices required under the Rule and pursuant to the following sentence, determine if such event would be material under applicable Federal securities law. If the City determines that knowledge of the occurrence of such event would be material under applicable Federal securities law, the City shall, or shall cause the Dissemination Agent to, file in a timely manner, not in excess of ten (10) business days after the occurrence of any such event, a notice of such occurrence with the MSRB, in an electronic format accompanied by identifying information as prescribed by the MSRB.

(e) The City shall, within one (1) business day after obtaining knowledge of the occurrence of any of the Listed Events, inform the Dissemination Agent of such event and notify the Dissemination Agent in writing whether or not to report the event pursuant to subsections (b) or (d).

Section 6. Termination of Reporting Obligation. The City’s obligations under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5(b).

Section 7. Dissemination Agent.

(a) The City hereby appoints and engages [Dissemination Agent] as the Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the City pursuant to this Disclosure Agreement. The City may replace the Dissemination Agent with or without cause. If at the time there is no designated Dissemination Agent appointed by the City, the City shall be the Dissemination Agent and undertake or assume its obligations hereunder.



Any company succeeding to all or substantially all of the Dissemination Agent's corporate trust business shall be the successor to the Dissemination Agent hereunder without the execution or filing of any paper or any further act. The Dissemination Agent may resign its duties hereunder by giving 30-days written notice to the City.

(b) The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees agreed to between the Dissemination Agent and the City from time to time and for all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall have no duty or obligation to review any information provided to it by the City hereunder and shall not be deemed to be acting in any fiduciary capacity for the City, holders or beneficial owners or any other party. The Dissemination Agent may rely and shall be protected in acting or refraining from acting upon any direction from the City or an opinion of nationally recognized bond counsel.

Section 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Agreement, the City, and the Dissemination Agent may amend this Disclosure Agreement (and the Dissemination Agent shall agree to any amendment so requested by the City, provided the Dissemination Agent shall not be obligated to enter into any amendment increasing or affecting its duties or obligations), and any provision of this Disclosure Agreement may be waived, provided that in the opinion of nationally recognized bond counsel, such amendment or waiver is permitted by the Rule.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the City shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the first annual financial information filed pursuant hereto containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to the undertaking specifying the accounting principles to be followed in preparing financial statements, the annual financial information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the City to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative. A notice of the change in the accounting principles shall be sent to the MSRB in the same manner as for a Listed Event under Section 5(b). No amendment to this Agreement which modifies the duties or rights of the Dissemination Agent shall be made without the prior written consent of the Dissemination Agent.

Section 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the City shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.



Section 10. Default. In the event of a failure of the City, or the Dissemination Agent to comply with any provision of this Disclosure Agreement, any Participating Underwriter or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City, or the Dissemination Agent, as the case may be, to comply with its respective obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Agreement in the event of any failure of the City, or the Dissemination Agent to comply with this Disclosure Agreement shall be an action to compel performance.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and the City agrees to indemnify and save the Dissemination Agent, and its, officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorney's fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent may rely and shall be protected in acting or refraining from acting upon any direction from the City or an opinion of nationally recognized bond counsel. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

Section 12. Notices. Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows:

To the City: City of West Covina  
1444 West Garvey Avenue  
West Covina, California 91790  
Attention: City Manager

To the Dissemination Agent: [Dissemination Agent]

Attention:

Section 13. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the City the Dissemination Agent, the Participating Underwriter and holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 14. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.



IN WITNESS WHEREOF, the parties hereto have executed this Disclosure Agreement as of the date first written above.

CITY OF WEST COVINA

\_\_\_\_\_  
City Manager

[DISSEMINATION AGENT],  
as Dissemination Agent

\_\_\_\_\_  
Authorized Representative



**EXHIBIT A**

**NOTICE TO MUNICIPAL SECURITIES RULEMAKING  
BOARD OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: West Covina Public Financing Authority

Name of Bond Issue: \$[Par Amount] initial principal amount of West Covina Public Financing  
Authority Lease Revenue Bonds, 2020 Series A (Federally Taxable)

Date of Issuance: July \_\_, 2020

NOTICE IS HEREBY GIVEN that the City of West Covina (the "City") has not provided an Annual Report with respect to the above-named Bonds as required by the Indenture, dated as of July 1, 2020, by and between the City and U.S. Bank National Association, as trustee. The City anticipates that the Annual Report will be filed by \_\_\_\_\_.

Date: \_\_\_\_\_, 20\_\_

\_\_\_\_\_,  
as Dissemination Agent

By: \_\_\_\_\_  
Title: \_\_\_\_\_

cc: City Manager, City of West Covina



## PRELIMINARY OFFICIAL STATEMENT DATED JULY \_\_, 2020

NEW ISSUE BOOK-ENTRY-ONLY

RATING:

S&amp;P “\_”

(See “RATING” herein.)

*In the opinion of Norton Rose Fulbright US LLP, Los Angeles, California, Bond Counsel to the City (“Bond Counsel”), interest on the 2020A Bonds is exempt from personal income taxes imposed by the State of California. Interest on the 2020A Bonds is includable in the gross income of the owners of the 2020A Bonds for federal income tax purposes. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on the 2020A Bonds. See “TAX MATTERS” herein.*

\$ \_\_\_\_\_ \*

**WEST COVINA PUBLIC FINANCING AUTHORITY  
LEASE REVENUE BONDS, 2020 SERIES A  
(FEDERALLY TAXABLE)**

**Dated: Date of Delivery****Due: August 1, as shown on the inside cover**

The West Covina Public Financing Authority (the “Authority”) is issuing its \$ \_\_\_\_\_ \* Lease Revenue Bonds, 2020 Series A (Federally Taxable) (the “2020A Bonds”), to for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) working capital for the City; (iii) a reserve for the 2020A Bonds; and (iv) costs of issuing the 2020A Bonds. See “ESTIMATED SOURCES AND USES OF FUNDS” herein.

Interest on the 2020A Bonds is payable on August 1 and February 1 of each year, commencing February 1, 2021. The 2020A Bonds are being issued as fully registered bonds and, when executed and delivered, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”). The 2020A Bonds, if issued, will be issued in denominations of \$5,000 or any integral multiple thereof. DTC will act as securities depository of the 2020A Bonds. Individual purchases of 2020A Bonds will be made in book-entry form only. Payments of principal of and interest on the 2020A Bonds are to be made to purchasers by DTC through DTC Participants. Purchasers will not receive physical delivery of the 2020A Bonds purchased by them. See APPENDIX F – “BOOK-ENTRY SYSTEM.”

The 2020A Bonds are subject to extraordinary, mandatory and optional redemption prior to their stated maturities, as described herein. See “DESCRIPTION OF THE 2020A BONDS – Redemption” herein.

The 2020A Bonds are special limited obligations of the Authority secured by and payable from Revenues pledged to the 2020A Bonds under the Indenture, as hereinafter described. Such Revenues primarily consist of 2020A Base Rental Payments to be made by the City to the Authority under the Lease, as hereinafter described. Pursuant to the Lease, the City will lease certain property described herein (the “Leased Property”) from the Authority. The City is required under the Lease to make 2020A Base Rental Payments each year in consideration for the use of the Leased Property, as described herein, from any source of legally available funds, in an amount sufficient to pay the annual principal of and interest on the 2020A Bonds. The City’s obligation to make 2020A Base Rental Payments is subject to abatement in the event of substantial interference with the use and possession of all or a part of the Leased Property supporting the 2020A Bonds, as described herein. See “RISK FACTORS – Abatement” herein. The City has covenanted in the Lease to take such action as may be necessary to include and maintain all 2020A Base Rental Payments in its budget and to make the necessary appropriations therefor, subject to such abatement.

**The full faith and credit of the Authority is not pledged for the payment of the principal of or interest or premium (if any) on the 2020A Bonds. The 2020A Bonds are not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the Authority or any of its income or receipts, except the Revenues and such other moneys and securities as provided in the Indenture. The obligation of the City to make 2020A Base Rental Payments or Additional Rental Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the 2020A Bonds nor the obligation of the City to make 2020A Base Rental Payments or Additional Rental Payments constitutes an indebtedness of the City, the State of California or any of its political subdivisions (other than the Authority) within the meaning of any constitutional or statutory debt limitation or restriction.**

**This cover page contains certain information for general reference only. It is not intended to be a summary of the security or terms of this issue. Investors must read the entire Official Statement to obtain information essential to the making of an informed investment decision.**

*The 2020A Bonds are offered when, as and if issued and accepted by the Underwriter, subject to the approving opinion of Norton Rose Fulbright US LLP, Los Angeles, California, Bond Counsel to the Authority. Certain legal matters will be passed on for the Underwriter by Quint & Thimmig LLP, Larkspur, California, as Underwriter’s Counsel. Certain legal matters will be passed on for the Authority by Norton Rose Fulbright US LLP, Los Angeles, California, Disclosure Counsel and for the Authority and the City by the City Attorney. It is anticipated that the 2020A Bonds will be available for delivery through the facilities of DTC on or about July \_\_, 2020.*

**Hilltop Securities Inc.**

Dated: July \_\_, 2020

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\* Preliminary, subject to change.  
100577214.5



## MATURITY SCHEDULE

\$ \_\_\_\_\_  
**West Covina Public Financing Authority**  
**Lease Revenue Bonds, 2020 SERIES A**  
**(Federally Taxable)**

(Base CUSIP No.<sup>†</sup> \_\_\_\_\_)

<b>Maturity Date</b> <b>(August 1)</b>	<b>Principal</b> <b>Amount</b>	<b>Interest</b> <b>Rate</b>	<b>Yield</b>	<b>Price</b>	<b>CUSIP<sup>†</sup></b>
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\$ \_\_\_\_\_ % Term Bonds due August 1, 20 \_\_, Yield: \_\_\_\_%; Price: \_\_\_\_%  
CUSIP<sup>†</sup>: \_\_\_\_\_

\$ \_\_\_\_\_ % Term Bonds due August 1, 20 \_\_, Yield: \_\_\_\_%; Price: \_\_\_\_%  
CUSIP<sup>†</sup>: \_\_\_\_\_

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<sup>†</sup> CUSIP is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, managed by S&P Global Ratings on behalf of The American Bankers Association. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP Services. CUSIP numbers have been assigned by an independent company not affiliated with the District and are included solely for the convenience of investors. Neither the City, the Authority nor the Municipal Advisor is responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the 2020A Bonds or as included herein. The CUSIP number for a specific maturity is subject to being changed after the issuance of the 2020A Bonds as a result of various subsequent actions including, but not limited to, refunding in whole or in part or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the 2020A Bonds.



**CITY OF WEST COVINA  
WEST COVINA PUBLIC FINANCING AUTHORITY**

**CITY COUNCIL/BOARD OF DIRECTORS**

Tony Wu, *Mayor*  
Letty Lopez-Viado, *Mayor Pro Tem*  
Dario Castellanos, *Councilmember*  
Lloyd Johnson, *Councilmember*  
Jessica C. Shewmaker, *Councilmember*

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**CITY OFFICIALS**

David Carmany, *City Manager*  
Robbeyn Bird, CPA, *Finance Director*  
Mark Persico, AICP, *Assistant City Manager*  
Lisa Sherrick, *Assistant City Clerk*  
Thomas P. Duarte, *City Attorney*

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**SPECIAL SERVICES**

**Bond Counsel and Disclosure Counsel**

Norton Rose Fulbright US LLP  
Los Angeles, California

**Co-Municipal Advisors**

Wolf & Company Inc.  
Diamond Bar, California

NHA Advisors, LLC  
San Rafael, California

**Trustee**

U.S. Bank National Association  
Los Angeles, California



No dealer, broker, salesperson or other person has been authorized by the West Covina Public Financing Authority (the "Authority"), the City of West Covina, California (the "City") or the Underwriter to give any information or to make any representations, other than as contained in this Official Statement, and if given or made, such information or representations must not be relied upon as having been authorized by the Authority, the City or the Underwriter. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of, the 2020A Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale.

This Official Statement is not to be construed as a contract with the purchasers of the 2020A Bonds. Statements contained in this Official Statement that involve estimates, forecasts or matters of opinion, whether or not expressly described herein, are intended solely as such and are not to be construed as representations of fact.

The information set forth herein has been furnished by the Authority and the City and includes information from sources that are believed to be reliable. The information and expressions of opinion contained herein are subject to change without notice and neither the delivery of this Official Statement nor any sale made shall, under any circumstances, create any implication that there has been no change in the affairs of the Authority, the City, or other matters described herein since the date hereof.

The Underwriter has provided the following sentence for inclusion in this Official Statement. The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

This Official Statement, including any supplement or amendment hereto, is intended to be deposited with the Municipal Securities Rulemaking Board through the Electronic Municipal Marketplace Access ("EMMA") website. The City maintains a website. The information presented therein is not part of this Official Statement and should not be relied on in making investment decisions with respect to the 2020A Bonds. Unless otherwise expressly stated, references to Internet websites in this Official Statement are shown for reference and convenience only, and none of their content (including any content on the City's website) is incorporated in this Official Statement by reference. The City and the Authority make no representation regarding the accuracy or completeness of the information presented on such websites.

IN CONNECTION WITH THE OFFERING OF THE 2020A BONDS, THE UNDERWRITER MAY OVER ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE 2020A BONDS AT LEVELS ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

This Official Statement, including any supplement or amendment hereto, is intended to be deposited with the Municipal Securities Rulemaking Board through the Electronic Municipal Market Access ("EMMA") website.

The City maintains a website with information pertaining to the City. However, the information presented therein is not incorporated into this Official Statement and should not be relied upon in making investment decisions with respect to the 2020A Bonds.



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**CAUTIONARY STATEMENTS REGARDING  
FORWARD-LOOKING STATEMENTS IN  
THIS OFFICIAL STATEMENT**

Certain statements included or incorporated by reference in this Official Statement constitute “forward-looking statements.” Such statements are generally identifiable by the terminology used such as “plan,” “project,” “expect,” “anticipate,” “intend,” “believe,” “estimate,” “budget” or other similar words. The achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Except as otherwise noted, neither the City nor the Authority plan to issue any updates or revisions to those forward-looking statements if or when its expectations or events, conditions or circumstances on which such statements are based occur.



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## OFFICIAL STATEMENT

\$ \_\_\_\_\_<sup>\*</sup>  
**West Covina Public Financing Authority**  
**Lease Revenue Bonds, 2020 SERIES A**  
**(Federally Taxable)**

### INTRODUCTION

*This Official Statement, which includes the cover page, the inside cover page and attached appendices, provides certain information in connection with the sale and delivery of the \$ \_\_\_\_\_ West Covina Public Financing Authority Lease Revenue Bonds, 2020 Series A (Federally Taxable) (the “2020A Bonds”). Capitalized terms used and not otherwise defined herein shall have the meanings given in the Indenture or the Lease (each as hereinafter defined) or in APPENDIX C – “SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL LEGAL DOCUMENTS.”*

#### **Purpose of the 2020A Bonds**

The 2020A Bonds are being issued under the provisions of the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 of Chapter 5 of Division 7 of Title 1 (commencing with Section 6584) of the California Government Code (the “Bond Law”). The 2020A Bonds are being issued pursuant to an Indenture, dated as of July 1, 2020 (the “Indenture”), by and between the West Covina Public Financing Authority (the “Authority”) and U.S. Bank National Association, as trustee (the “Trustee”).

The Authority is issuing the 2020A Bonds, for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) working capital for the City; (iii) a reserve for the 2020A Bonds; and (iv) costs of issuing the 2020A Bonds. See “PLAN OF FINANCE” and “ESTIMATED SOURCES AND USES OF FUNDS.”

#### **City Pension Funding Policy**

Like most municipalities throughout the State, the City is incurring rising pension costs and growing unfunded pension liabilities. On May 19, 2020, the City Council of the City adopted a pension funding policy to assist City planning for these challenges. The pension funding policy, among other things, provides guidance to City decision-makers when making annual budget decisions and creating sustainable and affordable budgets for pension obligations.

The issuance of the 2020A Bonds is part of the City’s strategy under the policy to address a significant unfunded liability to each of the City’s plans with California Public Employees’ Retirement System’s (“CalPERS”). In addition to creating a more affordable and sustainable shape for its pension costs, the City has determined that the 2020A Bonds should help create enhanced resiliency for the General Fund of the City to handle adverse economic situations in the future.

#### **Security for the 2020A Bonds**

The 2020A Bonds shall be secured by a first lien on and pledge (which shall be effected in the manner and to the extent provided in the Indenture) of all of the Revenues, including all of the moneys in the 2020A Interest Account, the 2020A Principal Account and the 2020A Reserve Fund, including all

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<sup>\*</sup> Preliminary, subject to change.  
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amounts derived from the investment of such moneys. See “SECURITY AND SOURCES OF PAYMENT FOR THE 2020A BONDS.”

Pursuant to a Site Lease, dated as of July 1, 2020 (the “Site Lease”), by and between the City and the Authority, the Authority will lease from the City certain streets as more particularly described herein (the “Leased Property”). Pursuant to the Lease Agreement, dated as of July 1, 2020 (the “Lease”), by and between the Authority and the City, the Authority has or will sublease the Leased Property to the City. See “LEASED PROPERTY.”

Pursuant to the Lease, the City will pay to the Trustee, as the assignee of the Authority, base rental payments (collectively, the “2020A Base Rental Payments”) in amounts equal to scheduled debt service on the 2020A Bonds, as set forth in the base rental payment schedule for the 2020A Bonds (the “2020A Base Rental Payment Schedule”). The obligation of the City to make 2020A Base Rental Payments or Additional Rental Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the 2020A Bonds nor the obligation of the City to make 2020A Base Rental Payments or Additional Rental Payments constitutes an indebtedness of the City, the State or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction. Pursuant to the Lease, the City has covenanted to take such action as may be necessary to include all Base Rental Payments and Additional Rental Payments due hereunder in its annual budget and to make the necessary annual appropriations for all such Base Rental Payments and Additional Rental Payments required to be made under the Lease, subject only to abatement as provided therein. See “RISK FACTORS – Base Rental Payments Are Not Debt; 2020A Bonds are Limited Obligations” and “– Abatement.” See “SECURITY AND SOURCES OF PAYMENT.”

## **2020A Reserve Fund**

Pursuant to the Indenture, a 2020A Reserve Fund will be established for the 2020A Bonds and funded at the 2020A Reserve Requirement. “2020A Reserve Requirement” means, as of any calculation date in a Bond Year, an amount equal to Maximum Annual Debt Service. See “SECURITY AND SOURCES OF PAYMENT FOR THE 2020A BONDS – 2020A Reserve Fund.”

## **The City**

The City was incorporated in 1923. It has a general law form of government. The City encompasses 17 square miles in northeastern portion of the County of Los Angeles, and is located approximately 20 miles northeast of the City of Los Angeles. Neighboring communities include Covina, Baldwin Park, Walnut, Industry and La Puente. See “THE CITY.”

## **Continuing Disclosure**

The Authority has determined that no financial or operating data concerning the Authority is material to any decision to purchase, hold or sell the 2020A Bonds and as such, the Authority will not provide any such information.

The City has agreed to provide, with respect to the 2020A Bonds, or cause to be provided, to the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access system (the “EMMA System”), certain annual financial information and operating data relating to the City and, in a timely manner, notice of certain events. These covenants have been made in order to assist the Underwriter in complying with Rule 15c2-12, as amended (the “Rule 15c2-12”) adopted by the U.S. Securities and Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934, as amended. See “CONTINUING DISCLOSURE” herein and APPENDIX D – “FORM OF CONTINUING



DISCLOSURE AGREEMENT” for a description of the annual reports and notices of enumerated events to be provided by the City.

The City has adopted a written Disclosure Policy to assist City staff in complying with the requirements of Rule 15c2-12.

### DESCRIPTION OF THE 2020A BONDS

The 2020A Bonds will be dated their date of delivery and issued in the aggregate principal amount and bear interest at the rates and mature on the dates set forth on the inside cover page of this Official Statement. Interest on the 2020A Bonds will be payable semiannually on August 1 and February 1 of each year, commencing February 1, 2021 (each an “Interest Payment Date”). Each 2020A Bond will bear interest from the Interest Payment Date next preceding the date of authentication thereof unless (i) it is executed after the fifteenth calendar day of the month immediately preceding an Interest Payment Date, in which case interest will bear from such Interest Payment Date, or (ii) it is authenticated on or before January 15, 2021, in which event interest will accrue from the date of initial delivery of the 2020A Bonds. If, at the date of authentication of any 2020A Bond, interest thereon is in default, such 2020A Bond will bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on such outstanding 2020A Bond, or if no interest has been paid, from the date of initial delivery of the 2020A Bonds. Interest on the 2020A Bonds will be computed on the basis of a 360-day year of twelve 30-day months.

The 2020A Bonds are being issued as fully registered bonds and, when executed and delivered, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”). The 2020A Bonds will be issued in denominations of \$5,000 or any integral multiple thereof. Individual purchases of 2020A Bonds will be made in book-entry form only. Payments of principal of and interest on the 2020A Bonds are to be made to purchasers by DTC through DTC Participants. Purchasers will not receive physical delivery of the 2020A Bonds purchased by them. See APPENDIX F – “BOOK –ENTRY SYSTEM.”

### Redemption\*

***Optional Redemption of Bonds.*** The 2020A Bonds maturing on or after August 1, 20\_\_ shall be subject to redemption prior to their respective maturity dates as a whole or in part on any date on or after August 1, 20\_\_, in any order deemed reasonable by the Authority, and by lot within a maturity, from prepayments of 2020A Base Rental Payments made at the option of the City pursuant to the Lease, at a redemption price equal to the principal amount of the 2020A Bonds to be redeemed, plus accrued but unpaid interest to the date fixed for redemption, without premium.

***Mandatory Sinking Account Redemption of 2020A Bonds.*** The 2020A Term Bond maturing on August 1, 20\_\_ is subject to mandatory redemption, in part by lot, from sinking account payments set forth in the following schedule commencing August 1, 20\_\_, and on August 1 in each year thereafter to and including August 1, 20\_\_ at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption.

**Redemption Date  
(August 1)**

**Principal Amount  
To be Redeemed**

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\* Maturity.

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\* Preliminary, subject to change.  
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The 2020A Term Bond maturing on August 1, 20\_\_ is subject to mandatory redemption, in part by lot, from sinking account payments set forth in the following schedule commencing August 1, 20\_\_, and on August 1 in each year thereafter to and including August 1, 20\_\_ at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption.

**Redemption Date  
(August 1)**

**Principal Amount  
To be Redeemed**

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\* Maturity.

If some but not all of a 2020A Term Bond has been redeemed pursuant to extraordinary or optional redemptions, the total amount of sinking account payments to be made subsequent to such redemption shall be reduced in an amount equal to the principal amount of such 2020A Term Bond so redeemed by reducing each such future sinking account payment on a *pro rata* basis (as nearly as practicable) in integral multiples of \$5,000, as shall be designated pursuant to written notice filed by the Authority with the Trustee. In the event of any reductions in the amount of sinking account payments due as a result of some but not all of the 2020A Bonds being redeemed pursuant to extraordinary or optional redemptions, the Authority shall provide the Trustee with a revised schedule reflecting such reductions.

**[Extraordinary Redemption.** The 2020A Bonds are subject to redemption prior to their respective maturity dates, upon notice as provided in the Indenture, as a whole or in part on any date, from prepayments of 2020A Base Rental Payments made by the City pursuant to the Lease from funds received by the City due to a taking of the Leased Property or any portion thereof under the power of eminent domain or from insurance proceeds received by the City due to damage to or destruction of the Leased Property or any portion thereof, under the circumstances and upon the conditions and terms prescribed herein and in the Lease. Redemption of 2020A Bonds shall be made at a redemption price equal to the sum of the principal of the 2020A Bonds to be redeemed plus accrued interest thereon to the date fixed for redemption, without premium.]

**Selection of Bonds for Redemption**

Whenever provision is made in the Indenture for the redemption of less than all of the 2020A Bonds, the Trustee shall select the 2020A Bonds to be redeemed from all 2020A Bonds not previously called for redemption, in such maturities as the Authority shall designate (and by lot within any maturity). For purposes of such selection, all Bonds shall be deemed to be comprised of separate \$5,000 portions and such portions shall be treated as separate 2020A Bonds, which may be separately redeemed.

**Notice of Redemption**

The Trustee on behalf and at the expense of the Authority shall send (by first class mail or other means acceptable to the recipient thereof) notice of any redemption to the respective Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, to the Securities Depositories and to one or more Information Services, at least twenty (20) but not more than sixty (60) days prior to the date fixed for redemption; provided, however, that neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall designate the CUSIP numbers, the 2020A Bond numbers and the maturity or maturities (except in the event of redemption of all of the 2020A Bonds) of the 2020A Bonds to be redeemed, and shall require that such Bonds be then surrendered at the Trust Office of the Trustee for redemption at the redemption price,



giving notice also that further interest on such Bonds will not accrue from and after the redemption date. Neither the Authority nor the Trustee shall have any responsibility for any defect in the CUSIP number that appears on any Bond or in any redemption notice with respect thereto, and any such redemption notice may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the Authority nor the Trustee shall be liable for any inaccuracy in such numbers.

Any notice given pursuant to the Indenture may be conditional and/or rescinded by written notice given to the Trustee by the Authority and the Trustee shall provide notice of such rescission as soon thereafter as practicable in the same manner, and to the same recipients, as notice of such redemption was given pursuant to the Indenture.

### **Partial Redemption of Bonds**

If only a portion of any Bond is called for redemption, then upon surrender of such Bond the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new 2020A Bond or Bonds, interest rate and maturity date, in aggregate principal amount equal to the unredeemed portion of the 2020A Bond being redeemed.

### **Effect of Redemption**

From and after the date fixed for redemption, if funds available for the payment of the principal of, premium, if any, and interest on the 2020A Bonds so called for redemption shall have been duly provided, such Bonds so called shall cease to be entitled to any benefit under the Indenture other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date. All 2020A Bonds redeemed pursuant to the Indenture shall be canceled by the Trustee. All moneys held by or on behalf of the Trustee for the payment of principal of or interest or premium on Bonds, whether at redemption or maturity, shall be held in trust for the account of the Owners thereof and the Trustee shall not be required to pay Owners any interest on, or be liable to Owners for any interest earned on, moneys so held.

## **SECURITY AND SOURCES OF PAYMENT FOR THE 2020A BONDS**

### **2020A Bonds**

**General.** The 2020A Bonds will be secured by a first lien on and pledge of the Revenues. “Revenues” means (i) all 2020A Base Rental Payments payable by the City pursuant to the Lease (including prepayments), (ii) any proceeds of Bonds deposited with the Trustee and all moneys on deposit in the funds and accounts established under the Indenture, (iii) investment income with respect to such moneys held by the Trustee and (iv) any insurance proceeds or condemnation awards received by or payable to the Trustee relating to the 2020A Base Rental Payments.

The 2020A Base Rental Payments will be paid by the City in an amount sufficient to pay the principal of and interest on the 2020A Bonds on each Interest Payment Date. On or before the fifteenth (15) Business Day preceding each Interest Payment Date, the City is required to pay to the Trustee the 2020A Base Rental Payments coming due on the next succeeding Interest Payment Date, respectively, from any legally available sources.

Pursuant to an Assignment Agreement, dated as of July 1, 2020 (the “Assignment Agreement”), by and between the Authority and the Trustee, relating to the 2020A Bonds, the Authority has and will assign, as further security for its obligations to make timely payment of principal of and interest on the 2020A Bonds to the Trustee for the benefit of the Owners certain of the Authority’s rights under the Lease and Site Lease, including the right to receive all 2020A Base Rental Payments.



### **Additional Rental Payments**

Under the Lease, in addition to 2020A Base Rental Payments, the City has agreed to pay Additional Rental Payments in such amounts in each year as shall be required for the payment of all costs and expenses (not otherwise paid for or provided for out of the proceeds of sale of the 2020A Bonds) incurred by the Authority or the Trustee in connection with the execution, performance or enforcement of the Lease or the assignment thereof, the Indenture, or the Authority's or the Trustee's interest in the Leased Property, including, but not limited to, all fees, costs and expenses, all administrative costs of the Authority relating to the Leased Property (including, without limiting the generality of the foregoing, salaries and wages of employees, overhead, insurance premiums, taxes and assessments (if any), expenses, compensation and indemnification of the Trustee payable by the Authority under the Indenture), fees of auditors, accountants, attorneys or engineers, and all other reasonable and necessary administrative costs of the Authority or charges required to be paid by it to comply with the terms of the 2020A Bonds or of the Indenture. Such Additional Rental Payments shall be billed to the City by the Authority or the Trustee from time to time. Amounts so billed shall be paid by the City within sixty (60) days after receipt of the bill by the City.

### **Covenant to Budget and Appropriate**

The City has covenanted in the Lease to take such action as may be necessary to include all 2020A Base Rental Payments and Additional Rental Payments due under the Lease in its budget and to make the necessary annual appropriations for all such 2020A Base Rental Payments and Additional Rental Payments, subject only to abatement as provided in the Lease.

The City will furnish to the Authority and the Trustee annually, on or before June 1, a certificate stating that it has complied with this covenant, as set forth in the Lease. The covenants on the part of the City contained in the Lease shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in the Lease agreed to be carried out and performed by the City.

### **Limited Obligation**

The full faith and credit of the Authority is not pledged for the payment of the principal of or interest or premium (if any) on the 2020A Bonds. The 2020A Bonds are not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the Authority or any of its income or receipts, except the Revenues and such other moneys and securities as provided in the Indenture.

The obligation of the City to make 2020A Base Rental Payments or Additional Rental Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the 2020A Bonds nor the obligation of the City to make Base Rental Payments or Additional Rental Payments constitutes an indebtedness of the City, the State or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

### **2020A Reserve Fund**

Under the Indenture, a 2020A Reserve Fund is established for the 2020A Bonds that will be funded at the 2020A Reserve Requirement, and any deficiency therein shall be replenished from the first available Revenues pursuant to the Indenture. Moneys in the 2020A Reserve Fund shall be used solely for the purpose of paying the principal of and interest on the 2020A Bonds, including the redemption



price of the 2020A Bonds coming due and payable by operation of mandatory sinking fund redemption pursuant to the Indenture, if the Revenues are insufficient therefor. If the amount on deposit in the Lease Revenue Fund on any date is insufficient to enable the Trustee to pay in full the aggregate amount of principal of and interest on the Bonds coming due and payable, including the redemption price of the 2020A Bonds coming due and payable by operation of mandatory sinking fund redemption pursuant to the Indenture, the Trustee shall withdraw the amount of such insufficiency from the 2020A Reserve Fund and transfer such amount to the Lease Revenue Fund. If the amount on deposit in the 2020A Reserve Fund exceeds the 2020A Reserve Requirement on the fifteenth (15th) calendar day of the month preceding any Interest Payment Date, the amount of such excess shall be withdrawn therefrom by the Trustee and transferred to the Lease Revenue Fund and credited against the Base Rental Payments next due from the City.

The Authority may fund all or a portion of the 2020A Reserve Requirement with one or more Qualified Reserve Fund Credit Instruments. A “Qualified Reserve Fund Credit Instrument” means an irrevocable standby or direct-pay letter of credit or surety bond issued by a commercial bank, national banking association or insurance company and deposited with the Trustee pursuant to the Indenture provided that all of the following requirements are met: (i) the long-term credit rating of such bank or insurance company at the time of delivery of such letter of credit or surety bond is rated in one of the two highest rating categories by Moody’s or S&P and, if rated by A.M. Best & Company, a minimum rating of “A”; (ii) such letter of credit or surety bond or policy has a term which ends no earlier than the last Interest Payment Date of the 2020A Bonds; (iii) such letter of credit or surety bond has a stated amount at least equal to the portion of the 2020A Reserve Requirement with respect to which funds are proposed to be released pursuant the Indenture; and (iv) the Trustee is authorized pursuant to the terms of such letter of credit or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the amounts available to repay the principal of and interest on the 2020A Bonds. See APPENDIX C – “SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL LEGAL DOCUMENTS – THE INDENTURE.”

### **Abatement of Base Rental Payments**

The obligation of the City to pay 2020A Base Rental Payments and Additional Rental Payments is subject to abatement during any period in which by reason of any damage, destruction, condemnation or title defect there is substantial interference with the use by the City of the Leased Property or any portion thereof. See “RISK FACTORS – Abatement.” Such abatement shall be in an amount such that the resulting Base Rental Payments in any year during which such interference continues does not exceed the fair rental value of the portions of the Leased Property as to which such damage, destruction, taking or title defect does not substantially interfere with the City’s use and right of possession, as evidenced by a Certificate of the City. Such abatement shall continue for the period commencing with the date of interference resulting from such damage, destruction, condemnation, taking or title defect and, with respect to damage to or destruction of the Leased Property, ending with the substantial completion of the work of repair or replacement of the Leased Property, or the portion thereof so damaged or destroyed.

An abatement will continue for the period commencing with the date on which the Leased Property is not available for use and occupancy and ending with the date on which the Leased Property is available for use and occupancy by the City. The term of the Lease will be extended by the period during which 2020A Base Rental Payments or Additional Rental Payments is abated, except that the term may in no event be extended beyond ten years following the stated term thereof.

The spread of COVID-19 has resulted in the imposition of restrictions on gatherings, widespread temporary closings of businesses and schools (including within the City) and implementation of safer-at-home orders for citizens to remain at home, except for certain essential purposes. These restrictions limit public access to certain City-owned facilities that include the Leased Property but will not currently cause 2020A Base Rental Payments or Additional Rental Payments to be abated under the Lease.



## **Maintenance, Utilities, Taxes and Assessments**

During such time as the City or any assignee or sublessee thereof is in possession of the Leased Property, all maintenance and repair, ordinary or extraordinary, of the Leased Property shall be the responsibility of the City, and the City shall pay for or otherwise arrange for the payment of (a) all utility services supplied to the Leased Property, (b) the cost of operation of the Leased Property, and (c) the costs of maintenance of and repair to the Leased Property resulting from ordinary wear and tear or want of care on the part of the City. The City shall at the City's sole cost and expense keep and maintain the Leased Property clean and in a safe and good condition and repair. The Authority shall have no obligation to alter, remodel, improve, repair, decorate, or paint the Leased Property or any part thereof, and the parties hereto affirm that the Authority has made no representations or warranties to the City respecting the condition of the Leased Property. The City shall comply with all statutes, ordinances, regulations, and other requirements of all governmental entities that pertain to the occupancy or use of the Leased Property. The Authority has no responsibility or obligation whatsoever to construct any improvements, modifications or alterations to the Leased Property. The City waives the right to make repairs at the Authority's expense under Subsection 1 of Section 1932 and Section 1942 of the California Civil Code, or any other such law, statute, or ordinance now or hereafter in effect.

The Leased Property will be used for public purposes by the City and, therefore, the Leased Property will be exempt from all taxes presently assessed and levied with respect to real and personal property, respectively. If the use, possession or acquisition by the Authority or the City of the Leased Property is found to be subject to taxation in any form, the City will pay during the term hereof, as the same respectively become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Leased Property and any other property acquired by the City in substitution for, as a renewal or replacement of, or a modification, improvement or addition to the Leased Property; provided, that with respect to any governmental charges or taxes that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are accrued during such time as the Lease is in effect.

## **Insurance Coverages**

Pursuant to the Lease, the City shall secure and maintain or cause to be secured and maintained at all times with insurers of recognized responsibility or through a program of self-insurance to the extent specifically permitted in the Lease, all coverage on the Leased Property required by the Lease. Such insurance shall consist of (i) comprehensive general liability coverage against claims for damages including death, personal injury, bodily injury or property damage arising from operations involving the Leased Property. Such insurance shall afford protection with a combined single limit of not less than \$1,000,000 per occurrence with respect to bodily injury, death or property damage liability, or such greater amount as may from time to time be recommended by the City's risk management officer or an independent insurance consultant retained by the City for that purpose, subject to a deductible clause of not to exceed \$500,000. The City's obligations under this clause (i) may be satisfied by self-insurance; (ii) casualty insurance, throughout the term of the Lease, against loss or damage to any or all of the Leased Property by fire and lightning, with extended coverage and vandalism and malicious mischief insurance, and against loss of Leased Property by theft. Such extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance.

The insurance required must be in an amount not less than the principal amount of the Outstanding Bonds. The City's obligations under this clause (ii) may be satisfied by self-insurance; (iii) workers' compensation insurance issued by a responsible carrier authorized under the laws of the State to insure employers against liability for compensation under the Labor Code of the State, or any act enacted as an amendment or supplement thereto or in lieu thereof, such workers' compensation insurance to cover all persons employed by the City in connection with the Leased Property and to cover full liability for



compensation under any such act; provided, however, that the City's obligations under this clause (iii) may be satisfied by self-insurance.

All policies or certificates issued by the respective insurers for insurance, with the exception of workers' compensation insurance, shall provide that such policies or certificates shall not be canceled or materially changed without at least 30 days' prior written notice to the Authority and the Trustee. Certificates of comprehensive general liability and workers' compensation insurance shall be furnished by applicable insurers to the City, and, at least ten days prior to the expiration dates of such policies, if any, evidence of renewals shall be deposited with the Trustee. If the City elects to provide self-insurance pursuant to clauses (i), (ii) and/or (iii) above, the City shall annually cause to be delivered to the Trustee, upon request, a certificate of an Insurance Consultant certifying to the adequacy of the City's reserves for such insurance. All policies or certificates of insurance provided for in the Lease shall name the City as a named insured and the Trustee as an additional insured. All proceeds of insurance maintained under clauses (i) and (ii) shall be deposited with the City and under clause (2) shall be deposited with the Trustee. Notwithstanding the generality of the foregoing, the City shall not be required to maintain or cause to be maintained more insurance than is specifically referred to above or any policies of insurance other than standard policies of insurance with standard deductibles offered by reputable insurers at a reasonable cost on the open market.

### **Substitution and Release of Property**

Pursuant to the Lease, the City and the Authority specifically acknowledge that the annual fair rental value of the Leased Property is in excess of the maximum annual 2020A Base Rental Payments. The City shall have, so long as the Lease is in effect, and is granted under the Lease, the option at any time and from time to time, to substitute other real property (the "Substitute Property") for any portion of the Leased Property (the "Former Property") or release any identifiable real property and/or improvements currently constituting the Leased Property (in such case, Substitute Property shall mean the Former Property less any portion released pursuant to the Lease); provided, that the City must satisfy all of the following requirements, which are conditions precedent to such substitution:

(a) No default under the Lease or Event of Default shall have occurred and be continuing;

(b) The City shall file with the Authority and the Trustee, and cause to be recorded in the office of the County Recorder, if necessary, sufficient memorialization of amendments to the Lease and the Site Lease which replaces Exhibit A to the Lease and Exhibit A to the Site Lease with a description of such Substitute Property which deletes therefrom the description of the Former Property;

(c) The City shall obtain an extended California Land Title Association ("CLTA") policy of title insurance insuring the City's fee or leasehold estate in such Substitute Property, if the Substitute Property are not streets of the City, the City's leasehold estate hereunder, and the Authority's leasehold estate under the Site Lease in such Substitute Property, subject only to Permitted Encumbrances, in an amount not less than the aggregate principal amount of the Outstanding Bonds; provided, however, that this requirement shall not apply to Substitute Property that consists only of Former Property less any released portion;

(d) The City shall provide a Certificate of the City to the Authority and to the Trustee that such Substitute Property constitutes property which the City is permitted to lease under the laws of the State of California;

(e) The substitution of the Substitute Property shall not cause the City to violate any of its covenants, representations and warranties made herein;



(f) The City shall file with the Authority and the Trustee a Certificate of the City or other evidence which establishes that the annual fair rental value of the Substitute Property after substitution or release will be at least equal to 100% of the maximum amount of the Base Rental Payments becoming due in the then current fiscal year or in any subsequent fiscal year and the useful economic life of the Substitute Property shall be at least equal to the maximum remaining term of the Lease; and

(g) The City shall furnish to the Trustee an opinion of Bond Counsel addressed to the Trustee, the City and the Authority to the effect that the substitution or release is permitted under the Lease.

Upon the satisfaction of all such conditions precedent, and upon the City delivering to the Authority and the Trustee a Certificate of the City certifying that the conditions set forth in subsections (a), (c) and (e) outlined above have been satisfied, the Term of the Lease shall thereupon end as to the Leased Property and shall thereupon commence as to the Substitute Property, and all references to the Leased Property shall apply with full force and effect to the Substitute Property. The City shall not be entitled to any reduction, diminution, extension or other modification of the Base Rental Payments whatsoever as a result of any substitution or removal under the Lease.

### **PLAN OF FINANCE**

The Authority is issuing the 2020A Bonds for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) working capital for the City; (iii) a reserve for the 2020A Bonds; and (iv) costs of issuing the 2020A Bonds. See “ESTIMATED SOURCES AND USES OF FUNDS.”

### **LEASED PROPERTY**

***Leased Property.*** The Leased Property consists of the following streets owned by the City:

[table of specific streets to come]

Such streets total approximately \_\_\_\_ miles in length and \_\_\_\_ square feet (\_\_\_\_ acres).

Simultaneously with the delivery of the 2020A Bonds, the Authority will acquire a leasehold interest in the Leased Property from the City. The Authority will sublease the Leased Property to the City pursuant to the Lease. While the City is in possession of the Leased Property, all maintenance and repair of the Leased Property is the responsibility of the City. The City has determined that the annual fair rental value of the Leased Property is in excess of the annual Base Rental Payments.

***Substitution and Release of Property.*** Pursuant to the Lease, the City may substitute other real property for any portion of the Leased Property described above, or release any identifiable real property and/or improvements currently constituting the Leased Property, provided the City satisfies the provisions of the Lease. See “SECURITY AND SOURCES OF PAYMENT OF THE 2020A BONDS – Substitution and Release of Property.”

***Limited Remedies.*** The City has not granted any security interest in the Leased Property for the benefit of the owners of the 2020A Bonds, and there is no remedy of foreclosure on the Leased Property upon the occurrence of an Event of Default under the Indenture or the Lease. ***If an event of default occurs under the Lease, there is no right for the Authority, the Trustee or the Owners to terminate the Lease and re-let the Leased Property.***



## ESTIMATED SOURCES AND USES OF FUNDS

The following table shows the estimated sources and uses of the proceeds from the sale of the 2020A Bonds:

### Sources:

Par amount of the 2020A Bonds	\$
[Net] Original Issue (Premium/Discount)	
<b>Total Sources</b>	<b>\$</b>

### Uses:

Transfer to CalPERS	\$
2020A Reserve Fund	
2020A Costs of Issuance Fund <sup>(1)</sup>	
<b>Total Uses</b>	<b>\$</b>

<sup>(1)</sup> Costs of issuance include fees and expenses for Bond Counsel, Disclosure Counsel, Municipal Advisor, Trustee, printing expenses, rating fee, underwriter's discount and other miscellaneous costs.

## DEBT SERVICE REQUIREMENTS

The following table sets forth the debt service requirements for the 2020A Bonds.

<b>Fiscal Year Ending June 30,</b>	<b>Principal</b>	<b>Interest</b>	<b>Total</b>
2021	\$	\$	\$
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
2037			
2038			
2039			
2040			
2041			
2042			
2043			
2044			
<b>Totals</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>



## **THE AUTHORITY**

The Authority was established pursuant to the Joint Exercise of Powers Agreement dated as of June 1, 1990, as amended from time to time (the “Joint Powers Agreement”) by and between the City and the West Covina Housing Authority, in accordance with the provisions of Article 1 of Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the California Government Code, as amended (the “Act”) for the purpose of assisting the City by issuing bonds and other obligations for authorized purposes. The Authority is administered by a Board of Directors comprised of members of the City Council of the City (the “City Council”). The Authority has no separate staff, but operates using City staff members.

## **THE CITY**

### **General**

Located approximately 12 miles east of downtown Los Angeles, between the San Gabriel and Rio Hondo Rivers, the City is the hub of the San Gabriel Valley, where two major freeways – Interstates 605 and 10 – intersect. The City encompasses an area of approximately 10 square miles and has an estimated 2019 population of approximately 117,204. It is the ninth largest city (out of 88) in the County. Although historically the core of the City’s economy has been agriculture, currently the land uses within its 9.67 square mile area are 58% residential, 11% retail, 10% industrial, 7% office/retail and 14% other uses.

The City was incorporated on February 23, 1923. It has a general law form of government. The City encompasses 17 square miles in northeastern portion of the County of Los Angeles, and is located approximately 20 miles northeast of the City of Los Angeles. Neighboring communities include Covina, Baldwin Park, Walnut, Industry and La Puente.

The City is governed by a Council-Manager form of government. Under this form of government, the five City Council members are selected by districts to overlapping four-year terms. The City Council selects a Mayor from one of its members each November to serve a one-year term. The City Council is responsible for, among other things, passing ordinances, adopting the budget, appointing committees, and hiring both the City Manager and City Attorney. The City Manager is responsible for carrying out the policies and ordinances of the City Council, for overseeing the day-to-day operations of the City, and for appointing the heads of the various departments. See APPENDIX A – “SELECTED DEMOGRAPHIC AND FINANCIAL INFORMATION RELATING TO THE CITY OF WEST COVINA.”

### **Audited Financial Statements**

The following table sets forth the City’s General Fund assets, liabilities and fund balances based upon audited financial statements for Fiscal Years ended June 30, 2015 through June 30, 2019. City management’s discussion of financial performance for the fiscal year ended June 30, 2019 is presented in the City’s audited financial statements for the fiscal year ended June 30, 2019 attached hereto as APPENDIX B. Significant developments relating to the operations and finances of the City since June 30, 2019 are described herein. See, in particular the tables set forth herein, “– Management Discussion” below and “RISK FACTORS.”



**TABLE 1**  
**CITY OF WEST COVINA**  
**GENERAL FUND BALANCE SHEET**  
**FOR FISCAL YEARS ENDED JUNE 30, 2015 THROUGH JUNE 30, 2019**

	2015	2016	2017	2018	2019
<b>ASSETS</b>					
Cash and investments	\$ 62,192,251	\$ 59,796,887	\$ 54,944,209	\$ 51,170,511	\$ 59,862,168
Cash and investments with fiscal agent	1,985,148	2,089,969	2,103,282	2,104,064	2,565,004
Restricted cash and investments	-	501,028	501,429	502,882	505,820
Receivables, net:					
Accounts	316,412	146,348	165,541	236,727	618,001
Taxes	2,930,135	5,335,607	3,381,140	3,524,431	705,515
Interest	32,142	38,288	17,232	-	-
Notes and loans	18,407,248	14,699,655	14,266,152	14,510,928	14,445,587
Other	1,064,895	1,307,665	1,473,716	2,351,798	4,775,925
Internal balances	-	-	124,362	168,909	270,182
Inventories	2,000	8,308	16,549	26,949	30,174
Advances to Successor Agency	13,125,194	12,005,194	11,233,005	10,639,168	8,657,571
Due from other agencies	541,628	1,705,689	1,251,516	1,428,299	6,730
Due from Successor Agency	787,520	1,863,597	1,830,504	2,313,738	-
Prepays and other assets	155,847	401,788	253,926	233,237	225,358
Land held for resale	-	-	-	3,007,802	3,007,802
Capital assets:					
Non-depreciable	54,442,095	66,659,380	70,283,001	67,830,262	64,266,935
Depreciable, net	150,155,608	143,253,272	136,991,977	137,641,667	133,708,265
Total assets	306,138,123	309,812,675	298,837,541	297,691,372	293,682,677
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>	9,023,515	10,615,982	30,344,516	31,315,405	30,169,733
<b>LIABILITIES</b>					
Accounts payable	2,562,331	2,485,537	3,140,218	2,649,581	3,442,902
Other accrued liabilities	1,597,039	1,966,829	2,885,582	2,159,484	1,839,572
Interest payable	92,246	90,138	101,193	115,063	157,187
Unearned revenues	148,069	215,280	233,446	195,011	67,186
Deposits	435,681	444,665	469,371	264,818	282,842
Long-term liabilities:					
Net OPEB liability	20,565,644	22,490,383	24,338,490	59,914,016	58,697,077
Net pension liability	128,407,244	140,345,982	166,390,349	185,149,727	186,813,317
Due within one year	7,225,451	7,385,314	8,223,262	8,415,178	9,075,897
Due in more than one year	66,440,458	67,399,151	60,292,878	58,017,453	56,009,249
Total liabilities	227,474,163	242,823,279	266,074,789	316,880,331	316,385,229
<b>TOTAL DEFERRED INFLOWS OF RESOURCES</b>	23,831,100	9,875,864	3,264,778	9,006,963	9,691,616
<b>NET POSITION (DEFICIT)</b>					
Net investment in capital assets	144,215,248	148,989,212	153,784,463	153,940,332	147,204,908
Restricted for:					
Public safety	5,246,820	5,941,231	4,705,065	4,410,835	6,996,243
Public works	11,310,267	11,677,696	13,175,572	13,972,112	15,915,884
Community services	5,974,011	2,088,877	2,350,987	2,989,388	4,667,836
Affordable housing	24,369,821	24,312,047	24,860,396	24,725,216	24,674,322
Debt Service	1,892,902	12,882,653	5,625,636	5,033,385	5,528,450
Unrestricted	(129,152,694)	(138,162,202)	(144,659,629)	(201,951,785)	(207,212,078)
Total net Position (deficit)	\$ 63,856,375	\$ 67,729,514	\$ 59,842,490	\$ 3,119,483	\$ (2,224,435)

*Source: City of West Covina.*



The following table summarizes the audited financial statements for the City's General Fund for the Fiscal Years ended June 30, 2015 through June 30, 2019. This information has been derived from the audited financial statements of the City for the fiscal years shown. This information should be read in conjunction with APPENDIX B – "AUDITED FINANCIAL STATEMENTS OF THE CITY OF WEST COVINA FOR FISCAL YEAR ENDED JUNE 30, 2019."

**TABLE 2**  
**CITY OF WEST COVINA**  
**GENERAL FUND**  
**STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE**  
**FOR FISCAL YEARS ENDED JUNE 30, 2015 THROUGH JUNE 30, 2019**

	2015	2016	2017	2018	2019
<b>REVENUES</b>					
Taxes	\$44,315,501	\$47,452,961	\$48,697,900	\$50,491,403	\$51,458,750
Licenses and permits	1,419,457	1,156,613	1,037,389	1,089,850	1,140,622
Fines and forfeitures	959,606	796,989	894,618	1,290,187	1,318,333
Investment income	176,274	(569,996)	2,802,057	(95,022)	1,272,435
Rental income	406,350	529,833	604,817	649,968	647,749
Revenue from other agencies	1,763,542	1,566,549	1,970,867	2,188,406	2,373,944
Charges for services	6,211,630	7,032,594	6,928,556	8,003,970	7,067,877
Other revenues	2,335,308	167,787	1,435,324	3,577,730	138,161
<b>Total Revenues</b>	<u>57,587,668</u>	<u>58,133,330</u>	<u>64,371,528</u>	<u>67,196,492</u>	<u>65,417,871</u>
<b>EXPENDITURES</b>					
Current:					
General government	4,970,993	4,710,142	6,211,486	5,688,954	6,686,570
Public safety	42,215,716	47,120,170	50,335,459	49,556,995	53,104,099
Public works	4,117,711	5,081,608	4,517,194	4,342,778	4,372,731
Community services	1,953,826	2,012,171	2,098,129	2,648,557	2,337,601
Community development	560,784	538,680	783,246	648,920	589,255
Debt Service					
Principal	68,882	69,450	-	-	1,218,918
Interest and fiscal charges	6,589	6,021	-	-	319,711
<b>Total expenditures</b>	<u>53,894,501</u>	<u>59,538,242</u>	<u>63,945,514</u>	<u>62,886,204</u>	<u>68,628,885</u>
<b>EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES</b>	3,693,167	(1,404,912)	426,014	4,310,288	(3,211,014)
<b>OTHER FINANCING SOURCES (USES)</b>					
Acquisition under capital leases	-	2,568,446	-	-	-
Transfers in	1,447,629	2,341,924	1,021,536	518,821	140,000
Transfers out	(1,452,970)	(8,523,516)	(2,491,016)	(3,677,624)	(121)
<b>Total Other Financing Sources (Uses)</b>	<u>(5,341)</u>	<u>(3,613,146)</u>	<u>(1,469,480)</u>	<u>(3,158,803)</u>	<u>139,879</u>
<b>NET CHANGE IN FUND BALANCES</b>	15,266,177	(5,018,058)	(1,043,466)	1,151,485	(3,071,135)
<b>FUND BALANCES – BEGINNING OF YEAR</b>	<u>11,749,442</u>	<u>27,180,447</u>	<u>22,144,812</u>	<u>21,101,346</u>	<u>22,252,831</u>
<b>FUND BALANCES – END OF YEAR</b>	<u>\$27,015,619</u>	<u>\$22,162,389</u>	<u>\$21,101,346</u>	<u>\$22,252,831</u>	<u>\$19,181,696</u>

Source: City of West Covina.



## General Fund Revenue Sources

Historically property tax and sales tax were the top two sources of revenue for the City's General Fund. The table below provides the amount of General Fund revenues that each source represents for the fiscal years shown, including transfers into the General Fund. The City cannot predict the ultimate impacts on such revenues as a result of the COVID-19 pandemic and potential related economic consequences; however, such impacts may be material and adverse. See "RISK FACTORS – COVID-19 Pandemic."

**Table 3**  
**City of West Covina**  
**General Fund Tax Revenues**

Revenue Source	Actual FY 2017	Actual FY 2018	Actual FY 2019	Estimated Actuals FY 2020	Adopted Preliminary Budget FY 2021 <sup>(1)</sup>
Property taxes	\$23,947,139	\$25,350,064	\$26,316,527	\$26,680,400	\$26,680,400
Sales taxes	16,503,563	16,316,947	15,947,682	16,658,000	16,900,000
Other taxes	8,247,198	8,824,392	9,194,541	8,907,700	8,907,700
<b>Totals</b>	<b>\$48,697,900</b>	<b>\$50,491,403</b>	<b>\$51,458,750</b>	<b>\$52,246,100</b>	<b>\$52,488,100</b>

Source: City of West Covina.

<sup>(1)</sup> Staff anticipates bringing the budget back to City Council for review on a monthly basis during the fiscal year.

**Property Taxes.** Taxes are levied by the County for each Fiscal Year on taxable real and personal property which is situated in the City as of the preceding January 1. Effective July 1, 1983, real property which changes ownership or is newly constructed is reassessed at the time the change in ownership occurs or the new construction is completed. The current year property tax rate will be applied to the reassessment, and the taxes will then be adjusted by a proration factor to reflect the portion of the remaining tax year for which taxes are due.

For assessment and collection purposes, property is classified either as "secured" or "unsecured" and is listed accordingly on separate parts of the assessment roll. The "secured roll" is that part of the assessment roll containing State assessed public utilities property and real property having a tax lien which is sufficient, in the opinion of the County Assessor, to secure payment of the taxes. Other property is assessed on the "unsecured roll." Unsecured property comprises all property not attached to land, such as personal property or business property. Boats and airplanes are examples of unsecured property.

Property taxes on the secured roll are due in two installments, on November 1 and February 1 of each Fiscal Year, and if unpaid become delinquent on December 10 and April 10, respectively, subject to a penalty of ten percent. Property on the secured roll with respect to which taxes are delinquent becomes tax defaulted on or about June 30 of the Fiscal Year. Such property may thereafter be redeemed by payment of a penalty of 1.5 percent per month to the time of redemption, plus costs and a redemption fee. If taxes are unpaid for a period of five years or more, the property is deeded to the State and then is subject to sale by the County Tax Collector.

Property taxes on the unsecured roll are due as of the January 1 lien date and, in general, become delinquent on August 31, subject to a ten percent penalty. If unsecured taxes are unpaid on October 31, an additional penalty of 1.5 percent attaches to them on the first day of each month until paid. The City has four ways of collecting delinquent unsecured personal property taxes: (1) bringing a civil action against the taxpayer; (2) filing a certificate in the office of the County Clerk specifying certain facts in order to obtain a lien on certain property of the taxpayer; (3) filing a certificate of delinquency for record in the County Clerk and Recorder's office in order to obtain a lien on certain property of the taxpayer, and



(4) seizing and selling personal property, improvements or possessory interests belonging or assessed to the assessee.

Economic and other factors beyond the City's control, such as economic recession, deflation of land values, or the complete or partial destruction of taxable property caused by, among other things, earthquake, flood or other natural disaster could cause a reduction in the assessed value of taxable property in the City. See also "LIMITATIONS ON REVENUES AND APPROPRIATIONS – Property Tax Limitations – Article XIII A, XIII B, XIII C (Proposition 218)" and "– Article XIII A Implementing Legislation."

Recently, State legislations have been introduced in order to assist various affected people and companies as a result of the COVID-19 outbreak. For example, Senate Bill 939 would allow under certain circumstances a commercial tenant that is a small business or is an eating or drinking establishment, place of entertainment, or performance venue that meets specified financial criteria, including experiencing a specified decline in revenue after a shelter-in-place order took effect, to terminate a lease without any liability for future rent, fees, or costs that otherwise may have been due under the lease. Also, Senate Bill 1431 would expand the provisions allowing for reassessment of property. Under existing law, property may be reassessed for damage or destruction caused by one of 3 specified occurrences, including a major misfortune or calamity in an area or region subsequently proclaimed by the Governor to be in a state of disaster if the property was damaged or destroyed by the misfortune or calamity that caused the Governor to proclaim the region to be in a state of disaster. Senate Bill 1431 would specify that "damage" includes diminution in the value of property as a result of any law, order, rule, or regulation of the state or any city, county, or other political subdivisions providing tenant protections in response to the COVID-19 outbreak and would also specify that the term "major misfortune or calamity" includes the COVID-19 outbreak. It is unknown what net impact, if any, these legislative efforts or other future similar bills, if enacted, would have on the assessed values of real property within the City.

**No Teeter Plan.** The Los Angeles County Board of Supervisors elected to discontinue the Alternative Method of Distribution of Tax Levies and Collections and of Tax Sales Proceeds (commonly referred to as the "Teeter Plan") on July 1, 2009. Under the terms of the Teeter Plan, the County had remitted to local agencies the amount of uncollected taxes in exchange for retaining any subsequent delinquent payments, penalties and interest that would have been due to the local agency. As the Teeter Plan has been discontinued, the City's property tax revenues reflect both reduced property tax revenue from uncollected taxes and increased revenue from the subsequent receipt of delinquent taxes, interest and penalty payments.

**Sales Taxes.** A sales tax is imposed on the privilege of consuming personal property in California. California does not tax services. The tax rate is established by the State Legislature, and is presently 7.25%, statewide (of which 1% is paid to the City). The State's actual administrative costs with respect to the portion of sales taxes allocable to the City are deducted before distribution. In addition, many of California's cities, counties, and communities have special taxing jurisdiction to impose a transaction (sales) or use tax. These so-called district taxes increase the tax rate in a particular area by adding the local option tax to the statewide tax. These district taxes can vary up to 1%, and more than one district tax may be in effect for a particular location.

On April 3, 2020, Governor Newsom issued an Executive Order that allows all businesses with less than \$5 million in annual taxable sales the ability to defer payment on up to \$50,000 in sales and use tax liability without incurring any penalties or interest. Under the program, qualifying businesses can enter into payment plans to distribute up to \$50,000 of sales tax liability over a 12-month period, interest-free. For taxpayers choosing to defer their 1st quarter 2020 liability, for example, up to \$50,000 of the obligation would now be paid in twelve equal monthly installments, with the first payment not due until July 31, 2020.



## **Fiscal Emergency**

The City was listed by the California State Auditor in October 2019 as the 17th most fiscally challenged city based on State criteria that ranked the fiscal health of over 470 California cities. Over the course of the past five fiscal years, the City's unassigned General Fund balance has continuously declined: in Fiscal Year 2014-15, the unassigned fund balance was \$20,531,695, in Fiscal Year 2015-16, the unassigned fund balance was \$15,032,389, in Fiscal Year 2016-17, the unassigned fund balance was \$14,119,078, in Fiscal Year 2017-18, the unassigned fund balance was \$11,979,653, in Fiscal Year 2018-19, the unassigned fund balance was \$9,884,913, and for Fiscal Year 2019-20, the unassigned fund balance was projected to be \$1,903,251. The City's General Fund balance reserves are currently below the amount established by the City's policy and are continuing to decline. To deliver a balanced budget for Fiscal Year 2019-20, the City made significant cuts in expenditures, including contracting out the building, safety and engineering functions, not funding vacancies in 9 positions City-wide, implemented a layoff of 8 employees, and shifted some eligible salaries and benefits to special funds. Based on the foregoing and the ongoing COVID-19 related economic impacts, on May 19, 2020 the City Council adopted Resolution No. 2020-46 (the "Emergency Resolution") declaring a fiscal emergency.

Under the Emergency Resolution, the City Council authorized the City Manager to take any and all actions necessary to address the fiscal emergency, including, but not limited to, measures relating to personnel and benefit costs, operations, and reductions in services levels, and reviewing and negotiating changes to labor agreements, service agreements, and franchise agreements, to the extent permitted by law. Among other things, the City Council also designated the City Manager as the City's authorized representative for the purpose of processing, negotiating, and implementing the layoffs of City employees, should they be deemed necessary and directed management to meet with all nine labor groups regarding the fiscal emergency and possible cost saving measures.

## **Management Discussion**

The City cannot predict the ultimate impacts on General Fund revenues as a result of the COVID-19 pandemic ("Pandemic") and potential related economic consequences; however, such impacts may be material and adverse. See "RISK FACTORS – COVID 19 Pandemic." Subject to the foregoing, the City makes the following observations.

The City anticipates that certain General Fund revenues will be significantly affected in the short-term as a consequence of the Pandemic. For the purposes of this management discussion the words "short-term" refer to the period of time ending on June 30, 2021. The short-term effect will likely result in year-to-year reductions in General Fund revenues between Fiscal Years 2019-20 and 2020-21.

The City currently believes General Fund revenues that are most likely to experience significant revenue collection reductions in the short-term are sales taxes and certain other taxes, such as transient occupancy taxes. Other sources of revenue such as "charges for service," "licenses and permits" and even "fines and forfeitures" may be delayed. Such sources tied to building or planning activities have slowed due to customer's responses to the Pandemic as well as City Hall being closed to the public. While planning and building activities are still taking place, they are on a reduced scale. Also, with the court system impacted by coronavirus closures and staffing reductions, "fines and forfeitures" revenue may be delayed as the court system lacks the capacity to continue its regular collection and remittance of fine and forfeiture payments to local agencies. At this time, the City does not anticipate significant short-term reductions in property taxes

As a result of the fiscal emergency discussed above and the Pandemic the City faces liquidity pressure. As of June 25, 2020, however, the City had \$10.95 million in cash and short-term investments in the General Fund. The City does not expect any challenges paying its long-term obligations in the next 180 days.



**Property Tax.** Property tax revenues are one of the largest and most stable sources of revenue to the City's General Fund. During the last major economic upheaval, the "Great Recession" (the economic downturn from 2007 to 2009), property tax revenues in the City were not immediately impacted. However, it is difficult to compare the City's experience with the Great Recession and forecast how the Pandemic and its lingering effects may impact property tax revenues beginning in Fiscal Year 2021-22. If unemployment and reduced economic activity generally, is a sustained consequence of the Pandemic through multiple fiscal years, a combination of property tax payment delinquencies and property tax assessment appeals could result in a significant reduction in property tax revenue over time. City staff will closely monitor property tax revenue receipt and property tax delinquency rates and property tax valuation assessment appeal information for Fiscal Year 2020-21 and Fiscal Year 2021-22 as these become available.

**Sales Taxes.** The City is closely monitoring the impact of the Pandemic and economic consequences on sales tax revenues. Estimated sales tax revenues to the City for the Fiscal Year 2019-20 are \$16,657,746, representing a 6.4% decrease from Fiscal Year 2018-19 actuals. A preliminary estimate of sales tax revenues in the amount of \$15,974,000 for Fiscal Year 2020-21 represents a 4.1% decrease. No assurance can be provided that such decrease will not be materially larger.

**Expenditure Adjustments.** [to come before posting]

**Federal COVID-19 funding.** The federal Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") may provide \$225 million of relief funds to cities that apply. Such funds would be allocated based on the share of each city's population, relative to the total population of the applicant city. Under applicable CARES Act allocation methodology, the City would receive a one-time amount of \$1.3 million dollars (\$12.28 per capita). If CARES Act funding is granted, the City intends to use the funds to off-set General Fund revenues expended during the Pandemic.

## **City Budget**

**Budget and Debt Management Policies.** The City has adopted written Budget and Debt Management Policies to provide guidance to City staff when developing the annual budget to present to City Council and when proposing the issuance of debt and other obligations of the City. Such policies may be obtained from the City's website at: <https://www.westcovina.org/departments/finance/budget-finance-reports/financial-budget-policies>.

**Budget Process.** The City Council approves each fiscal year's budget submitted by the City Manager prior to the beginning of the fiscal year. Public meetings are conducted prior to the adoption by City Council. It is the City Council's goal to adopt an annual balanced budget, a budget in which current revenues equal recurring expenditures. The City Manager has authority to adjust the amounts appropriated between the funds and activities of a fund, provided, however, that the total appropriations for each fund may not exceed the amounts provided in the budget resolution. The City Manager is also authorized to approve continuing appropriations at year-end for capital improvement projects and other expenditures previously approved by the City Council.

Budgetary control is exercised by: (1) the annual budget adoption by the City Council; (2) formal budgetary integration within the accounting system; (3) quarterly financial reports presented to the City Council; (4) the encumbrance of estimated purchase/contract amounts prior to the release of purchase orders to vendors; (5) properly and adequately documented City Council approved budget adjustments to expenditure appropriations and revenue estimates; (6) monthly review of departmental expenditure reports comparing budget to actual amounts; and (7) the established review process of carry-overs in which departments are requested to submit justification for any requested purchase order ("PO") carryovers.



The City's operating budget may be amended by three methods: (1) PO carryovers; (2) administrative carryovers approved by the City Manager; and (3) City Council action. Under all methods where appropriations are increased, funds must be available to match the request.

Every year, staff reviews each capital project and carries forward prior year appropriations for projects that have not been completed or for which long-term funding is being accumulated. The carryovers are handled administratively and are not included as part of the current year CIP Budget (as defined below). Projects funded in prior years, but not started, are reviewed to determine whether such projects continue to be City Council priorities. The budget for any project that has not been started and is no longer a City Council priority is made available for other projects.

For Fiscal Year ending June 30, 2021, the City Council has adopted a Preliminary Budget. See <https://www.westcovina.org/home/showdocument?id=18403>. Each month staff will report back to City Council regarding the budget.

***Prior Budgets.*** The following table sets forth the City's adopted budget and actual General Fund revenues, expenditures and changes in fund balance for the Fiscal Years shown. The adopted budget is the original budget at the start of the new Fiscal Year. Throughout the year, budget changes are expected to be authorized by City Council which may increase or decrease the City's spending authority. Therefore, variances between the adopted budget and actual expenditures are likely.

**Table 4**  
**City of West Covina**  
**General Fund**  
**Comparison of Adopted Budget to Actual Results**

**(On following page)**

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		<b>Final Budget</b>	<b>Actual</b>		<b>Final Budget</b>	<b>Actual</b>		<b>Adopted Budget</b>
		<b>FY 2017-18</b>	<b>FY 2017-18</b>	<b>Variance</b>	<b>FY 2018-19</b>	<b>FY 2018-19</b>	<b>Variance</b>	<b>FY 2019-20</b>
Revenues:								
Taxes		\$ 48,946,100	50,491,403	1,545,303	51,756,000	51,458,750	(297,250)	52,488,100
Licenses & Permits		974,871	1,089,850	114,979	1,043,300	1,140,622	97,322	1,488,700
Fines & Forfeitures		764,500	1,290,187	525,687	845,000	1,318,333	473,333	770,000
Investment Income		209,433	495,090	285,657	-	626,754	626,754	208,900
Net Change in Fair Value of Investments		-	(590,112)	(590,112)	-	645,681	645,681	-
Rental Income		649,137	649,968	831	671,900	647,749	(24,151)	719,300
Revenue from Other Agencies		2,059,205	2,188,406	129,201	2,217,300	2,373,944	156,644	2,525,500
Charges for Services		7,082,185	8,003,970	921,785	6,949,832	7,067,877	118,045	5,742,100
Other Revenues		493,315	3,577,730	3,084,415	176,400	138,161	(38,239)	1,258,500
Total Revenues		\$ 61,178,746	67,196,492	6,017,746	63,659,732	65,417,871	1,758,139	65,201,100
Expenditures:								
General Government		\$ 6,025,663	5,688,954	336,709	6,993,008	6,686,570	306,438	6,355,625
Public Safety		50,197,890	49,556,995	640,895	52,058,068	53,104,099	(1,046,031)	51,526,975
Public Works		4,142,388	4,342,778	(200,390)	4,091,381	4,372,731	(281,350)	3,644,153
Community Services		2,829,299	2,648,557	180,742	2,448,198	2,337,601	110,597	2,610,876
Community Development		658,833	648,920	9,913	611,536	589,255	22,281	642,226
Debt Service - Principal		-	-	-	1,628,918	1,218,918	410,000	-
Debt Service - Interest		-	-	-	769,050	319,711	449,339	-
Total Expenditures		\$ 63,854,073	62,886,204	967,869	68,600,159	68,628,885	(28,726)	64,779,855
Excess / (Deficiency) of revenues over / (under) expenditures		\$ (2,675,327)	4,310,288	6,985,615	(4,940,427)	(3,211,014)	1,729,413	421,245
Other Financing Sources (Uses)								
Transfers In		\$ 728,710	518,821	(209,889)	2,174,200	140,000	(2,034,200)	157,673
Transfers Out		(3,993,028)	(3,677,624)	315,404	(712,757)	(121)	712,636	(578,918)
Total Other Financing Sources (Uses)		\$ (3,264,318)	(3,158,803)	105,515	1,461,443	139,879	(1,321,564)	(421,245)
Net Change in Fund Balance		\$ (5,939,645)	1,151,485	7,091,130	(3,478,984)	(3,071,135)	407,849	-
Fund Balance at Beginning of Year		\$ 21,101,346	21,101,346	-	22,252,831	22,252,831	-	19,181,696
Fund Balance at End of Year		\$ 15,161,701	22,252,831	7,091,130	18,773,847	19,181,696	407,849	19,181,696

Source: City of West Covina.



## **Appropriations Limit**

Section 7910 of the Government Code of the State requires the City to adopt a formal appropriations limit for each fiscal year. The City's appropriations limit for Fiscal Year 2020-21 is \$201,460,447. The appropriations limit is not expected to have any impact on the ability of the City to budget and appropriate the 2020A Base Rental Payments and Additional Rental Payments as required by the Lease.

## **Assessed Valuation**

The City's largest revenue source, property tax, is imposed on real property (land and permanently attached improvements, such as buildings) and tangible personal property (moveable property) located within the City. The assessed valuation of property in the City is established by the County Assessor, except for public utility property which is assessed by the California State Board of Equalization (the "Board of Equalization"). Assessed valuations are reported at 100% of the full cash value of the property, as defined in Article XIII A of the California Constitution. See " – Limitations on Taxes and Appropriations" below. Certain classes of property such as churches, colleges, not-for-profit hospitals and charitable institutions are exempt from property taxation and do not appear on the tax rolls.

Property tax revenue is recognized in the fiscal year for which the taxes have been levied providing they become available. Available means then due or past due and receivable within the current period and collected within the current period or expected to be collected soon enough thereafter (not to exceed 60 days) to be used to pay liabilities of the current period. The County collects property taxes for the City. Tax liens attach annually as of 12:01 A.M. on the first day in January proceeding the fiscal year for which the taxes are levied. Taxes are levied on both real and personal property as it exists on that date. The tax levy covers the fiscal period July 1 to June 30. All secured personal property taxes and one-half of the taxes on real property are due November 1; the second installment is due February 1. All taxes are delinquent, if unpaid, on December 10 and April 10, respectively. Unsecured personal property taxes become due on the first of March each year and are delinquent, if unpaid, on August 31.

Economic and other factors beyond the City's control, such as economic recession, deflation of land values, or the complete or partial destruction of taxable property caused by, among other things, earthquake, flood or other natural disaster could cause a reduction in the assessed value of taxable property in the City. See "RISK FACTORS."

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The following table sets forth the historical assessed valuations for secured and unsecured property within the City for the fiscal years shown.

**Table 5**  
**City of West Covina**  
**Gross Assessed Value of All Taxable Property**  
**(Fiscal Year ended June 30)**  
**(in Thousands)**

<b>Fiscal Year</b>	<b>Secured</b>	<b>Unsecured</b>	<b>Total</b>	<b>Percentage Change</b>
2011	\$ 8,383,899	\$168,740	\$ 8,552,639	-
2012	8,551,538	165,720	8,717,258	1.9%
2013	8,660,957	171,466	8,832,423	1.3
2014	8,908,281	176,518	9,084,799	2.9
2015	9,403,912	174,056	9,577,968	5.4
2016	9,968,366	177,226	10,145,592	5.9
2017	10,587,285	176,587	10,763,872	6.1
2018	11,071,445	172,493	11,243,938	4.5
2019	11,753,885	177,754	11,931,639	6.1
2020	12,290,969	180,789	12,471,758	4.5

*Source: City of West Covina.*

The following table sets forth property tax levies and collections for the City for the fiscal years show.

**Table 6**  
**City of West Covina**  
**Tax Levies and Collections**  
**(Fiscal Year ended June 30)**

<b>Fiscal Year</b>	<b>Total Tax Levy for Fiscal Year</b>	<b>Collections within the Fiscal Year of the Levy</b>		<b>Collections in Subsequent Years</b>	<b>Total Collections to Date</b>	
		<b>Amount</b>	<b>Percentage of Levy</b>		<b>Amount</b>	<b>Percentage of Levy</b>
2015	\$ 9,702,185	\$ 9,491,592	97.83%	\$ 34,965	\$ 9,526,557	98.19%
2016	10,173,156	9,881,520	97.13	88,647	9,970,167	98.00
2017	10,671,800	10,440,321	97.83	109,928	10,550,249	98.86
2018	11,679,354	11,040,516	94.53	267,238	11,307,754	96.82
2019	12,395,960	11,894,401	95.95	233,272	12,127,673	97.84

*Source: City of West Covina.*



## Principal Property Taxpayers

The following table sets forth the top ten taxpayers in the City by taxable assessed value.

**Table 7**  
**CITY OF WEST COVINA**  
**Top Ten Taxpayers**

<u>Taxpayer</u>	<u>Taxable Assessed Value</u>	<u>Percent of Total Taxable Assessed Value</u>	<u>Description of Primary Business Use</u>
1. Plaza West Covina LLC	\$271,881,917	2.41%	Commercial
2. Eastland Shopping Center LLC	168,708,946	1.50	Commercial
3. 301 South Glendora Avenue Apts.	102,504,008	0.91	Residential
4. PT Enterprises LLC	60,740,782	0.54	Commercial
5. Walnut Ridge Apartments LP	58,224,198	0.52	Residential
6. TPA NASCH LLC	55,575,956	0.49	Residential
7. Glendora Avenue Properties LLC	53,540,399	0.48	Commercial
8. Deutsche Mellon National Asset	38,374,479	0.46	Commercial
9. Barranca Tower LLC	37,913,400	0.34	Commercial
10. CIP 2014 SG Covina Owner LLC	34,603,706	0.31	Commercial
<b>Top Ten Total</b>	<b>\$882,067,791</b>	<b>7.84%</b>	

*Source: City of West Covina.*

## Direct and Overlapping Debt

Set forth on the following table is a direct and overlapping debt report (the “Debt Report”) for the City prepared by California Municipal Statistics, Inc., dated as of July 1, 2020. The Debt Report is included for general information purposes only. The City has not reviewed the Debt Report for completeness or accuracy and makes no representations in connection therewith.

The Debt Report generally includes long term obligations sold in the public credit markets by public agencies whose boundaries overlap the boundaries of the City in whole or in part. Such long-term obligations generally are not payable from revenues of the City (except as indicated) nor are they necessarily obligations secured by land within the City. In many cases long-term obligations issued by a public agency are payable from the general fund or other revenues of such public agency.



**TABLE 8**  
**CITY OF WEST COVINA**  
**Statement of Direct and Overlapping Debt**  
**(July 1, 2020)**

**[to come June 2<sup>nd</sup>]**

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*Source: California Municipal Statistics, Inc.*



## Long-Term Obligations

The following obligations payable from the City's General Fund are identified in the City's audited financial statements for the Fiscal Year ended June 30, 2019.

<b>Long-Term Debt</b>	<b>Balance at June 30, 2018</b>	<b>Additions</b>	<b>Deletions</b>	<b>Balance June 30, 2019</b>	<b>Due within One Year</b>
Notes	\$10,341,597	-	(578,918)	\$9,762,679	\$578,918
Lease Revenue Bonds:					
2002 Lease Revenue Refunding Bonds	13,475,000	-	(13,475,000)	-	-
2004 Lease Revenue Bonds	9,395,000	-	(9,395,000)	-	-
2006 Lease Revenue Bonds	16,265,000	-	(405,000)	15,860,000	460,000
2013 Lease Revenue Refunding Bonds	2,055,000	-	(2,055,000)	-	-
2018 Lease Revenue Refunding Bonds	-	\$24,165,000	(345,000)	23,820,000	795,000
Plus deferred amounts:					
Issuance premium	-	1,380,718	(53,105)	1,327,613	53,105
Total Lease Revenue Bonds	41,190,000	25,545,718	(25,728,105)	41,007,613	1,308,105
Subtotal long-term liabilities	51,531,597	25,545,718	(26,307,023)	50,770,292	1,887,023
<b>Other long-term liabilities</b>					
Compensated absences	4,617,360	3,376,683	(3,735,372)	4,258,671	2,157,026
Claims and judgments payable	10,283,674	2,507,859	(2,735,350)	10,056,183	5,031,848
Subtotal other long-term liabilities	14,901,034	5,884,542	(6,470,722)	14,314,854	7,188,874
Total long-term liabilities	\$66,432,631	\$31,430,260	(32,777,745)	\$65,085,146	\$9,075,897

Source: City of West Covina and APPENDIX B – "AUDITED FINANCIAL STATEMENTS OF THE CITY OF WEST COVINA FOR THE FISCAL YEAR ENDING JUNE 30, 2019 – Note 8 Long-Term Debt."

## Labor Contracts

The following table sets forth the City's employee groups. Terms of existing contracts roll forward upon expiration until each group and the City agrees to a new contract. The City has been negotiating with all of its labor organizations to further the City's efforts to align its revenues and expenses.

<b>Group</b>	<b>Budgeted Number of Employees</b>	<b>Date of Contract Expiration (June 30)</b>
General	20	2019
Confidential	19	2019
Maintenance & Crafts	12	2019
Middle Management	22	2019
Non-sworn Safety Support	34	2017
Police Safety	82	2021
Police Management	7	2019
Fire Safety	67	2022
Fire Management	3	2016
Executive Management	7	2018
<b>Total</b>	<b>273</b>	

Source: City of West Covina.



## Investment Policy

In accordance with California Government Code, Sections 53600 *et seq.*, the City maintains a Statement of Investment Policy, which was adopted by City Council on July 2, 2019 (the “Investment Policy”). The Investment Policy contains elements and guidelines on investing public funds, such as authorized and suitable investments, liquidity, authorized financial institutions and dealers, safekeeping and custody, diversification, internal controls and performance standards, and ethical and fiduciary responsibilities.

Under the Investment Policy, the standard to be used by the investment officials of the City will be that of a “prudent investor” and shall be applied in the context of managing all aspects of the overall portfolio. Government Code Section 53600.3 provides that those persons to whom investment decisions have been delegated are trustees with a fiduciary duty to act as a prudent investor. This standard of care directs that a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person acting in like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.

## Pension Plans

***Pension Funding Policy.*** Like most municipalities, the City is facing rising pension costs and growing unfunded pension liabilities. On May 19, 2020, the City Council of the City adopted a pension funding policy. The pension funding policy, among other things, provides guidance in making annual budget decisions and creating sustainable and affordable budgets for pension obligations.

***General.*** Presently, the City offers all full-time employees retirement benefits in a plan (the “CalPERS Plan”) through California Public Employees’ Retirement System (“CalPERS”) and a small select group of employees are eligible to receive a supplemental retirement benefit through Public Agency Retirement System (“PARS”). The PARS plan for such supplemental benefits is closed to any new employees.

The CalPERS Plan is an agent multiple-employer defined benefit pension plan administered by CalPERS. A full description of the pension plan regarding number of employees covered, benefit provisions, assumptions (for funding, but not accounting purposes), and membership information are listed in the plan’s June 30, 2017 Annual Actuarial Valuation Report (funding valuation). Details of the benefits provided can be obtained in the actuarial valuation report. This report and CalPERS’ audited financial statements are publicly available reports that can be obtained at CalPERS’ website, at [www.calpers.ca.gov](http://www.calpers.ca.gov).

CalPERS provides service retirement and disability benefits, annual cost of living adjustments and death benefits to plan members, who must be public employees and beneficiaries. Benefits are based on years of credited service, equal to one year of full time employment. Members with five years of total service are eligible to retire at age 50 with statutorily reduced benefits. All members are eligible for non-duty disability benefits after 5 years of service. The death benefit is one of the following: the Basic Death Benefit, the 1957 Survivor Benefit, or the Optional Settlement 2W Death Benefit. The cost of living adjustments for each plan are applied as specified by the Public Employees’ Retirement Law.

The CalPERS Plan operates under the provisions of the California Public Employees’ Retirement Law (“PERL”), the California Public Employees’ Pension Reform Act of 2013 (“PEPRA”), and the regulations, procedures and policies adopted by the CalPERS Board of Administration. The Plan’s



authority to establish and amend the benefit terms are set by the PERL and PEPRA, and may be amended by the California state legislature and in some cases require approval by the CalPERS Board.

The CalPERS Plan's provisions and benefits in effect at June 30, 2019, are summarized as follows:

<b>Miscellaneous Plan</b>				
Hire date	Prior to January 1, 2011	After January 1, 2011	Prior to January 1, 2013	On or after January 1, 2013
Benefit formula	2.0% @ 55	2.5% @ 62	2.0% @ 60	2.0% @ 62
Benefit vesting schedule	5 years of service	5 years of service	5 years of service	5 years of service
Benefit payments	monthly for life	monthly for life	monthly for life	monthly for life
Retirement age	50 – 65+	50 – 67+	50-67+	52 – 67+
Monthly benefits, as a % of eligible compensation	1.426% to 2.418%	2.0% to 2.5%	1.092% to 2.418%	1.0% to 2.5%
Required employee contribution rates	0.00%	8.00%	7.00%	5.50%
Required employer contribution rates	7.987%	7.987%	7.987%	7.987%
<b>Safety Plan</b>				
Hire date	Prior to July 1, 2012	Prior to January 1, 2013	On or After January 1, 2013	
Benefit formula	3.0% @ 50	23.0% @ 55	2.7% @ 57	
Benefit vesting schedule	5 years of service	5 years of service	5 years of service	
Benefit payments	monthly for life	monthly for life	monthly for life	
Retirement age	50 and Up	50 – 55+	50-57+	
Monthly benefits, as a % of eligible compensation	3.00%	2.4% to 3.0%	2.0% to 2.7%	
Required employee contribution rates	9.00%	9.00%	11.50%	
Required employer contribution rates	19.390%	19.390%	19.390%	

Section 20814(c) of the PERL requires that the employer contribution rates for all public employers be determined on an annual basis by the actuary and shall be effective on the July 1 following notice of a change in the rate. The total plan contributions are determined through CalPERS' annual actuarial valuation process. The actuarially determined rate is the estimated amount necessary to finance the costs of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability. The employer is required to contribute the difference between the actuarially determined rate and the contribution rate of employees. Employer contribution rates may change if plan contracts are amended. Payments made by the employer to satisfy contribution requirements that are identified by the pension plan terms as plan member contribution requirements are classified as plan member contributions. Employer Contributions to the Miscellaneous and Safety Plan's for the fiscal year ended June 30, 2019 were \$3,041,539 and \$11,174,096, respectively.



The City's net pension liability for the CalPERS Plan is measured as the total pension liability, less the pension plan's fiduciary net position. The net pension liability of the Plan is measured as of June 30, 2018, using an annual actuarial valuation as of June 30, 2017, rolled forward to June 30, 2018, using standard update procedures. See APPENDIX B – "AUDITED FINANCIAL STATEMENTS OF THE CITY OF WEST COVINA FOR FISCAL YEAR ENDED JUNE 30, 2019" at Note 12 for changes in Net Pension Liability and Proportionate Share of Net Pension Liability and asset allocation and return information.

A summary of principal assumptions and methods used to determine the net pension liability is as follows:

Valuation Date	June 30, 2017
Measurement Date	June 30, 2018
Actuarial Cost Method	Entry Age Normal
Asset Valuation Method	Market Value of Assets
Actuarial Assumptions:	
Discount Rate	7.15
Inflation	2.50
Salary Increase <sup>(1)</sup>	3.3%-14.2%
Investment Rate of Return <sup>(2)</sup>	7.65
Mortality Rate Table <sup>(3)</sup>	Derived using CalPERS' membership data for all funds
Post Retirement Benefit Increase	Contract COLA up to 2.0% until purchasing power protection allowance floor on purchasing power applies, 2.5% thereafter

*Source: APPENDIX B – "AUDITED FINANCIAL STATEMENTS OF THE CITY OF WEST COVINA FOR FISCAL YEAR ENDED JUNE 30, 2019" at Note 12.*

<sup>(1)</sup> Annual increase vary by category, entry age, and duration of service.

<sup>(2)</sup> Net of pension plan investment and administrative expenses; includes inflation.

<sup>(3)</sup> The mortality table used was developed based on CalPERS' specific data. The table includes 15 years of mortality improvements using Society of Actuaries Scale 90% of scale MP 2016. For more details on the table, please refer to the December 2017 experience study report (based on CalPERS demographic data from 1997 to 2015) that can be found on the CalPERS website.

**Public Agency Retirement Services Retirement Enhancement Plan.** Effective November 1, 2007, the City entered into a multi-employer agreement with a PARS program, an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for participating public entities within the State of California. The City's plan with PARS is known as the "EPMC Replacement Supplemental Retirement Plan."

The EPMC Replacement Supplemental Retirement Plan was established to replace a long-standing benefit for City employees no longer allowed by CalPERS. The plan provides for a benefit in an amount equal to the member's years of service, times the member's final pay, times the CalPERS age factor, times 0.70% for miscellaneous employees (times 0.89% for safety employees). At the time of retirement, employees will make an election to receive either a lump sum payment or receive ongoing stipends over their lifetime.

Employees shall be eligible to receive benefits under this plan if he or she meets all of the following requirements under one of the following tiers:

#### Tier 1



- Full time miscellaneous employees on or after July 1, 2004 but hired prior to July 1, 2011.
- Classified as a department head or city council, employee represented by the Confidential Employees' Association, General Employees' Association, West Covina Maintenance and Crafts Employees' Association, Mid-Management Employees' Association and Non-Sworn Support Employees' Association.
- Has had compensable earnings under CalPERS impacted by CalPERS regulation, thereby causing a reduction in CalPERS benefits.
- At least fifty (50) years of age.
- Has completed at least one year of employment.
- Has terminated employment with the City and concurrently retired under CalPERS under a regular service retirement, and remains in retired status under CalPERS.
- Has applied for benefits under this plan.

## Tier 2

- Full time employee:
  - Fire management employee on or after July 1, 2004 but hired prior to July 1, 2011.
  - Fire safety employee on or after July 1, 2004 but hired prior to July 1, 2012.
  - Police management employee on or after July 1, 2004 but hired prior to December 31, 2012, or an employee hired prior to January 1, 2013 who promotes or transfers to police management position on or after January 1, 2013.
- Not represented by the West Covina Police Officers Association.
- Has had compensable earnings under CalPERS impacted by CalPERS regulation, thereby causing a reduction in CalPERS benefits.
- At least fifty (50) years of age.
- Has completed at least one year of employment.
- Has terminated employment with the City and concurrently retired under CalPERS under a regular service retirement, and remains in retired status under CalPERS.
- Has applied for benefits under this plan.

The City makes all contributions to these plans. Participants do not make any contributions. The actuarially required contribution is determined on the funding policy and most recent measurement available when the contribution for the reporting period was adopted. The City is funding the plan to pay the benefit payments payable each year. The City's contribution for the year ended June 30, 2019 was \$62,350.

For additional information regarding the PARS plans, actuarial assumptions and the plans' funded status, see APPENDIX B – "AUDITED FINANCIAL STATEMENTS OF THE CITY OF WEST COVINA FOR FISCAL YEAR ENDED JUNE 30, 2019" at Note 13.

## Supplemental Retirement Plan for Executive Staff and City Council

The City has a single-employer defined benefit pension plan, separate into three tiers, as follows:

Tier 1 (full-time non-safety Department Head and the City Manager) and Tier 2 (City Council) provides an additional retirement amount to miscellaneous department heads, City Manager and City Council in an amount equal to the amount of \$823 per month. This benefit amount increases each year by CPI, up to 2%. In order to be eligible for this benefit, participants must have five years of service with the City and must retire into PERS from the City.



Tier 3 (City Manager) provides an increased retirement benefit to a former City Manager consistent with the terms of his contract. It will convert the retirement formula for all years of prior CalPERS service at non-West Covina agencies to the CalPERS 2.5% @ 55 formula currently in place with the City of West Covina.

All three tiers are combined for funding purposes in this plan. The City makes all contributions to these plans. Participants do not make any contributions. The actuarially required contribution is determined on a pay as you go funding policy and most recent measurement available when the contribution for the reporting period was adopted. The City is funding the plan to pay the benefit payments payable each year. The City's contribution for the year ended June 30, 2019 was \$78,102.

***Public Employees' Pension Reform Act ("PEPRA").*** On September 12, 2012, Governor Brown signed Assembly Bill 340, creating PEPRA. Among other things, PEPRA creates a new benefit tier for new employees/members entering public agency employment and public retirement system membership for the first time on or after January 1, 2013. The new tier has a single general member benefit formula and three safety member benefit formulas that must be implemented by all public agency employers unless the formula in existence on December 31, 2012 has both a lower normal cost and a lower benefit factor at normal retirement age. PEPRA requires that all new employees/members, hired on or after January 1, 2013, pay at least 50% of the normal cost contribution. The normal cost contribution is the contribution set by the retirement system's actuary to cover the cost of a current year of service. Approximately 37% of City employees are under PEPRA. The City believes that the provisions of PEPRA will help to control its pension benefit liabilities in the future.

### **Defined Contribution Plan**

During the 1991-1992 fiscal year, the City established the West Covina Part-Time Retirement Plan (the "Part-Time Retirement Plan"), a defined contribution retirement plan, for all nonbenefited, part-time employees in accordance with Internal Revenue Code Section 457, to conform to Section 3121(b)(7)(F) of the Internal Revenue Code added by the Omnibus Budget Reconciliation Act of 1990. The plan is administered by Nationwide Retirement Solutions. The Part-Time Retirement Plan was established by the authority of the City Council who retains the authority to amend the Part-Time Retirement Plan. A defined contribution pension plan provides pension benefits in return for services rendered, provides an individual account for each participant, and specifies how contributions to the individual's account are to be determined instead of specifying the amount of benefits the individual is to receive. Under a defined contribution pension plan, the benefits a participant will receive depend solely on the amount contributed to the participant's account and the returns earned on investments of the contributions.

Part-time, nonbenefited, employees not subject to the City's CalPERS retirement plans of the City must participate in the plan. During 2012-13, 195 part-time employees participated in the Part-Time Retirement Plan. All contributions to the Part-Time Retirement Plan vest immediately. An employee who leaves the City is entitled to all contributions and earnings applied to the individual's account through the date of separation, less legally required income tax withholding. Contribution levels into the Part-Time Retirement Plan were established by City Council resolution at 0% for the City and 7.5% for nonbenefited, part-time employees not subject to the City's CalPERS retirement plans described above.

### **Other Post-Employment Benefits**

The City administers a single-employer defined benefit plan (the "OPEB Plan") which provides healthcare benefits to eligible retirees and their dependents in accordance with various labor agreements. As of June 30, 2019, the City had a net OPEB obligation of \$58,697,077. For fiscal year ended June 30,



2019, the City contributed \$2,398,678 to the plan, including \$2,008,056, for current premiums (100% of total premiums), and \$376,000 of implied subsidy premiums.

The contribution requirements of members in the OPEB Plan and the City are established and may be amended by City Council. The contribution required to be made under City Council and bargaining unit requirements is based on a pay-as-you-go basis (i.e. as medical insurance premiums become due). For a discussion of the OPEB Plan and its funded status, see APPENDIX B – “AUDITED FINANCIAL STATEMENTS OF THE CITY OF WEST COVINA FOR FISCAL YEAR ENDED JUNE 30, 2019” at Note 13.

## STATE OF CALIFORNIA BUDGET INFORMATION

### State Budget

**General.** Information about the State budget is regularly available at various State-maintained websites. Text of proposed and adopted budgets may be found at the website of the Department of Finance, [www.dof.ca.gov](http://www.dof.ca.gov), under the heading “California Budget.” An impartial analysis of the budget is posted by the Office of the Legislative Analyst at [www.lao.ca.gov](http://www.lao.ca.gov). In addition, various State official statements, many of which contain a summary of the current and past State budgets and the impact of those budgets on cities in the State, may be found at the website of the State Treasurer, [www.treasurer.ca.gov](http://www.treasurer.ca.gov). The information referred to is prepared by the respective State agency maintaining each website and not by the City or the Authority, and the City and the Authority can take no responsibility for the continued accuracy of these internet addresses or for the accuracy, completeness or timeliness of information posted there, and such information is not incorporated herein by these references.

**Proposed 2020-21 State Budget.** On January 10, 2019, Governor Newsom released California’s Proposed Fiscal Year 2020-21 State Budget (the “Proposed 2020-21 State Budget”) which reflects \$153 billion in new spending from the State’s general fund and tackles issues including climate change, particularly wildfires, as well as clean energy and homelessness in California. The next significant milestone in the State’s budget process is the May Revision, which typically describes changes to the Governor’s proposed budget based on the latest economic forecasts. The Proposed 2020-21 State Budget totals approximately \$222 billion and includes more than \$1 billion in funding for homeless families to access shelter and approximately \$1 billion over four years to prevent, track and fight wildfires, as well as adding approximately \$2 billion to the “Rainy Day Fund” which is projected to grow to \$18 billion by the end of Fiscal Year 2020-21. It also calls for \$12 billion over five years to respond to climate change, both through a resilience initiative that would protect vulnerable areas and a cap-and-trade program. For K-12 schools and California Community Colleges, Proposition 98 funding for Fiscal Year 2020-21 is approximately \$84 billion, which combines with more than \$819 million in “settle-up” payments for prior fiscal years and proposes an increased investment of \$3.8 billion in K-14 education.

Significant features of the Proposed 2020-21 State Budget impacting local agencies in California, including cities, include the following:



- *Housing*—\$6.8 billion across multiple departments and programs to address housing throughout the State, including \$500 million annually for the State's housing tax credit program and \$750 million one-time General Fund to establish the California Access to Housing and Services Fund to be administered by the Department of Social Services to reduce homelessness by moving individuals and families into stable housing, and to increase the number of units available as a stable housing option.
- *Department of Corrections*—\$13.4 billion (\$13.1 billion General Fund and \$306.5 million other funds) to be allocated to Department of Corrections programs in Fiscal Year 2020-21, including \$552.7 million General Fund for inmate rehabilitative programs, \$6.2 million General Fund in Fiscal Year 2020-21, with \$10.1 million in ongoing amounts, to establish Youth Offender Rehabilitative Communities to house offenders under the age of 26 together at select adult institutions, as well as \$26.9 million General Fund in Fiscal Year 2020-21, declining to \$18 million in ongoing funds, to provide increased access to modern technology for inmates participating in academic and vocational training.
- *County Indigent Health*—\$589.8 million in projected county indigent health savings in Fiscal Year 2020-21 to offset General Fund costs in the CalWORKs program, a decrease of \$13.1 million from Fiscal Year 2019-20, and offset by additional indigent health net savings of \$301.3 million available from Fiscal Year 2017-18.
- *Early Childhood Development*—establishing a new Department of Early Childhood Development under the Health and Human Services Agency effective July 1, 2021 to better position the State to implement recommendations from its Master Plan for Early Learning and Care, and allow for better integration of services and outcomes for children in child care and other health and human services programs.
- *CalWORKs Grant Increase*—a 3.1-percent increase to CalWORKs Maximum Aid Payment levels, effective October 1, 2020, which is estimated to cost \$73.6 million in Fiscal Year 2020-21 and \$98.1 million in Fiscal Year 2021-22, to be funded by the State's Child Poverty and Family Supplemental Support Subaccounts of the Local Revenue Fund.
- *Local Child Support Agencies*—\$56 million (\$19.1 million General Fund) for Local Child Support Agency administrative costs to create more equitable funding across all local agencies, reducing geographic disparities in funding for child support case management and increasing the ability of local agencies to collect and remit child support payments.
- *Water Resilience*—a proposed \$4.75 billion climate resilience bond for the November 2020 ballot structured around climate risks, with over 60 percent of the proposed bond funding dedicated to programs that align with priorities identified in the State's Water Resilience Portfolio.
- *Disaster Assistance*—\$16.7 million one-time General Fund to increase the amount of funding available through the California Disaster Assistance Act ("CDAA") to be used to repair, restore, or replace public real property damaged or destroyed by a disaster, and to reimburse local government costs associated with certain activities undertaken in response to a state of emergency; an augmentation which increases total CDAA funding included in the Proposed 2020-21 State Budget to \$79.3 million.
- *Fire Protection*—\$120 million General Fund in Fiscal Year 2020-21 (\$150 million ongoing) and 677 positions, phased in over five fiscal years, for additional resources that will provide CAL



FIRE operational flexibility throughout peak fire season and beyond based on fire conditions.

- *Power Vulnerability*—\$50 million one-time General Fund to support additional preparedness measures that bolster community resiliency to support critical services vulnerable to power outages including schools, county election offices, and food storage reserves, a proposal that supports a matching grant program to help local governments prepare for, respond to, and mitigate the impacts of power outages.
- *Mental Health*—establishing a \$32.9 million Licensing and Certification Program Fund plus support for additional positions and the continued phase-in of resources for the Department of Public Health to allow completion of mental health licensure workloads, as well as \$3 million from the Internal Departmental Quality Improvement Account to implement quality improvement projects and provide enhanced provider and program support for mental health licensing and certification.
- *Emergency Services*—\$9.4 million (\$9.2 million General Fund) and fifty positions to enhance the ability of the Office of Emergency Services (“OES”) to anticipate, prepare for, respond to, and recover from disasters and provide the necessary programmatic and administrative resources to support OES’ increasingly complex mission and maximize eligible federal reimbursements.

***Fiscal Update from Department of Finance.*** The State Department of Finance (the “DOF”) released a fiscal update memorandum (the “Fiscal Update”) on May 7, 2020 reflecting the economic forecast for the May Revision to the Proposed 2020-21 Budget. The Fiscal Update makes it clear that the onset of COVID-19 has had a severe and immediate impact on the State’s economy, including in excess of 4.4 million claims for State and federal unemployment benefits since mid-March 2020 and disproportionate job losses in lower-wage sectors of the economy. The DOF also projects that the 2020 unemployment rate will be as high as 18% and states that the May Revision economic forecast projects that COVID-19 will continue to cause economic losses in 2020, including a projected drop in State personal income by nearly 9% on an annual basis and a projected drop of 21% in permits for new housing construction, a key economic indicator. Consequently, compared to the projections included in the Proposed 2020-21 Budget, the State’s three main revenues sources are projected to drop as follows: (i) personal income taxes by 25.5%, (ii) sales and use taxes by 27.2%, and (iii) corporation taxes by 22.7%. As a result, the DOF projects that State general fund revenues will decline by \$41.2 billion from the projected level included in the Proposed 2020-21 Budget, including \$9.7 billion allocable to fiscal year 2019-20 and \$32.2 billion allocable to fiscal year 2020-21. This revenue decline would result in a reduction of the Proposition 98 minimum funding guarantee by approximately \$19 billion.

These revenue declines, together with \$7.1 billion in caseload increases supporting health and human services programs and other expenditures of approximately \$6.1 billion largely attributable to the COVID-19 outbreak, are projected to result in an overall State budget deficit of approximately \$54.3 billion. Of this amount, \$13.4 billion occurs in fiscal year 2019-20 and \$40.9 billion would occur in fiscal year 2020-21. For additional information regarding the Fiscal Update, see the DOF website at [www.dof.ca.gov](http://www.dof.ca.gov). However, the information presented on such website is not incorporated herein by reference.

***Fiscal Year 2020-21 May Revision.*** The Fiscal Year 2020-21 May Revision to the Proposed 2020-21 Budget released May 14, 2020 (the “May Revision”) incorporates the significant impact of the effects of the COVID-19 pandemic on the budgets and operations of the State and local agencies and proposes to strategically use the federal Coronavirus Aid, Relief, and Economic Security (“CARES”) Act funds to support schools, public health and local governments. In an effort to respond to dramatic



economic and revenue changes since the Proposed 2020-21 Budget, the May Revision proposes to cancel or reduce spending included in the 2019 Budget Act, cancel new initiatives proposed in the Proposed 2020-21 Budget, draw down reserves, borrow from special funds, temporarily increase revenues and make government more efficient.

The May Revision acknowledges that the rapid onset of the COVID-19 recession in California has resulted in more than 4 million unemployment claims being filed since mid-March 2020 with the unemployment rate projected to be 18 percent for calendar year 2020, and a \$41 billion drop in revenues compared to the forecast in the Proposed 2020-21 Budget. With a higher demand for social safety net services increasing State costs, the \$54.3 billion deficit is more than three times the size of the \$16 billion set aside in the State's Rainy Day Fund. The May Revision stresses the necessity of additional federal funds to protect public health and safety, public education and other core government functions, as well as to support an economic recovery. If additional federal funds are not forthcoming, the May Revision spells out spending cuts necessary to meet the constitutional requirement for a balanced State budget.

The May Revision prioritizes funding for direct payments to families, children, seniors and persons with disabilities, maintaining the newly expanded Earned Income Tax Credit, which targets one billion dollars in financial relief to working families whose annual incomes are below \$30,000 – and including a \$1,000 credit for those families with children under the age of six. The May Revision also maintains grant levels for families and individuals supported by the CalWORKs and SSI/SSP programs and prioritizes funding to maintain current eligibility for critical health care services in both Medi-Cal and the expanded subsidies offered through the Covered California marketplace for Californians with incomes between 400 percent and 600 percent of the federal poverty level. The May Revision estimates unemployment insurance benefits in fiscal year 2020-21 will be \$43.8 billion – 650 percent higher than the \$5.8 billion estimated in the Proposed 2020-21 Budget.

The May Revision also targets \$3.8 billion in federal funds to protect public health and safety and proposes \$1.3 billion to counties for public health, behavioral health, and other health and human services programs, and also proposes \$450 million to cities to support homeless individuals. In addition, the May Revision proposes an augmentation of \$50 million for a total increase of \$100 million to the small business loan guarantee program to fill gaps in available federal assistance. This increase will be leveraged to access existing private lending capacity and philanthropy to provide necessary capital to restart California small businesses. To support innovation and the creation of new businesses, the May Revision retains the proposal in the Proposed 2020-21 Budget to support new business creation by exempting first-year businesses from the \$800 minimum franchise tax.

The CARES Act allocated the Coronavirus Relief Funds to state and local governments for expenditures incurred between March 1 and December 30, 2020 in response to COVID-19, not previously accounted for in the most recent state and local budgets. Based on the State's population, California received a total of \$15.3 billion with \$9.5 billion paid to the State. Cities and counties with populations over 500,000 received \$5.8 billion directly from the U.S. Treasury. As a result five California cities received a direct CARES Act allocation as a result of their size—for a total of \$1.5 billion direct from the federal government. The funding allocated to those large cities was deducted from the county share.

The May Revision allocates a portion of the State's CARES Act funding to local governments — \$450 million to cities and \$1.3 billion to counties — to be used toward homelessness, public health, public safety, and other services to combat the COVID-19 pandemic. This funding is contingent on adherence to federal guidance and the State's stay-at-home orders and will be released upon such jurisdictions' certification of both. The May Revision supplements this by providing \$450 million to all cities that did not receive a direct allocation. Of these recipients, cities with populations above 300,000 will receive a direct State allocation while all other cities will be provided funding through their counties.



Recipient jurisdictions must spend these funds consistent with federal law and are advised to prioritize these dollars to supplement existing efforts by counties and “Continuums of Care” to address the impacts of COVID-19 on people experiencing homelessness, including but not limited to outreach and hygiene efforts, shelter and housing supports, public safety, and rental subsidies. The May Revision also includes \$1.1 billion in available federal funds through the Community Development Block Grant Program for critical infrastructure and disaster relief related to the 2017 and 2018 wildfires and maintains \$50 million in one-time General Fund to support preparedness measures that bolster community resiliency to support critical services still vulnerable to power outage events, including schools, county election offices, and food storage reserves.

Direct CARES Act funding described in the May Revision affecting local agencies, including cities and counties, include the following:

- *Economic Impact Payments*—\$22.5 billion allocated, as of May 8, 2020, to more than 13.5 million California families who have filed a federal tax return in 2018 or 2019 with additional payments expected to total about \$29 billion.
- *Small Business Grants and Loans*—Over 300,000 California small businesses have received a combination of grants and loans totaling over \$70 billion primarily to support continued payment of employees and to help overcome the temporary loss of revenue they are experiencing, but benefiting only approximately 7.5 percent of California’s 4 million small businesses.
- *Hospitals, Providers, and Rural and Community Clinics*—\$5.3 billion allocated to the date of the May Revision through various formula allocations with initial allocations based on the number of Medicare fee-for-service payments.
- *Public Health* — \$3.8 billion directed to protect public health and public safety; \$1.3 billion to counties for public health, behavioral health and other health and human services programs; and \$450 million to cities for public safety and to support homeless individuals.
- *Public Transit Agencies*—\$3.6 billion allocated to offset lost fares and revenue from sudden loss of ridership.
- *Housing*—at least \$500 million to various public housing agencies to maintain the operation of low-income housing units as well as provide rental assistance and support for homeless individuals and families.
- *Food Assistance*—at least \$2 billion for California, including for programs that provide assistance to families through the Pandemic Electronic Benefits Transfer Program and the Commodity Assistance Program.

In addition, the May Revision proposes significant budget reductions including:

- *2019 Budget Act Reversions*—Including reverting funding for behavioral health counselors in emergency departments, Medi-Cal enrollment navigators, and the Medical Interpreters Pilot Project, as well as eliminating the augmentation for caregiver resource centers, resulting in General Fund savings of \$25 million in fiscal years 2019-20 and 2020-21, and \$10 million in fiscal year 2021-22.
- *CalWORKs Reductions*—Reducing all but the base funding for CalWORKs Subsidized Employment resulting in a savings of \$134.1 million General Fund in 2020-21; reducing funding



for CalWORKs Home Visiting resulting in a savings of \$30 million General Fund in 2020-21; eliminating funding for CalWORKs Outcomes and Accountability Review (“CalOAR”) resulting in a savings of \$21 million General Fund in fiscal year 2020-21.

***LAO Overview of May Revision.*** The Legislative Analyst’s Office (“LAO”) is a nonpartisan State office providing fiscal and policy information and advice to the State Legislature. The LAO released its report on the May Revision titled “The 2020-21 Budget: Overview Initial Comments on the Governor’s May Revision” on May 17, 2020 (the “LAO Overview”). In the LAO Overview, the LAO summarizes the May Revision in the context of matters such as federal decisions surrounding healthcare financing and the public health emergency associated with the COVID-19 pandemic and the economic fallout. The LAO also highlights key adjustments to the Proposed 2020-21 State Budget, which include a wide array of one-time programmatic spending and new policy goals to address an estimated \$54.3 billion budget shortfall. The LAO notes the May Revision proposals including using reserves, baseline adjustments for spending, increasing revenues, adjusting K-14 education spending, reducing overall spending, shifting costs, and using federal funding. The LAO describes the May Revision as a balanced mix of solutions and suggests the State Legislature address certain weaknesses as it adopts the fiscal plan for the State. The LAO notes that, under the May Revision, the State is estimated to begin fiscal year 2020-21 fiscal year with \$17.1 billion across the Budget Stabilization Account (“BSA”) and the Safety Net Reserve. The May Revision proposes using roughly half of that total, \$8.3 billion, to address the budget problem in fiscal year 2020-21. It is estimated that the State would end fiscal year 2020-21 with approximately \$10.7 billion in total reserves, representing a decrease of \$9.8 billion from the Proposed 2020-21 State Budget. The LAO summarizes that the BSA would reach a balance of approximately \$8.4 billion at the end of fiscal year 2020-21 (representing a net decrease of \$1.59.6 billion relative to the Proposed 2020-21 State Budget amount), the Special Fund for Economic Uncertainties would reach a balance of approximately \$1.62 billion at the end of fiscal year 2020-21 (representing an increase of \$320 million relative to the Proposed 2020-21 State Budget amount), and the Safety Net Reserve would decrease to a balance of approximately \$450 million at the end of fiscal year 2020-21.

To shift costs, the LAO notes that in past recessions the State made loans from other State accounts known as special funds to the General Fund to address budget problems. The LAO observes that the May Revision proposes making \$2 billion in loans from 57 separate special funds to the General Fund. Over 90 percent of these loans are less than \$100 million. The administration also proposes control section language that would lend special fund savings from lower employee compensation in fiscal year 2020-21 to the General Fund. The administration estimates this would yield about \$1 billion in loans. The LAO counts these as a trigger reduction because the employee compensation reductions are tied to triggers.

Finally, the LAO notes that the administration proposes transferring about \$400 million in special fund balances to the General Fund—amounts that would not be repaid. Similar to repurposing pension payments for schools, the LAO notes that the May Revision proposes repurposing a supplemental pension payment of \$2.5 billion in the 2019-20 State Budget to supplant State General Fund contributions to CalPERS for fiscal year 2019-20 resulting in savings of \$2.4 billion, which the administration scores over multiple years including fiscal year 2021-22. However, this means the State would forgo the remaining savings over the next few decades, as anticipated by the 2019-209 State Budget.

## **Future State Budgets**

The final 2020-21 State Budget is projected to be adopted by the State Legislature by June 15, 2020, with Gubernatorial approval estimated to occur by June 30, 2020. While recent State budgets have been timely adopted, State budgets have not always been timely adopted and signed. The City cannot predict the adoption date of the final State budget or the impact any delay may have on basic



appropriations. In addition, the State extended personal income tax return filing deadlines in response to the COVID-19 Pandemic. With some income tax receipts delayed into the next fiscal year, or for other reasons, the State might adopt significant budget adjustments during Fiscal Year 2020-21.

No prediction can be made by the City as to whether the State will encounter budgetary problems in future fiscal years, and if it were to do so, it is not clear what measures would be taken by the State to balance its budget, as required by law. In addition, the City cannot predict the final outcome of future State budget negotiations, the impact that such budgets will have on City finances and operations or what actions will be taken in the future by the State Legislature and the Governor to deal with changing State revenues and expenditures. There can be no assurance that actions taken by the State to address its financial condition will not materially adversely affect the financial condition of the City. Current and future State budgets will be affected by national and State economic conditions and other factors, including the current economic downturn, over which the City has no control.

## **RISK FACTORS**

*Purchase of the 2020A Bonds will constitute an investment subject to certain risks, including the risk of nonpayment of principal and interest. Before purchasing any of the 2020A Bonds, prospective investors should carefully consider, among other things, the risk factors described below. However, the following is not meant to be an exhaustive listing of all the risks associated with the purchase of the 2020A Bonds. Moreover, the order of presentation of the risk factors does not necessarily reflect the order of their importance.*

### **2020A Base Rental Payments Are Not Debt; 2020A Bonds are Limited Obligations**

The obligation of the City to make the 2020A Base Rental Payments under the Lease does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the 2020A Bonds nor the obligation of the City to make 2020A Base Rental Payments constitutes a debt of the City, the State or any political subdivision thereof (other than the Authority) within the meaning of any constitutional or statutory debt limitation or restriction.

The 2020A Bonds are not general obligations of the Authority, but are limited obligations payable solely from and secured by a pledge of Revenues and amounts held in the funds and accounts created under the Indenture, consisting primarily of applicable 2020A Base Rental Payments. The Authority has no taxing power.

The 2020A Bonds are being issued by the Authority pursuant to the Act. The Supreme Court of the State in its 1998 decision of *Rider v. City of San Diego*, 18 Cal. 4<sup>th</sup> 1035, upheld the validity of a joint powers agency financing and found that bonds issued pursuant to the Act and payable from lease payments made pursuant to a lease with the City of San Diego were not subject to the State constitutional provisions that require two-thirds voter approval of indebtedness incurred by a city, county or school district. No voter approval of the 2020A Bonds or the Lease has been sought.

Although the Lease does not create a pledge, lien or encumbrance upon the funds of the City, the City is obligated under the Lease to pay the 2020A Base Rental Payments from any source of legally available funds and the City has covenanted in the Lease that, for so long as the Leased Property is available for its use, it will make the necessary annual appropriations within its budget for the 2020A Base Rental Payments. The City is currently liable and may become liable on other obligations payable from general revenues, some of which may have a priority over the 2020A Base Rental Payments, or which the City, in its discretion, may determine to pay prior to the 2020A Base Rental Payments.



**The City has the capacity to enter into other obligations payable from the City's General Fund, without the consent of or prior notice to the Owners of the 2020A Bonds. To the extent that additional obligations are incurred by the City, the funds available to make 2020A Base Rental Payments may be decreased. If the City's revenue sources are less than its total obligations, the City could choose to fund other activities before making 2020A Base Rental Payments and other payments due under the Lease. The same result could occur if state constitutional expenditure limitations were to prohibit the City from appropriating and spending all of its otherwise available revenues.**

### **Abatement**

The obligation of the City to pay 2020A Base Rental Payments and Additional Rental Payments shall be abated during any period in which by reason of any damage, destruction, condemnation or title defect there is substantial interference with the use by the City of the Leased Property or any portion thereof. Such abatement shall be in an amount such that the resulting 2020A Base Rental Payments in any year during which such interference continues does not exceed the fair rental value of the portions of the Leased Property as to which such damage, destruction, taking or title defect does not substantially interfere with the City's use and right of possession, as evidenced by a Certificate of the City. Such abatement shall continue for the period commencing with the date of interference resulting from such damage, destruction, condemnation, taking or title defect and, with respect to damage to or destruction of the Leased Property, ending with the substantial completion of the work of repair or replacement of the Leased Property, or the portion thereof so damaged or destroyed, and the term of the Lease shall be extended as provided in the Lease. Notwithstanding the foregoing, to the extent that moneys are available for the payment of base rental payments in any of the funds and accounts established under the Indenture, such base rental payments shall not be abated but shall be payable by the City as a special obligation payable solely from such funds and accounts. See APPENDIX C – "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL LEGAL DOCUMENTS – The Lease – Abatement of Rental."

### **Risk of Uninsured Loss**

The City covenants under the Lease to maintain certain insurance policies on the Leased Property. These insurance policies do not cover all types of risk. The Leased Property could be damaged or destroyed due to earthquake or other casualty for which the Leased Property is uninsured. The Lease does not require earthquake insurance. Additionally, the Leased Property could be the subject of an eminent domain proceeding. Under these circumstances an abatement of 2020A Base Rental Payments could occur and could continue indefinitely. There can be no assurance that the providers of the City's liability will in all events be able or willing to make payments under the respective policies for such loss should a claim be made under such policies. Further, there can be no assurances that amounts received as proceeds from insurance or from condemnation of the Leased Property will be sufficient to repair the Leased Property or to redeem the 2020A Bonds secured by 2020A Base Rental Payments.

Certain of the City's insurance policies provide for deductibles up to \$500,000. Should the City be required to meet such deductible expenses, the availability of General Fund revenues to make 2020A Base Rental Payments may be correspondingly affected.

### **City General Fund**

***In General.*** The 2020A Base Rental Payments and other payments due under the Lease are payable from funds lawfully available to the City. If the amounts which the City is obligated to pay in a fiscal year exceed the revenues for such year, the City may choose to make some payments rather than making other payments, including 2020A Base Rental Payments, based on the perceived needs of the



City. The same result could occur if, because of California Constitutional limits on expenditures, the City is not permitted to appropriate and spend all of its available revenues or is required to expend available revenues to preserve the public health, safety and welfare. For more information regarding California Constitutional limits on expenditures see “LIMITATIONS ON REVENUES AND APPROPRIATIONS – Property Tax Limitations – Article XIII A, XIII B, XIII C (Proposition 218).”

***Risk of Increased Expenditures.*** Under the Lease, provided the City is not currently in default thereunder, the City is permitted to expend for any municipal purpose or otherwise incur other evidences of indebtedness or other obligations payable from the City’s General Fund without the consent of Owners of the 2020A Bonds. To the extent that additional obligations are incurred by the City, the funds available to pay 2020A Base Rental Payments could decrease.

***Risk of Decreased Revenues.*** A variety of national, state or regional factors, which are beyond the control of the City’s fiscal policies, as well as the City’s fiscal policies could reduce the amount of the City’s General Fund revenues. To the extent that City revenues decrease, the funds available to pay 2020A Base Rental Payments could decrease. See “THE CITY.”

## **U.S. Economic Recession**

On June 8, 2020, the National Bureau of Economic Research (“NBER”) declared that a recession in the United States commenced in February 2020. Reportedly, this was the fastest that NBER has declared any recession since the group began formal announcements in 1979. In announcing the recession, NBER said “[T]he unprecedented magnitude of the decline in employment and production, and its broad reach across the entire economy, warrants the designation of this episode as a recession . . .” The City cannot predict how long the current economic recession will last or the impacts on the City’s General Fund revenues, but such impacts may be material and adverse.

## **COVID-19 Pandemic**

The outbreak of COVID-19, a respiratory disease caused by a new strain of coronavirus, has been characterized as a pandemic (the “Pandemic”) by the World Health Organization and is currently affecting many parts of the world, including the United States and California. On January 31, 2020, the Secretary of the United States Health and Human Services Department declared a public health emergency for the United States and on March 13, 2020, the President of the United States declared the outbreak of COVID-19 in the United States a national emergency. Subsequently, the President’s Coronavirus Guidelines for America and the United States Centers for Disease Control and Prevention called upon Americans to take actions to slow the spread of COVID-19 in the United States.

On March 4, 2020, the Governor of California (the “Governor”) proclaimed a state of emergency in California as a result of the threat of COVID-19. Under the California Emergency Services Act, during a state of emergency, the Governor has authority over all agencies of the state government and can exercise the State’s police powers. His powers also include the power to promulgate, issue, and enforce orders and regulations as he deems necessary.

Since declaring the emergency, the Governor has issued a number of executive orders relating to COVID-19 preparedness and mitigation. These include his March 19, 2020 Executive Order N-33-20, which orders all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of certain critical infrastructure sectors, as described in that order and later designations. In March 2020, the County issued a series of orders, which substantially aligns, among other matters, with the Governor’s order. These actions are focused on “social



distancing,” or limiting instances where the public can congregate or interact with each other, which affects the operation of businesses and impacts enterprise operations and the economy.

The Governor issued Executive Orders N-29-20 and N-35-20 relaxing state and local agency open meeting laws to accommodate social distancing. The City expects to hold meetings of its City Council unhindered by the Pandemic. As permitted under Executive Order N-33-20, certain of the City’s employees may continue to come to work under designated exceptions for critical sectors. And some of the City’s employees are teleworking. The City does not expect its business operations to be materially curtailed by employee absences prompted by the stay-home order. However, the City offers no assurances that City Council member or employee absences due to COVID 19 illnesses will not materially and adversely impact its operations.

The Pandemic has negatively affected travel, commerce, investment values, and financial markets globally, and is widely expected to continue to negatively affect economic output worldwide and within the City. While federal and state governments (including California) have enacted legislation and taken executive actions seeking to mitigate the negative public health and economic impacts of the Pandemic, the City offers no assurances that these interventions will have the intended effects. These negative economic impacts may reduce or otherwise negatively affect revenues to the City’s General Fund and result in unexpected increases in expenditures. See “THE CITY – Management Discussion.” The City cannot predict the magnitude of these impacts on such revenues, but the impacts could be materially adverse.

The Pandemic has resulted in historic reductions in the value of investments of the City’s pension funds and funds for post-employment benefits. Notwithstanding the issuance of the 2020A Bonds, if these investment value reductions are not sufficiently and timely reversed, the City could be required to materially increase its contributions to fund or pay pension and other post-employment benefits in the future. See “THE CITY – Long-Term Obligations,” “– Pension Plans,” and “– Other Post-Employment Benefits.”

The financial and operating data contained in this Official Statement are the latest available, but are as of dates and for periods prior to the economic impact of the Pandemic and measures instituted to slow it. Accordingly, they are not indicative of the current financial condition or future prospects of the City. The City continues to monitor the spread of COVID-19 and is working with local, state, and national agencies to address the potential impact of the Pandemic upon the City. While the overall potential impact of the Pandemic on the City cannot be quantified at this time, the continued outbreak of COVID-19 could lead to additional or modified public health restrictions and have an adverse effect on the City’s operations and financial condition, and the effect could be material. Prospective investors should assume that the restrictions and limitations related to COVID-19, and the current disruption to the national and global economies, will increase at least over the near term, recovery may be prolonged and, therefore, may have an adverse impact on the City’s finances.

## **Bankruptcy**

A bankruptcy petition may be filed by the City. In particular, the City may file a petition under Chapter 9 (“Chapter 9”) of Title 11 of the United States Code (the “Bankruptcy Code”), provided that it complies with requirements of Section 53760 *et seq.* of the Government Code of the State. Under the Government Code, a local public entity, including the City, is prohibited from filing under the Bankruptcy Code unless it has participated in a specified neutral evaluation process with interested parties, as defined, or it has declared a fiscal emergency and has adopted a resolution by a majority vote of the governing board at a noticed public hearing that includes findings that the financial state of the



local public entity jeopardizes the health, safety, or well-being of the residents of the local public entity's jurisdiction or service area absent bankruptcy protections.

If the City were to become a debtor under the Bankruptcy Code, the City would be entitled to all of the protective provisions of the Bankruptcy Code as applicable in a Chapter 9 proceeding. Among the adverse effects of such a bankruptcy might be: (i) the application of the automatic stay provisions of the Bankruptcy Code, which, until relief is granted, would prevent collection of payments from the City or the commencement of any judicial or other action for the purpose of recovering or collecting a claim against the City; (ii) the avoidance of preferential transfers occurring during the relevant period prior to the filing of a bankruptcy petition; (iii) the existence of unsecured or court-approved secured debt which may have a priority of payment superior to that of the 2020A Base Rental Payments under the Lease as they relate to Revenues due to Owners of 2020A Bonds; and (iv) the possibility of the adoption of a plan for the adjustment of the City's debt (a "Plan") without the consent of the Trustee or all of the Owners of 2020A Bonds, which Plan may restructure, delay, compromise or reduce the amount of any claim of the Owners if the Bankruptcy Court finds that the Plan is fair and equitable.

In addition, the City could either reject the Lease or assume the Lease despite any provision of the Lease which makes the bankruptcy or insolvency of the City an event of default thereunder. If the City rejects the Lease, the Trustee, on behalf of the Owners of the 2020A Bonds, would have a pre-petition claim that may be limited under the Bankruptcy Code and treated in a manner under a Plan over the objections of the Trustee or Owners of the 2020A Bonds. Moreover, such rejection would terminate the Lease and the City's obligations to make payments thereunder.

Further, the Authority is a public agency and, like the City, is not subject to the involuntary procedures of the Bankruptcy Code. The Authority may also seek voluntary protection under Chapter 9 of the Bankruptcy Code. In the event the Authority were to become a debtor under the Bankruptcy Code, the Authority would be entitled to all of the protective provisions of the Bankruptcy Code as applicable in a Chapter 9 proceeding. Such a bankruptcy could adversely affect the payments under the Indenture. Among the adverse effects might be: (i) the application of the automatic stay provisions of the Bankruptcy Code, which, until relief is granted, would prevent collection of payments from the Authority or the commencement of any judicial or other action for the purpose of recovering or collecting a claim against the Authority; (ii) the avoidance of preferential transfers occurring during the relevant period prior to the filing of a bankruptcy petition; (iii) the existence of unsecured or court-approved secured debt which may have priority of payment superior to that of the Owners of the 2020A Bonds; and (iv) the possibility of the adoption of a plan for the adjustment of the Authority's debt without the consent of the Trustee or all of the Owners of the 2020A Bonds, which plan may restructure, delay, compromise or reduce the amount of any claim of the Owners if the Bankruptcy Court finds that the Plan is fair and equitable. However, the bankruptcy of the Authority, and not the City, should not affect the Trustee's rights under the Lease. The Authority could still challenge the assignment, and the Trustee and/or the Owners of the 2020A Bonds could be required to litigate these issues in order to protect their interests.

The adjustment plans approved by the Bankruptcy Courts in connection with the bankruptcies of the cities of Vallejo, San Bernardino and Stockton resulted in significant reductions in the amounts payable by the cities under lease revenue obligations substantially identical or similar to the 2020A Bonds. The City can provide no assurances about the outcome of the bankruptcy cases of other California municipalities or the nature of any adjustment plan if it were to file for bankruptcy.

The various legal opinions to be delivered concurrently with the 2020A Bonds (including Bond Counsel's approving opinion) will be qualified as to the enforceability of the various agreements relating to the 2020A Bonds by limitations imposed by bankruptcy, reorganization, insolvency or other similar



laws affecting the rights of creditors generally and by general principles of equity applied in the exercise of judicial discretion.

## **State Finances**

According to the State Constitution, the Governor is required to propose a budget to the State Legislature by no later than January 10 of each year, and a final budget must be adopted by the vote of each house of the Legislature no later than June 15, although this deadline has been breached in the past. In November 2010, the voters of the State passed Proposition 25, which reduced the vote required to adopt a budget to a majority vote of each house and which provided that there would be no appropriation from the current budget or future budget to pay any salary or reimbursement for travel or living expenses for members of the Legislature for the period during which the budget was presented late to the Governor. The State budget becomes law upon the signature of the Governor, who may veto specific items of expenditure.

The State's financial condition and budget policies affect communities and local public agencies throughout California. State budgets are affected by regional, national or even international economic conditions and a multitude of other factors over which the City has no control. The City cannot give any assurances regarding the financial conditions of the State during any period of time. The City also cannot predict what measures the State will adopt to respond to any future financial difficulties. The City can provide no guarantees regarding the outcome of future State budget negotiations, the actions that will be taken in the future by the State Legislature and Governor to deal with changing State revenues and expenditures, or the impact that such budgets or actions will have on the City's finances and operations. Some of the State's budget solutions have caused in the past, and may cause in the future, increased financial stress to cities, counties and other local governments by: (i) decreasing local revenues (for example, the property tax, road improvement funding, public safety or other categorical funded initiatives), or (ii) increasing directly or indirectly demand for local programs (such as public safety or indigent health programs). In recent years, the State has faced significant financial and budgetary stress. AB X1 26 enacted in 2011, pursuant to which all redevelopment agencies in the State were dissolved, was enacted during the Fiscal Year 2011-12 budget process and was just one example where cities and counties throughout the State were significantly impacted. Even though California has experienced significantly improved fiscal condition during the past few fiscal years, the State is still facing continuing financial challenges and unfunded long-term liabilities.

Information about the State budget and State spending is available at various State-maintained websites. Text of proposed and adopted budgets may be found at the website of the State Department of Finance, [www.dof.ca.gov](http://www.dof.ca.gov). An analysis of the budget is posted by the Office of the Legislative Analyst at [www.lao.ca.gov](http://www.lao.ca.gov). In addition, various official statements for State-issued bonds, many of which contain a summary of the current and past State budgets may be found at the website of the State Treasurer, [www.treasurer.ca.gov](http://www.treasurer.ca.gov). None of the websites referenced above is in any way incorporated into this Official Statement. They are cited for informational purposes only. The City makes no representation concerning, and does not take any responsibility for, the accuracy or timeliness of information posted on such websites or the continued maintenance of such websites by the respective entities.

## **No Liability of Authority to the Owners**

Except as expressly provided in the Indenture, the Authority will not have any obligation or liability to the Owners of the 2020A Bonds with respect to the payment when due of the Base Rental Payments by the City, or with respect to the performance by the City of other agreements and covenants required to be performed by it contained in the Lease or the Indenture, or with respect to the performance by the Trustee of any right or obligation required to be performed by it contained in the Indenture.



## **No Limitation on Incurring Additional Obligations**

Neither the Lease nor the Indenture contains any limitations on the ability of the City to enter into other obligations that may constitute additional claims against its General Fund revenues. To the extent that the City incurs additional obligations, the funds available to make 2020A Base Rental Payments may be decreased. The City is currently liable on other obligations payable from General Fund revenues and expects to enter into other such obligations in the future. Such obligations may impose significant additional burdens on the City's General Fund.

## **Natural Disasters**

**General.** From time to time, the City is subject to natural calamities which could result in the substantial interference with the use and occupancy of the Leased Property, which could result in 2020A Base Rental Payments being subject to abatement or an adverse impact on the City's General Fund. Under such circumstances, no assurance can be given that the City would have insurance or other resources available to make repairs to the Leased Property or to make 2020A Base Rental Payments under the Lease.

**Seismic Activity.** According to the City's Natural Hazards Mitigation Plan, there are several significant regional faults and fault zones that do not pass through the City, but that could have significant ground shaking effects. The most prominent fault feature in this category is the San Andreas, a major strike-slip feature that passes about 35 miles northeast of the general study area, and is recognized as being capable of Richter-Magnitude 8.0+ earthquakes. There are traces of two known faults within the borders of the City, the Walnut Creek fault and the San Jose Hills fault. These two faults are not well defined or studied. The Walnut Creek fault is located under basin sediment that has for years been deposited from the San Gabriel and surrounding mountains. Other nearby faults include the Indian Hill fault, Sierra Madre fault, Whittier fault, Chino-Central Ave. fault, and the Elsinore fault.

The City has homes built on sloping terrain in the San Jose Hills are of the City. This terrain may be susceptible to movement during an earthquake. Additional areas in the City have been identified as historical slides. The City does have landslide and liquefaction zones. Since the settlement of the City, to the City's knowledge, there have not been any instances of liquefaction associated with seismic activity.

The City makes no representation regarding the impact that a future seismic event may have on the Leased Property. The City is not required to, and currently does not, maintain earthquake insurance with respect to the facilities. Therefore, the damage from earthquakes may not be insured in future years.

A major earthquake could cause widespread destruction and significant loss of life in a populated area such as the City. If an earthquake were to substantially damage or destroy taxable property within the City, a reduction in taxable values of property in the City and a reduction in revenues available to the General Fund to make Base Rental Payments would be likely to occur and therefore, Revenues available to pay debt service on the Bonds could be materially adversely affected. Seismic activity may also reduce or eliminate the use and occupancy of the Leased Property by the City. There is no assurance that, in the event of a natural disaster, sufficient City reserves or Federal Emergency Management Agency assistance would be available for the repair or replacement of any Leased Property.

**Flooding.** The City is susceptible to flooding primarily from rainstorm flooding. The City most recently experienced damage resulting from the rainstorms and flooding that occurred throughout Southern California from February 10 - 15, 1992. The City is bisected by the Walnut Creek Wash, a flood control project. Prior to the flood control system being built, Walnut Creek, which flows across the central section of the City from east to west, would overflow its banks.



**Wildfires.** There are three categories of interface fire: The classic wildland/urban interface exists where well-defined urban and suburban development presses up against open expanses of wildland areas; the mixed wildland/urban interface is characterized by isolated homes, subdivisions and small communities situated predominantly in wildland settings; and the occluded wildland/urban interface exists where islands of wildland vegetation occur inside a largely urbanized area. Certain conditions must be present for significant interface fires to occur. The most common conditions include: hot, dry and windy weather; the inability of fire protection forces to contain or suppress the fire; the occurrence of multiple fires that overwhelm committed resources; and a large fuel load (dense vegetation). Once a fire has started, several conditions influence its behavior, including fuel topography, weather, drought and development. Although major fire conflagrations have spread over flat areas of communities, because of wind driven flames spotting from roof to roof, most communities are at highest risk of wildland fires in their hillside areas. The City reflects this same type of risk with a concentration of homes that are built in the San Jose Hills area from Grand Ave. in the east to Pass and Covina Street in the west.

The City has adopted its Natural Hazards Mitigation Plan. This plan includes a hazard analysis for earthquake, flood, landslide and fire risk and is required to comply with FEMA requirements for disaster relief funding.

If such events described above occur, the City's emergency response to such an event may add unanticipated expenditures to the General Fund budget, some or all of which may not be reimbursed by federal or state disaster funding, and, if reimbursed, may not be received by the City in a timely manner. This could lead to reduced ability by the City to make Base Rental Payments and therefore, Revenues available to pay debt service on the Bonds could be materially adversely affected. Such event could also result in substantial damage to properties in the City, which, in turn, could substantially reduce the value of such properties and could affect the ability or willingness of the property owners to pay their property taxes or of businesses to operate and generate sales tax.

### **Hazardous Substances**

The public works activities of the City may, from time to time, result in the use of hazardous substances on the facilities owned and operated by the City, including, but not limited, to the Leased Property. Accordingly, it is possible that spills, discharges or other adverse environmental consequences of such use in the future could cause an adverse effect on the fair rental value of the Leased Property and lead, in an extreme case, to abatement, in whole or in part, of all or a portion of the 2020A Base Rental Payments. See "RISK FACTORS – Abatement" above.

### **Cybersecurity**

The City, like many other public and private entities, relies on computer and other digital networks and systems to conduct its operations and finances. As a recipient and provider of personal, private or other electronic sensitive information, the City is potentially subject to multiple cyber threats including, but not limited to, hacking, viruses, malware, ransomware and other attacks on computer and other sensitive digital networks and systems. Entities or individuals may attempt to gain unauthorized access to the City's systems for the purposes of misappropriating assets or information or causing operational disruption or damage. The City provides training to its staff on phishing and safe browsing and how to avoid potential cyber threats. However, no assurances can be given that the security and operational control measures of the City will be successful in guarding against any and each cyber threat or breach.



## **Future Initiatives; “Split Roll”**

From time to time, other initiative measures may be adopted, which may affect the City’s revenues and its ability to expend said revenues. The above-mentioned measures and any future measures could restrict the City’s ability to raise additional funds for its General Fund.

For example, the “Split Roll” Ballot Initiative, which will be on the November 2020 Ballot, would remove certain tax protections for commercial property currently in place under Proposition 13 (Article XIII A of the California Constitution). “Split” refers to the potential division into two parts of the County Assessor’s tax roll: residential and nonresidential property. This initiative would eliminate the ceiling on commercial property taxes, which is currently capped at 1% of the purchase price of the property, and would require all commercial property taxes to be re-assessed to 2021 market values. The initiative would also require commercial and industrial properties to be re-assessed every three years and taxed at market value. No assurance can be provided regarding whether this initiative will pass or the impact to City finances.

## **Limitations on Remedies**

The enforceability of the rights and remedies of the owners of the 2020A Bonds and the Trustee, and the obligations incurred by the Authority and the City, respectively, may be subject to the following, among others: the limitations on legal remedies against joint powers authorities and cities in California; the federal bankruptcy code and applicable bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or affecting the enforcement of creditors’ rights generally, now or hereafter in effect; principles of equity that may limit the specific enforcement under State law of certain remedies; the exercise by the United States of America of the powers delegated to it by the U.S. Constitution; and the reasonable and necessary exercise, in certain exceptional situations, of the police power inherent in the sovereignty of the State and its governmental bodies in the interest of serving a significant and legitimate public purpose. Bankruptcy proceedings, or the exercise of powers by the federal or State government, if initiated, could subject the owners of the 2020A Bonds to judicial discretion and interpretation of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitations or modification of their rights. See also, “Bankruptcy” above.

## **Limitations on Remedies under the Lease**

If an event of default occurs and in continuing under the Lease, there is no remedy of acceleration of any Base Rental Payments which have not come due, and no right for the Authority, the Trustee or any Owner to terminate the Lease and re-let the Leased Property. The remedy provided under the Lease is to exercise any action at law or in equity necessary or desirable to collect the amounts then due and owing under the Lease. See APPENDIX C – “SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL LEGAL DOCUMENTS.”

## **Substitution of Property**

Pursuant to the Lease, the City will have, so long as the Lease is in effect, the option at any time and from time to time, to substitute other real property for any portion of the Leased Property or release any identifiable real property and/or improvements constituting the Leased Property, provided that the City shall satisfy all of the requirements set forth in the Lease. See APPENDIX C – “SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL LEGAL DOCUMENTS – The Lease – Substitution and Release of Property.”



## **Secondary Market Risk**

There can be no assurance that there will be a secondary market for purchase or sale of the 2020A Bonds, and from time to time there may be no market for them, depending upon prevailing market conditions, the financial condition or market position of firms who may make the secondary market and the financial condition of the City.

## **LIMITATIONS ON REVENUES AND APPROPRIATIONS**

*There are a number of provisions in the State of California Constitution that limit the ability of the City to raise and expend revenues. Contained below is a description of some of these limitations. In addition to the ones discussed in this section below, other initiative measures could be adopted from time to time further affecting the City's revenues and finances.*

### **Property Tax Limitations – Article XIII A, XIII B, XIII C (Proposition 218)**

Article XIII A of the California Constitution limits the amounts of *ad valorem* tax on real property to 1% of “full cash value” as determined by the county assessor. Article XIII A defines “full cash value” to mean “the City Assessor’s valuation of real property as shown on the 1975-76 tax bill under ‘full cash value’, or thereafter the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment period.” Furthermore, all real property valuation may be increased to reflect the inflation rate, as shown by the consumer price index, not to exceed 2% per year, or may be reduced in the event of declining property values caused by damage, destruction or other factors.

Article XIII A exempts from the 1% tax limitation any taxes to repay indebtedness approved by the voters prior to July 1, 1978, and any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978 by two-thirds of the voters voting on the proposition approving such bonds, and requires a vote of two-thirds of the qualified electorate to impose special taxes, while totally precluding the imposition of any additional *ad valorem*, sales or transaction tax on real property. In addition, Article XIII A requires the approval of two-thirds of all members of the State legislature to change any State tax law resulting in increased tax revenues.

Article XIII B of the California Constitution limits the annual appropriations from the proceeds of taxes of the State and any city, county, school district, authority or other political subdivision of the State to the level of appropriations for the prior fiscal year, as adjusted for changes in the cost of living, population and services rendered by the governmental entity. Article XIII B includes a requirement that if an entity’s revenues in any year exceed the amount permitted to be spent, the excess would have to be returned by revising tax or fee schedules over the subsequent two years.

On November 5, 1996, California voters approved an initiative to amend the California Constitution known as the Right to Vote on Taxes Act (“Proposition 218”), which added Article XIII C and XIII D to the California Constitution. Among other provisions, Proposition 218 requires majority voter approval for the imposition, extension or increase of general taxes and two-thirds voter approval for the imposition, extension or increase of special taxes by a local government, which is defined in Proposition 218 to include cities. Proposition 218 also provides that any general tax imposed, extended or increased without voter approval by any local government on or after January 1, 1995 and prior to November 6, 1996 will continue to be imposed only if approved by a majority vote in an election held within two years of November 6, 1996. Proposition 218 also provides that the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. This extension of the initiative power is not limited by the terms of Proposition 218 to impositions



after November 6, 1996 and absent other legal authority, could result in retroactive reduction in any existing taxes, assessments, fees and charges. In addition, Proposition 218 limits the application of assessments, fees and charges and requires certain existing, new and increased assessments, fees and charges to be submitted to property owners for approval or rejection, after notice and public hearing. Neither the City nor the Authority expects the provisions of Proposition 218 to have any immediate material effect on the revenues from which Base Rental Payments are expected to be appropriated.

### **Article XIII A Implementing Legislation**

Legislation enacted by the California Legislature to implement Article XIII A (Statutes of 1978, Chapter 292, as amended) provides that, notwithstanding any other law, local agencies may not levy any property tax, except to pay debt service on indebtedness approved by the voters prior to July 1, 1978, and that each county will levy the maximum tax permitted by Article XIII A of \$4.00 per \$100 assessed valuation (based on the traditional practice of using 25% of full cash value as the assessed value for tax purposes). The legislation further provided that, for Fiscal Year 1978-79 only, the tax levied by each county was to be appropriated among all taxing agencies within the county in proportion to their average share of taxes levied in certain previous years.

Future assessed valuation growth allowed under Article XIII A (i.e., new construction, change of ownership, and 2% annual value growth) will be allocated on the basis of “situs” among the jurisdictions that serve the tax rate area within which the growth occurs. Local agencies and schools will share the growth of “base” revenue from the tax rate area. Each year’s growth allocation becomes part of each agency’s allocation in the following year. The Authority is unable to predict the nature or magnitude of future revenue sources that may be provided by the State to replace lost property tax revenues. Article XIII A effectively prohibits the levying of any other *ad valorem* property tax above those described above, even with the approval of the affected voters.

### **Challenges to Article XIII A**

There have been many challenges to Article XIII A of the California Constitution. The United States Supreme Court heard the appeal in *Nordlinger v. Hahn*, a challenge relating to residential property. Based upon the facts presented in *Nordlinger*, the United States Supreme Court held that the method of property tax assessment under Article XIII A did not violate the federal Constitution. Neither the Authority nor the City can predict whether there will be any future challenges to California’s present system of property tax assessment and cannot evaluate the ultimate effect on the Agency’s receipt of tax increment revenues should a future decision hold unconstitutional the method of assessing property.



## Statutory Revenue Limitations – Proposition 62

Proposition 62 is a statewide statutory initiative adopted by the voters at the November 4, 1986 general election. It added Sections 53720 to 53730 to the Government Code to require that all new local taxes be approved by the voters. The statute provides that all local taxes are either general taxes or special taxes. General taxes are imposed for general governmental purposes. Special taxes are imposed for specific purposes only. General taxes may not be imposed by local government unless approved by a two-thirds vote of the entire legislative body and a majority of the voters voting on the proposed general tax. Special taxes may not be imposed by local government unless approved by a majority of the entire legislative body and by two-thirds of the voters voting on the special tax. Soon after Proposition 62 was adopted by the voters, legal challenges to taxes adopted contrary to its provisions were filed. In 1991, in the most significant case, *City of Woodlake v. Logan*, the California Court of Appeal held that the statutory voter approval requirement for general taxes was unconstitutional. The California Supreme Court refused to review *Woodlake*.

On September 28, 1995, the California Supreme Court, on a 5-2 vote, in a decision entitled *Santa Clara County Local Transportation Authority v. Guardino* (Case No. S036269), “disapproved” *Woodlake* and held that the voter approval requirements of Proposition 62 are valid. On December 14, 1995, the Supreme Court made minor nonsubstantive changes to its written opinion and denied the petition for rehearing. The decision provides that the voter approval requirements of Proposition 62 for both general and special taxes are valid. The *Guardino* case fails to say (1) whether the decision is retroactively applicable to general taxes adopted prior to the decision; (2) whether taxpayers have any remedies for refund of taxes paid under a tax ordinance that was not voter approved; (3) what statute of limitations applies to taxes adopted without voter approval prior to *Guardino*; (4) whether Proposition 62 applies only to new taxes or to tax increases as well.

The Court of Appeals in a December 15, 1997 decision entitled *McBearty v. City of Brawley* (Case No. D027877) addressed some of these issues. In *Brawley*, a taxpayer challenged the city’s utility tax that was passed by the city council in 1991 without a vote of the electorate. The Court of Appeals held that (i) a three year statute of limitations applies to challenges to a tax ordinance subject to Proposition 62; and (ii) the statute of limitations did not begin to run until September 1995 when the *Guardino* case determined that Proposition 62 was constitutional. The effect of the holding in *Brawley* is that any tax ordinances passed between November 1986 and December 1995 that were not approved by the electorate would be subject to a challenge until December 1998. The court ordered the city to either cease collecting the tax or seek voter approval to continue levying the tax. However, in *Howard Jarvis Taxpayers Association v. City of La Habra*, decided on June 4, 2001, the California Supreme Court overruled part of *McBearty*, finding that the three year statute of limitations applicable to such taxes does not run from the date of the *Guardino* decision, but rather the continued imposition and collection of such tax is an ongoing violation, upon which the limitations period begins with each new collection.

Several questions raised by the *Guardino* decision remain unresolved. Proposition 62 provides that if a jurisdiction imposes a tax in violation of Proposition 62, the portion of the one percent general *ad valorem* tax levy allocated to that jurisdiction is reduced by \$1 for every \$1 in revenue attributable to the improperly imposed tax for each year that such tax is collected. The practical applicability of this provision has not been fully determined. Potential future litigation and legislation may resolve some or all of the issues raised by the *Guardino* decision.

Neither the Authority nor the City can predict the outcome of any pending or future litigation concerning the validity of Proposition 62, nor can either predict the scope of the *Guardino* or *McBearty* decisions discussed above. Proposition 62 could affect the ability of the City to continue the imposition of, or to retain, certain taxes, and restrict the City’s ability to raise revenue.



## **Proposition 1A**

Proposition 1A (“Proposition 1A”), proposed by the Legislature in connection with the 2004-05 Budget Act and approved by the voters in November 2004, restricts State authority to reduce major local tax revenues such as the tax shifts permitted to take place in Fiscal Years 2004/05 and 2005-06. Proposition 1A provides that the State may not reduce any local sales tax rate, limit existing local government authority to levy a sales tax rate or change the allocation of local sales tax revenues, subject to certain exceptions. Proposition 1A generally prohibits the State from shifting to schools or community colleges any share of property tax revenues allocated to local governments for any fiscal year, as set forth under the laws in effect as of November 3, 2004. Any change in the allocation of property tax revenues among local governments within a county must be approved by two-thirds of both houses of the Legislature. Proposition 1A provides, however, that beginning in Fiscal Year 2008-09, the State may shift to schools and community colleges up to 8% of local government property tax revenues, which amount must be repaid, with interest, within three years, if the Governor proclaims that the shift is needed due to a severe state financial hardship, the shift is approved by two-thirds of both houses and certain other conditions are met. Such a shift may not occur more than twice in any ten-year period. The State may also approve voluntary exchanges of local sales tax and property tax revenues among local governments within a county.

Proposition 1A provides that if the State reduces the vehicle license fee (“VLF”) rate below 0.65% of vehicle value, the State must provide local governments with equal replacement revenues. Further, Proposition 1A requires the State to suspend State mandates affecting cities, counties and special districts, excepting mandates relating to employee rights, schools or community colleges, in any year that the State does not fully reimburse local governments for their costs to comply with such mandates.

## **Proposition 22**

On November 2, 2010, voters in the State approved Proposition 22. Proposition 22, known as the “Local Taxpayer, Public Safety, and Transportation Protection Act of 2010,” eliminates or reduces the State’s authority to (i) temporarily shift property taxes from cities, counties and special districts to schools, (ii) use vehicle license fee revenues to reimburse local governments for state-mandated costs (the State will have to use other revenues to reimburse local governments), (iii) redirect property tax increment from redevelopment agencies to any other local government, (iv) use State fuel tax revenues to pay debt service on State transportation bonds, or (v) borrow or change the distribution of State fuel tax revenues.

## **Proposition 26**

On November 2, 2010, voters in the State also approved Proposition 26. Proposition 26 amends Article XIII C of the State Constitution to expand the definition of “tax” to include “any levy, charge, or exaction of any kind imposed by a local government” except the following: (1) a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege; (2) a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product; (3) a charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof; (4) a charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property; (5) a fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law; (6) a charge imposed as a condition of property development; and (7) assessments and property-related fees



imposed in accordance with the provisions of Article XIID. Proposition 26 provides that the local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity. Neither the City nor the Authority expects provisions of Proposition 26 to materially impede the City's ability to pay Base Rental Payments when due.

### **Unitary Property**

AB 454 (Chapter 921, Statutes of 1986) provides that revenues derived from most utility property assessed by the State Board of Equalization ("Unitary Property"), commencing with the 1988-89 fiscal year, will be allocated as follows: (i) each jurisdiction will receive up to 102% of its prior year State-assessed revenue; and (ii) if county-wide revenues generated from Unitary Property are less than the previous year's revenues or greater than 102% of the previous year's revenues, each jurisdiction will share the burden of the shortfall or benefit of the excess revenues by a specified formula. This provision applies to all Unitary Property except railroads, whose valuation will continue to be allocated to individual tax rate areas.

The provisions of AB 454 do not constitute an elimination of the assessment of any State-assessed properties nor a revision of the methods of assessing utilities by the State Board of Equalization. Generally, AB 454 allows valuation growth or decline of Unitary Property to be shared by all jurisdictions in a county.

### **CO-MUNICIPAL ADVISOR**

The City has retained Wolf & Company Inc. and NHA Advisors, LLC, as Co-Municipal Advisors in connection with the authorization and delivery of the 2020A Bonds. The Co-Municipal Advisors are not obligated to undertake, and have not undertaken to make, an independent verification or assume responsibility for the accuracy, completeness or fairness of the information contained in this Official Statement. The Co-Municipal Advisors are each an independent municipal advisory firm and are not engaged in the business of underwriting, trading or distributing municipal securities or other public securities.

### **RATING**

S&P Global Ratings ("S&P") has assigned its rating of "\_\_\_" to all of the 2020A Bonds. Such rating reflects only the view of S&P. Any explanation of the significance of such rating may only be obtained from S&P. The information set forth on such website is not incorporated by reference herein. Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. There is no assurance that such rating will continue for any given period of time or that any of them will not be revised downward or withdrawn entirely by the rating agency, if in the judgment of the rating agency circumstances so warrant. Any such downward revision, suspension or withdrawal of such rating may have an adverse effect on the market price of the 2020A Bonds.

### **UNDERWRITING**

Hilltop Securities Inc. (the "Underwriter") has agreed, subject to certain customary conditions precedent to closing, to purchase the 2020A Bonds from the Authority at a price equal to \$\_\_\_\_\_



(which equals the principal amount of the 2020A Bonds, plus a [net] original issue (premium/discount) of \$ \_\_\_\_\_, and less an underwriting discount of \$ \_\_\_\_\_).

The Underwriter intends to offer the 2020A Bonds to the public initially at the prices set forth on the inside cover page of this Official Statement, plus accrued interest from the dated date of the 2020A Bonds to their date of delivery, which prices may subsequently change without any requirement of prior notice. The Underwriter reserves the right to join with dealers and other underwriters in offering the 2020A Bonds to the public. In connection with the offering of the 2020A Bonds, the Underwriter may over allot or effect transactions that stabilize or maintain the market price of the 2020A Bonds at levels above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time.

## **CONTINUING DISCLOSURE**

The Authority has determined that no financial or operating data concerning the Authority is material to any decision to purchase, hold or sell the 2020A Bonds and the Authority will not provide any such information.

The City has covenanted for the benefit of the holders and beneficial owners of the 2020A Bonds pursuant to a Continuing Disclosure Agreement, dated the date of issuance of the 2020A Bonds (the “Continuing Disclosure Agreement”), by and between the City and \_\_\_\_\_, as Dissemination Agent, to provide certain financial information and operating data relating to the City (the “Annual Report”) no later than March 31 following the end of each fiscal year, commencing with the report for Fiscal Year 2019-20, and to provide notices of the occurrence of certain enumerated events through the EMMA System. The specific nature of the information to be contained in the Annual Report and the enumerated events is set forth in APPENDIX D – “FORM OF CONTINUING DISCLOSURE AGREEMENT.”

**[disclose any lapses]**

## **TAX MATTERS**

### **State Income Tax**

In the opinion of Bond Counsel, under existing law interest on the 2020A Bonds is exempt from personal income taxes of the State. Except as stated in the immediately preceding sentence, Bond Counsel will express no opinion as to any federal or state tax consequence of the receipt of interest on, or the ownership or disposition of, the 2020A Bonds. A copy of the form of opinion of Bond Counsel relating to the 2020A Bonds is included in Appendix E.

### **Federal Income Tax Considerations**

The following is a general summary of certain United States federal income tax consequences of the purchase and ownership of the 2020A Bonds. The discussion is based upon the laws, Treasury Regulations, rulings and decisions now in effect, all of which are subject to change (possibly, with retroactive effect) or possibly differing interpretations. No assurances can be given that future changes in the law will not alter the conclusions reached herein.

The discussion below does not purport to deal with United States federal income tax consequences applicable to all categories of investors. Further, the discussion below does not discuss all aspects of federal income taxation that may be relevant to a particular investor in the 2020A Bonds in light of the investor’s particular circumstances or to certain types of investors subject to special treatment



under federal income tax laws (including insurance companies, tax exempt organizations, financial institutions, broker-dealers, and persons who have hedged the risk of owning the 2020A Bonds). The discussion below is limited to certain issues relating to initial investors who will hold the 2020A Bonds as “capital assets” within the meaning of section 1221 of the Internal Revenue Code of 1986, as amended (the “Code”), and acquire such 2020A Bonds for investment and not as a dealer or for resale. The discussion below addresses certain federal income tax consequences applicable to beneficial owners of the 2020A Bonds who are United States persons within the meaning of section 7701(a)(30) of the Code (“United States persons”) and, except as discussed below, does not address any consequence to persons other than United States persons. Prospective investors should note that no rulings have been or will be sought from the Internal Revenue Service (the “IRS”) with respect to any of the United States federal income tax consequences discussed below, and no assurance can be given that the IRS will not take contrary positions.

ALL PROSPECTIVE INVESTORS SHOULD CONSULT THEIR OWN TAX ADVISORS IN DETERMINING THE FEDERAL, STATE, LOCAL, FOREIGN AND ANY OTHER TAX CONSEQUENCES TO THEM FROM THE PURCHASE, OWNERSHIP AND DISPOSITION OF THE 2020A BONDS.

***Stated Interest on the 2020A Bonds.*** The stated interest on the 2020A Bonds will be included in the gross income, as defined in section 61 of the Code, of the beneficial owners thereof and will be subject to United States federal income taxation when received or accrued, depending on the tax accounting method applicable to the beneficial owners thereof.

***Original Issue Discount.*** If a substantial amount of the 2020A Bonds of any stated maturity is purchased at original issuance for a purchase price (the “Issue Price”) that is less than their face amount by more than one quarter of one percent times the number of complete years to maturity, the 2020A Bonds of such maturity will be treated as being issued with “original issue discount.” The amount of the original issue discount will equal the excess of the principal amount payable on such 2020A Bonds at maturity over its Issue Price, and the amount of the original issue discount on the 2020A Bonds will be amortized over the life of the 2020A Bonds using the “constant yield method” provided in the Treasury Regulations. As the original issue discount accrues under the constant yield method, the beneficial owners of the 2020A Bonds, regardless of their regular method of accounting, will be required to include such accrued amount in their gross income as interest. This can result in taxable income to the beneficial owners of the 2020A Bonds that exceeds actual cash distributions to the beneficial owners in a taxable year.

The amount of the original issue discount that accrues on the 2020A Bonds each taxable year will be reported annually to the IRS and to the beneficial owners. The portion of the original issue discount included in each beneficial owner’s gross income while the beneficial owner holds the 2020A Bonds will increase the adjusted tax basis of the 2020A Bonds in the hands of such beneficial owner.

***Premium.*** If a beneficial owner purchases a 2020A Bond for an amount that is greater than its stated redemption price at maturity, such beneficial owner will be considered to have purchased the 2020A Bond with “amortizable bond premium” equal in amount to such excess. A beneficial owner may elect to amortize such premium using a constant yield method over the remaining term of the 2020A Bond and may offset interest otherwise required to be included in respect of the 2020A Bond during any taxable year by the amortized amount of such excess for the taxable year. Bond premium on a 2020A Bond held by a beneficial owner that does not make such an election will decrease the amount of gain or increase the amount of loss otherwise recognized on the sale, exchange, redemption or retirement of a 2020A Bond. However, if the 2020A Bond may be optionally redeemed after the beneficial owner acquires it at a price in excess of its stated redemption price at maturity, special rules would apply under



the Treasury Regulations which could result in a deferral of the amortization of some bond premium until later in the term of the 2020A Bond. Any election to amortize bond premium applies to all taxable debt instruments held by the beneficial owner on or after the first day of the first taxable year to which such election applies and may be revoked only with the consent of the IRS.

**Medicare Contribution Tax.** Pursuant to Section 1411 of the Code, as enacted by the Health Care and Education Reconciliation Act of 2010, an additional tax is imposed on individuals beginning January 1, 2013. The additional tax is 3.8% of the lesser of (i) net investment income (defined as gross income from interest, dividends, net gain from disposition of property not used in a trade or business, and certain other listed items of gross income), or (ii) the excess of “modified adjusted gross income” of the individual over \$200,000 for unmarried individuals (\$250,000 for married couples filing a joint return and a surviving spouse). Holders of the 2020A Bonds should consult with their own tax advisors concerning this additional tax, as it may apply to interest earned on the 2020A Bonds as well as gain on the sale of a 2020A Bond.

**Disposition of 2020A Bonds and Treatment of Market Discount.** A beneficial owner of 2020A Bonds will generally recognize gain or loss on the redemption, sale or exchange of 2020A Bonds equal to the difference between the redemption or sales price (exclusive of the amount paid for accrued interest) and the beneficial owner’s adjusted tax basis in the 2020A Bonds. Generally, the beneficial owner’s adjusted tax basis in the 2020A Bonds will be the beneficial owner’s initial cost, increased by the original issue discount (if any) previously included in the beneficial owner’s income to the date of disposition. Any gain or loss generally will be capital gain or loss and will be long-term or short-term, depending on the beneficial owner’s holding period for the 2020A Bonds.

Under current law, a purchaser of a 2020A Bond who did not purchase that 2020A Bond in the initial public offering (a “subsequent purchaser”) generally will be required, on the disposition (or earlier partial principal payment) of such 2020A Bond, to recognize as ordinary income a portion of the gain (or partial principal payment), if any, to the extent of the accrued “market discount.” In general, market discount is the amount by which the price paid for such 2020A Bond by a subsequent purchaser is less than the sum of the Issue Price and the amount of original issue discount previously accrued on the 2020A Bonds. The Code also limits the deductibility of interest incurred by a subsequent purchaser on funds borrowed to acquire 2020A Bonds with market discount. As an alternative to the inclusion of market discount in income upon disposition, a subsequent purchaser may elect to include market discount in income currently as it accrues on all market discount instruments acquired by the subsequent purchaser in that taxable year or thereafter, in which case the interest deferral rule will not apply. The recharacterization of gain as ordinary income on a subsequent disposition of such 2020A Bonds could have a material effect on the market value of such 2020A Bonds.

**Legal Defeasance.** If the Authority elects to defease the 2020A Bonds by depositing in escrow sufficient cash and/or obligations to pay when due outstanding 2020A Bonds (a “legal defeasance”), under current tax law, a beneficial owner of 2020A Bonds may be deemed to have sold or exchanged its 2020A Bonds. In the event of such a legal defeasance, a beneficial owner of 2020A Bonds generally would recognize gain or loss in the manner described above. Ownership of the 2020A Bonds after a deemed sale or exchange as a result of a legal defeasance may have tax consequences different from those described above, and each beneficial owner should consult its own tax advisor regarding the consequences to such beneficial owner of a legal defeasance of the 2020A Bonds.

**Backup Withholding.** Under section 3406 of the Code, a beneficial owner of the 2020A Bonds who is a United States person may, under certain circumstances, be subject to “backup withholding” on payments of current or accrued interest on the 2020A Bonds or with respect to proceeds received from a disposition of the 2020A Bonds. This withholding applies if such beneficial owner of 2020A Bonds: (i)



fails to furnish to the payor such beneficial owner's social security number or other taxpayer identification number ("TIN"); (ii) furnishes the payor an incorrect TIN; (iii) fails to properly report interest, dividends, or other "reportable payments" as defined in the Code; or (iv) under certain circumstances, fails to provide the payor with a certified statement, signed under penalty of perjury, that the TIN provided to the payor is correct and that such beneficial owner is not subject to backup withholding.

Backup withholding will not apply, however, with respect to payments made to certain beneficial owners of the 2020A Bonds. Beneficial owners of the 2020A Bonds should consult their own tax advisors regarding their qualification for exemption from backup withholding and the procedures for obtaining such exemption.

***Withholding on Payments to Nonresident Alien Individuals and Foreign Corporations.*** Under sections 1441 and 1442 of the Code, nonresident alien individuals and foreign corporations are generally subject to withholding at the rate of 30% on periodic income items arising from sources within the United States, provided such income is not effectively connected with the conduct of a United States trade or business. Assuming the interest received by the beneficial owners of the 2020A Bonds is not treated as effectively connected income within the meaning of section 864 of the Code, such interest will be subject to 30% withholding, or any lower rate specified in an income tax treaty, unless such income is treated as "portfolio interest." Interest will be treated as portfolio interest if: (i) the beneficial owner provides a statement to the payor certifying, under penalties of perjury, that such beneficial owner is not a United States person and providing the name and address of such beneficial owner; (ii) such interest is treated as not effectively connected with the beneficial owner's United States trade or business; (iii) interest payments are not made to a person within a foreign country that the IRS has included on a list of countries having provisions inadequate to prevent United States tax evasion; (iv) interest payable with respect to the 2020A Bonds is not deemed contingent interest within the meaning of the portfolio debt provision; (v) such beneficial owner is not a controlled foreign corporation, within the meaning of section 957 of the Code; and (vi) such beneficial owner is not a bank receiving interest on the 2020A Bonds pursuant to a loan agreement entered into in the ordinary course of the bank's trade or business.

Assuming payments on the 2020A Bonds are treated as portfolio interest within the meaning of sections 871 and 881 of the Code, then no withholding under section 1441 and 1442 of the Code and no backup withholding under section 3406 of the Code is required with respect to beneficial owners or intermediaries who have furnished Form W-8BEN, Form W-8BEN-E, Form W-8EXP or Form W-8IMY, as applicable, provided the payor does not have actual knowledge or reason to know that such person is a United States person.

***Foreign Account Tax Compliance Act.*** Sections 1471 through 1474 of the Code impose a 30% withholding tax on certain types of payments made to a foreign financial institution, unless the foreign financial institution enters into an agreement with the U.S. Treasury to, among other things, undertake to identify accounts held by certain United States persons or U.S.-owned entities, annually report certain information about such accounts, and withhold 30% on payments to account holders whose actions prevent it from complying with these and other reporting requirements, or unless the foreign financial institution is otherwise exempt from those requirements. In addition, the Foreign Account Tax Compliance Act ("FATCA") imposes a 30% withholding tax on the same types of payments to a non-financial foreign entity unless the entity certifies that it does not have any substantial U.S. owners or the entity furnishes identifying information regarding each substantial United States owner. Failure to comply with the additional certification, information reporting and other specified requirements imposed under FATCA could result in the 30% withholding tax being imposed on payments of interest and principal under the 2020A Bonds and sales proceeds of 2020A Bonds held by or through a foreign entity. Prospective investors should consult their own tax advisors regarding FATCA and its effect on them.



***Reporting of Interest Payments.*** Subject to certain exceptions, the stated interest on the 2020A Bonds will be reported to the IRS. Such information will be filed each year with the IRS on Form 1099-INT (or other appropriate reporting form) which will reflect the name, address, and taxpayer identification number of the owner. A copy of such Form 1099-INT will be sent to each beneficial owner of a 2020A Bond for federal income tax purposes.

The preceding discussion of certain United States federal income tax consequences is for general information only and is not tax advice. Accordingly, each investor should consult its own tax advisor as to particular tax consequences to it of purchasing, owning, and disposing of the 2020A Bonds, including the applicability and effect of any state, local, or foreign tax law, and of any proposed change of applicable law.

## ERISA CONSIDERATIONS

The Employee Retirement Income Security Act of 1974, as amended (“ERISA”), imposes certain restrictions on employee pension and welfare benefit plans subject to ERISA (“ERISA Plans”) regarding prohibited transactions, and also imposes certain obligations on those persons who are fiduciaries with respect to ERISA Plans. Section 4975 of the Code imposes similar prohibited transaction restrictions on (i) tax-qualified retirement plans described in Section 401(a) and 403(a) of the Code, which are exempt from tax under section 501(a) of the Code and which are not governmental and church plans as defined herein (“Qualified Retirement Plans”), and (ii) Individual Retirement Accounts described in Section 408(b) of the Code (“Tax-Favored Plans”). Certain employee benefit plans, such as governmental plans (as defined in Section 3(32) of ERISA), and, if no election has been made under Section 410(d) of the Code, church plans (as defined in Section 3(33) of ERISA), are not subject to ERISA requirements. Additionally, such governmental and non-electing church plans are not subject to the requirements of Section 4975 of the Code. Although assets of such governmental or non-electing church plans may be invested in the 2020A Bonds without regard to the ERISA and Code considerations described below, any such investment may be subject to provisions of applicable federal and state law that are, to a material extent, similar to the requirements of ERISA and Section 4975 of the Code (“Similar Law”).

In addition to the imposition of general fiduciary obligations, including those of investment prudence and diversification and the requirement that a plan’s investment be made in accordance with the documents governing the plan, Section 406 of ERISA and Section 4975 of the Code prohibit a broad range of transactions involving assets of ERISA Plans and Tax-Favored Plans and entities whose underlying assets include plan assets by reason of ERISA Plans or Tax-Favored Plans investing in such entities (collectively, “Benefit Plans”) and persons who have certain specified relationships to the Benefit Plans (such persons are referred to as “Parties in Interest” or “Disqualified Persons”), unless a statutory or administrative exemption is available. Certain Parties in Interest (or Disqualified Persons) that participate in a prohibited transaction may be subject to a penalty (or an excise tax) imposed pursuant to Section 502(i) of ERISA (or Section 4975 of the Code) unless a statutory or administrative class exemption is available.

Certain transactions involving the purchase, holding or transfer of the 2020A Bonds might be deemed to constitute prohibited transactions under ERISA and the Code if assets of the City were deemed to be assets of a Benefit Plan. Under final regulations issued by the United States Department of Labor (the “Plan Assets Regulation”), the assets of the City would be treated as plan assets of a Benefit Plan for the purposes of ERISA and the Code if the Benefit Plan acquires an “equity interest” in the City and none of the exceptions contained in the Plan Assets Regulation is applicable. An equity interest is defined under the Plan Assets Regulation as an interest in an entity other than an instrument which is treated as indebtedness under applicable local law and which has no substantial equity features. Although there can be no assurances in this regard, it appears that the 2020A Bonds should be treated as debt without



substantial equity features for purposes of the Plan Assets Regulation. However, without regard to whether the 2020A Bonds are treated as an equity interest for such purposes, the acquisition or holding of the 2020A Bonds by or on behalf of a Benefit Plan could be considered to give rise to a prohibited transaction if the City, any Underwriter, or any of their respective affiliates, is or becomes a Party in Interest or a Disqualified Person with respect to such Benefit Plan. The fiduciary of a Benefit Plan that proposes to purchase and hold any 2020A Bonds should consider, among other things, whether such purchase and holding may involve (i) the direct or indirect extension of credit to a Party in Interest, (ii) the sale or exchange of any property between a Benefit Plan and a Party in Interest, and (iii) the transfer to, or use by or for the benefit of, a Party in Interest, of any Benefit Plan assets.

Certain exemptions from the prohibited transaction rules could be applicable depending on the type and circumstances of the plan fiduciary making the decision to acquire a 2020A Bond. Included among these exemptions are: Prohibited Transaction Class Exemption (“PTCE”) 75-1, relating to certain broker-dealer transactions, PTCE 96-23, regarding transactions effected by “in-house asset managers;” PTCE 90-1, regarding investments by insurance company pooled separate accounts; PTCE 95-60, regarding transactions effected by “insurance company general accounts;” PTCE 91-38, regarding investments by bank collective investment funds; and PTCE 84-14, regarding transactions effected by “qualified professional asset managers.” In addition, Section 408(b)(17) of ERISA and Section 4975(d)(20) of the Code generally provide for a statutory exemption from the prohibitions of Section 406(a) of ERISA and Section 4975 of the Code for certain transactions between Benefit Plans and persons who are Parties in Interest solely by reason of providing services to such Benefit Plans or who are persons affiliated with such service providers, provided generally that such persons are not fiduciaries with respect to “plan assets” of any Benefit Plan involved in the transaction and that certain other conditions are satisfied.

By its acceptance of a 2020A Bond, each purchaser will be deemed to have represented and warranted that either (i) the purchase and holding of such 2020A Bond does not constitute a prohibited transaction under ERISA, Section 4975 of the Code or Similar Law, or (ii) the purchase and holding of such 2020A Bonds is exempt from the prohibited transaction restrictions of ERISA, Section 4975 of the Code or Similar Law pursuant to a statutory or administrative class exemption.

Any Benefit Plan fiduciary considering whether to purchase 2020A Bonds on behalf of an ERISA Plan should consult with its counsel regarding the applicability of the fiduciary responsibility and prohibited transaction provisions of ERISA and the Code to such investment and the availability of any of the exemptions referred to above. In addition, persons responsible for considering the purchase of the 2020A Bonds by a governmental plan or non-electing church plan should consult with its counsel regarding the applicability of any Similar Law to such an investment.

## **LITIGATION**

There is no controversy of any nature now pending against the City or the Authority or, to the knowledge of their respective officers threatened, seeking to restrain or enjoin the sale, execution, issuance or delivery of the 2020A Bonds or in any way contesting or affecting the validity of the 2020A Bonds or any proceedings of the City or the Authority taken with respect to the sale, execution, issuance or delivery thereof or the pledge or application of any moneys or security provided for the payment of the 2020A Bonds or the use of the 2020A Bond proceeds or contesting the corporate existence of the City or the Authority, or the title of the officers thereof to their respective offices.

There are a number of lawsuits and claims pending against the City for which the City is either self-insured or insured in varying degrees by commercial insurance, or which in the aggregate, if determined adversely to the City, could have a material adverse impact on the City’s finances in the



future. However, the City does not expect any such suits or claims to have a material adverse effect on the City's ability to make 2020A Base Rental Payments under the Lease.

### **FINANCIAL STATEMENTS**

The City's financial statements for the Fiscal Year ended June 30, 2019, included in APPENDIX B hereto, have been audited by Rogers, Anderson, Malody & Scott, LLP. Rogers, Anderson, Malody & Scott, LLP was not requested to consent to the inclusion of its report in APPENDIX B and it has not undertaken to update its report or to take any action intended or likely to elicit information concerning the accuracy, completeness or fairness of the statements made in the Official Statement, and no opinion is expressed by Rogers, Anderson, Malody & Scott, LLP with respect to any event subsequent to the date of its report.

### **APPROVAL OF LEGAL PROCEEDINGS**

The issuance of the 2020A Bonds is subject to the approving opinion of Norton Rose Fulbright US LLP, Los Angeles, California, Bond Counsel to the Authority, to be delivered in substantially the form set forth in APPENDIX E. Norton Rose Fulbright US LLP in its role as Bond Counsel has undertaken no responsibility to the owners of the 2020A Bonds or any other party for the accuracy, completeness or fairness of this Official Statement or any other offering material related to the 2020A Bonds, and expresses no opinion to the Owners with respect thereto. Certain legal matters also will be passed upon for the City and the Authority by the City Attorney and for the Underwriter by its counsel Quint & Thimmig LLP, Larkspur, California.



## **EXECUTION AND DELIVERY**

The execution and delivery of this Official Statement has been authorized by the Authority and the City.

CITY OF WEST COVINA PUBLIC  
FINANCING AUTHORITY

By: \_\_\_\_\_  
Executive Director

CITY OF WEST COVINA, CALIFORNIA

By: \_\_\_\_\_  
City Manager



## APPENDIX A

### SUPPLEMENTAL INFORMATION – THE CITY OF WEST COVINA

*The following information relating to the City of West Covina, California (the “City”) is provided for informational purposes only. The 2020A Bonds (as defined in the front part of this Official Statement) are payable solely as described in this Official Statement and are not payable or secured by a pledge of the faith and credit or taxing power of the City.*

#### COVID 19 Pandemic

The economic and demographic data contained in this appendix are the latest available, but are as of dates and for periods before the economic impact of the COVID 19 pandemic and measures instituted to slow it. Accordingly, they are not indicative of the current financial condition or future prospects of the City, the County or the region or of expected revenues to the General Fund. See “RISK FACTORS – COVID 19 Pandemic” in the forepart of this Official Statement.

#### General

***The City.*** The City was incorporated on February 23, 1923. It has a general law form of government. The City encompasses 17 square miles in northeastern portion of the County of Los Angeles, and is located approximately 20 miles northeast of the City of Los Angeles. Neighboring communities include Covina, Baldwin Park, Walnut, Industry and La Puente.

The City is governed by a Council-Manager form of government. Under this form of government, the five City Council members are selected by districts to overlapping four-year terms. The City Council selects a Mayor from one of its members each November to serve a one-year term. The City Council is responsible for, among other things, passing ordinances, adopting the budget, appointing committees, and hiring both the City Manager and City Attorney. The City Manager is responsible for carrying out the policies and ordinances of the City Council, for overseeing the day-to-day operations of the City, and for appointing the heads of the various departments.

***The County.*** Los Angeles County was established by an act of the State Legislature on February 18, 1850 as one of California’s original 27 counties. With 4,061 square miles, the county borders 70 miles of coast on the Pacific Ocean. The County is home to 88 incorporated cities and many unincorporated areas. In between the large desert portions of the county – which make up around 40% of its land area – and the heavily urbanized central and southern portions sits the San Gabriel Mountains containing Angeles National Forest.

#### Government and Services

The City is governed by a five-member City Council, under the Council/City Manager form of government. The City Council is responsible, among other things, for passing ordinances, adopting the budget, appointing committee members and hiring the City Manager and City Attorney. The City Manager is responsible for carrying out the policies and ordinances of the City Council, for overseeing the day to day operations of the City and for appointing the heads of various departments.



## Population

The following table shows a historical comparison of the respective populations of the City, the County and the State for the last five years.

**Table A-1**  
**CITY OF WEST COVINA, LOS ANGELES COUNTY,**  
**AND THE STATE OF CALIFORNIA**  
**Population Comparison<sup>(1)</sup>**

<u>Year</u>	<u>City of West Covina</u>	<u>Los Angeles County</u>	<u>State of California</u>
2016	107,780	10,185,851	39,214,803
2017	107,519	10,226,920	39,504,609
2018	106,923	10,254,658	39,740,508
2019	106,313	10,253,716	39,927,315
2020	105,999	10,172,951	39,782,870

<sup>(1)</sup> As of January 1.

Source: State Department of Finance, 2010 Benchmark.

## Employment and Industry

The following table summarizes the annual average civilian labor force, employment and unemployment in the County for the calendar years 2015 through 2019.

**Table A-2**  
**LOS ANGELES COUNTY**  
**Civilian Labor Force, Employment and Unemployment**  
**(Annual Averages)**

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Civilian Labor Force <sup>(1)</sup>	4,989,800	5,041,400	5,096,500	5,136,300	5,121,600
Employment	4,659,700	4,776,700	4,853,800	4,896,500	4,894,300
Unemployment	330,100	264,800	242,700	239,800	227,300
Unemployment Rate	6.6%	5.3%	4.8%	4.7%	4.4%
Wage and Salary Employment: <sup>(2)</sup>					
Agriculture	5,000	5,300	5,700	4,800	4,500
Mining, Logging and Construction	129,000	136,300	140,400	147,900	151,300
Manufacturing	368,200	360,800	349,900	343,700	339,200
Wholesale Trade	222,400	222,100	221,500	222,800	220,500
Retail Trade	422,200	424,600	426,100	425,300	417,300
Transportation, Warehousing, Utilities	177,600	188,900	198,200	202,800	213,800
Information	207,600	229,400	214,900	217,400	217,300
Finance and Insurance	135,600	138,100	137,500	137,100	135,500
Real Estate and Rental and Leasing	80,000	81,700	84,100	85,900	88,400
Professional and Business Services	591,000	600,100	608,800	620,000	642,800
Educational and Health Services	745,900	772,700	800,600	823,600	843,600
Leisure and Hospitality	486,600	510,000	524,600	534,300	544,700
Other Services	151,000	153,300	155,700	159,700	158,400
Federal Government	47,400	47,700	48,000	47,300	47,400
State Government	87,400	89,900	92,500	91,900	92,500
Local Government	433,700	439,100	445,600	450,400	454,300
Total, All Industries <sup>(3)</sup>	4,290,700	4,399,900	4,454,000	4,514,900	4,571,400

Footnotes on next page.



- (1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.
- (2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.
- (3) Totals may not add due to rounding.

*Source: Labor Division of the California State Employment Development Department, March 2019 Benchmark.*

## Major Employers

The following table lists the major employers within the County:

**Table A-3**  
**COUNTY OF LOS ANGELES**  
**Major Employers – Listed Alphabetically**  
**(As of January 2020)**

<u>Employer Name</u>	<u>Location</u>	<u>Industry</u>
AHMC Healthcare Inc	Alhambra	Health Care Management
California State Univ NRTHRDG	Northridge	Schools-Universities & Colleges Academic
Cedar-Sinai Medical Ctr	West Hollywood	Hospitals
Commerce Casino-Crowne Plaza	Commerce	Hotels & Motels
JET Propulsion Laboratory	Pasadena	Research Service
Kaiser Permanente Los Angeles	Los Angeles	Hospitals
La County Office of Education	Downey	Educational Service-Business
LAC & USC Medical Ctr	Los Angeles	Hospitals
Long Beach City Hall	Long Beach	Government Offices-City/Village & Twp
Longshore Dispatch	Wilmington	Nonclassified Establishments
Los Angeles County Sheriff	Monterey Park	Government Offices-County
Los Angeles Intl Airport-Lax	Los Angeles	Airports
Los Angeles Medical Ctr	Los Angeles	Pathologists
Los Angeles Police Dept	Los Angeles	Police Departments
National Institutes of Health	Pasadena	Physicians & Surgeons
Northrop Grumman	Whittier	Engineers
Security Industry Specialist	Culver City	Security Systems Consultants
Six Flags Magic Mountain	Valencia	Amusement & Theme Parks
Sony Pictures Entertainment	Culver City	Motion Picture Producers & Studios
Space Exploration Tech Corp	Hawthorne	Aerospace Industries (mfrs)
University of Ca Los Angeles	Los Angeles	Schools-Universities & Colleges Academic
University of Ca Los Angeles	Los Angeles	University-College Dept/Facility/Office
Vxi Global Solutions	Los Angeles	Call Centers
Walt Disney Co	Burbank	Water Parks
Water Garden Management	Santa Monica	Office Buildings & Parks

*Source: California Employment Development Department, extracted from The America's Labor Market information System (ALMIS) Employer Database, 2020 Edition.*



## Commercial Activity

The number of establishments selling merchandise subject to sales tax and the valuation of taxable transactions in the City is presented in the following table.

**Table A-4**  
**CITY OF WEST COVINA**  
**Taxable Retail Sales**  
**Number of Permits and Valuation of Taxable Transactions**

	<b>Total Retail and Food Services</b>		<b>Total All Outlets</b>	
	<b>Number of Permits</b>	<b>Taxable Transactions</b>	<b>Number of Permits</b>	<b>Taxable Transactions</b>
2013	1,500	\$13,023,287	2,177	\$13,362,670
2014	1,475	14,132,734	2,144	14,445,707
2015	1,528	14,945,356	2,299	15,256,157
2016	1,503	15,056,251	2,256	15,422,722
2017	1,538	15,031,268	2,255	15,457,798
2018	1,492	14,962,868	2,341	15,471,440
2019	1,477	15,151,268	2,410	15,797,898

*Source: HdL Companies.*

The number of establishments selling merchandise subject to sales tax and the valuation of taxable transactions in the County is presented in the following table.

**Table A-5**  
**LOS ANGELES COUNTY**  
**Taxable Retail Sales**  
**Number of Permits and Valuation of Taxable Transactions**  
**(Dollars in Thousands)**

	<b>Number of Permits</b>	<b>Taxable Transactions</b>
2013	263,792	\$140,079,708
2014	272,733	147,446,928
2015	306,398	151,981,739
2016	312,039	155,155,640
2017	313,226	160,280,130
2018	328,047	166,023,796
2019	342,359	171,776,327

*Source: California State Board of Equalization, Taxable Sales in California (Sales & Use Tax) (2013-2016 data).  
California Department of Tax and Fee Administration, Taxable Sales – By County (2017-2019 data).*



## Construction Activity

The following tables show a five year summary of the valuation of building permits issued in the City and the County.

**Table A-6**  
**CITY OF WEST COVINA**  
**Building Permit Valuation**

	2015	2016	2017	2018	2019
<u>Permit Valuation</u>					
New Single-family	\$40,013,579	\$15,404,249	\$ 232,556	\$ 4,125,785	\$11,432,980
New Multi-family	6,714,306	1,185,482	0	0	1,862,860
Res. Alterations/Additions	<u>23,341,969</u>	<u>19,694,567</u>	<u>17,053,557</u>	<u>13,919,024</u>	<u>14,811,475</u>
Total Residential	\$68,072,854	\$36,284,298	\$17,286,116	\$18,044,809	\$28,107,315
New Commercial	\$ 2,085,818	\$10,825,721	\$ 3,416,247	\$28,795,332	\$ 8,280,502
New Industrial	0	0	0	0	0
New Other	661,359	1,035,852	2,274,522	889,241	674,740
Alterations/Additions	<u>12,095,462</u>	<u>11,635,948</u>	<u>13,223,892</u>	<u>8,122,030</u>	<u>16,898,971</u>
Total Nonresidential	\$14,842,639	\$23,497,521	\$18,914,661	\$37,806,603	\$25,584,213
<u>New Dwelling Units</u>					
Single Family	97	37	2	27	45
Multiple Family	<u>8</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>7</u>
Total	105	42	2	27	52

Source: Construction Industry Research Board, Annual Building Permit Summary.

**Table A-7**  
**LOS ANGELES COUNTY**  
**Building Permit Valuation**

	2015	2016	2017	2018	2019
<u>Permit Valuation</u>					
New Single-family	\$1,897,829,660	\$2,162,018,197	\$2,352,614,768	\$2,277,101,470	\$1,967,219,268
New Multi-family	2,843,749,109	2,774,294,254	3,257,833,406	3,222,530,328	2,961,257,410
Res. Alterations/Additions	<u>1,641,457,282</u>	<u>1,639,294,961</u>	<u>1,757,904,040</u>	<u>1,941,369,499</u>	<u>1,625,839,308</u>
Total Residential	6,383,036,051	\$6,575,607,412	\$7,368,352,214	\$7,441,001,297	\$6,554,315,986
New Commercial	\$1,959,822,611	\$1,545,438,667	\$1,811,376,311	\$2,694,306,854	\$2,281,379,729
New Industrial	85,937,090	138,408,534	134,534,258	101,201,307	63,727,761
New Other	893,885,105	722,859,387	948,392,137	1,102,213,877	3,404,012,421
Alterations/Additions	<u>2,705,727,446</u>	<u>2,880,916,592</u>	<u>3,143,200,189</u>	<u>2,796,375,274</u>	<u>840,481,816</u>
Total Nonresidential	\$5,645,372,252	\$5,287,623,180	\$6,037,502,895	\$6,694,097,312	\$6,589,601,727
<u>New Dwelling Units</u>					
Single Family	4,487	4,780	5,456	6,070	5,738
Multiple Family	<u>18,405</u>	<u>15,589</u>	<u>17,023</u>	<u>17,152</u>	<u>15,884</u>
Total	22,892	20,369	22,479	23,222	21,622

Source: Construction Industry Research Board, Annual Building Permit Summary.



**APPENDIX B**

**AUDITED FINANCIAL STATEMENTS OF THE CITY OF WEST COVINA  
FOR THE FISCAL YEAR ENDED JUNE 30, 2019**



**[insert Appendix C]**



**APPENDIX D**

**FORM OF CONTINUING DISCLOSURE AGREEMENT**



## APPENDIX E

### FORM OF OPINION OF BOND COUNSEL

\_\_\_\_\_, 2020

West Covina Public Financing Authority  
West Covina, California

City of West Covina  
West Covina, California

\$ \_\_\_\_\_  
West Covina Public Financing Authority  
Lease Revenue Bonds, 2020 Series A  
(Federally Taxable)

Ladies and Gentlemen:

We have acted as Bond Counsel to the West Covina Public Financing Authority (the “Authority”) in connection with the issuance by the Authority of its \$ \_\_\_\_\_ Lease Revenue Bonds, 2020 Series A (Federally Taxable) (the “Bonds”). The Bonds are being issued under the provisions of the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 of Chapter 5 of Division 7 of Title 1 (commencing with Section 6584) of the California Government Code (the “Bond Law”), and pursuant to an Indenture, dated as of July 1, 2020 (the “Indenture”), by and between the Authority and U.S. Bank National Association, as trustee (the “Trustee”).

The Bonds are limited obligations of the Authority secured under the Indenture by a pledge of Revenues and certain other moneys held under the Indenture. The Revenues consist of (i) all 2020A Base Rental Payments payable by the City pursuant to the Lease Agreement, dated as of July 1, 2020 (the “Lease”), by and between the Authority, as lessor, and the City, as lessee (including prepayments), (ii) any proceeds of Bonds deposited with the Trustee and all moneys on deposit in the funds and accounts established under the Indenture, (iii) investment income with respect to such moneys held by the Trustee and (iv) any insurance proceeds or condemnation awards received by or payable to the Trustee relating to the 2020A Base Rental Payments.

The City has leased certain real property and improvements (the “Leased Property”) to the Authority pursuant to the Site Lease, dated as of July 1, 2020 (the “Site Lease”), by and between the City and the Authority. Pursuant to the Assignment Agreement, dated as of July 1, 2020 (the “Assignment Agreement”), by and between the Authority and the Trustee, the Authority has assigned to the Trustee, for the benefit of the Owners, certain of the Authority’s rights under the Site Lease and the Lease, including the right to receive 2020A Base Rental Payments under the Lease.

As Bond Counsel, we have reviewed relevant portions of the Bond Law, the Indenture, the Site Lease, the Lease, the Assignment Agreement and certifications of the Authority, the City, the Trustee and others, opinions of counsel to the Authority, the City and the Trustee, and such other documents, opinions and instruments as we deemed necessary to render the opinions set forth herein. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.



Based upon the foregoing, we are of the opinion that:

1. The Bonds constitute valid and binding limited obligations of the Authority as provided in the Indenture, and are entitled to the benefits of the Indenture.
2. The Indenture has been duly and validly authorized, executed and delivered by the Authority and, assuming the enforceability thereof against the Trustee, constitutes the legally valid and binding obligation of the Authority, enforceable against the Authority in accordance with its terms. The Indenture creates a valid pledge, to secure the payment of principal of and interest on the Bonds, of the Revenues and certain other amounts held by the Trustee in certain funds and accounts established pursuant to the Indenture, subject to the provisions of the Indenture permitting the application thereof for other purposes and on the terms and conditions set forth therein.
3. The Lease and Site Lease have been duly and validly authorized, executed and delivered by the Authority and the City and constitute the legally valid and binding obligations of the Authority and the City, enforceable against the Authority and the City in accordance with their terms.
4. The Assignment Agreement has been duly and validly authorized, executed and delivered by the Authority and, assuming the enforceability thereof against the Trustee, constitutes the legally valid and binding obligation of the Authority, enforceable against the Authority in accordance with its terms.
5. Interest on the Bonds is exempt from personal income taxes of the State of California under present state law.

The opinions expressed in paragraphs 1, 2, 3 and 4 above are qualified to the extent the enforceability of the Bonds, the Indenture, the Lease, the Site Lease and the Assignment Agreement may be limited by applicable bankruptcy, insolvency, debt adjustment, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally or as to the availability of any particular remedy. The enforceability of the Bonds, the Indenture, the Lease, the Site Lease and the Assignment Agreement is subject to the effect of general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing, to the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law, and to the limitations on legal remedies against governmental entities in the State of California.

No opinion is expressed herein on the accuracy, completeness or fairness of the Official Statement or other offering material relating to the Bonds.

Our opinions are based on existing law of the State of California, which is subject to change. Such opinions are further based on our knowledge of facts as of the date hereof. We assume no duty to update or supplement our opinions to reflect any facts or circumstances that may thereafter come to our attention or to reflect any changes in any law that may thereafter occur or become effective. Moreover, our opinions are not a guarantee of result and are not binding on the State of California; rather, such opinions represent our legal judgment based upon our review of existing law that we deem relevant to such opinions and in reliance upon the representations and covenants referenced above.

Respectfully submitted,



## APPENDIX F

### BOOK-ENTRY SYSTEM

*The information in this section concerning DTC and DTC's book-entry only system has been obtained from sources that each of the Authority and the City believes to be reliable, but the Authority and the City take no responsibility for the completeness or accuracy thereof. The following description of the procedures and record keeping with respect to beneficial ownership interests in the 2020A Bonds, payment of principal, premium, if any, and interest on the 2020A Bonds to DTC Participants or Beneficial Owners, confirmation and transfers of beneficial ownership interests in the 2020A Bonds and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC.*

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the 2020A Bonds. The 2020A Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered 2020A Bond will be issued for each annual maturity of the 2020A Bonds, each in the aggregate principal amount of such maturity, and will be deposited through the facilities of DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.6 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has an S&P Global Ratings rating of "AA+." The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com). The information set forth on such website is not incorporated herein by reference.

Purchases of 2020A Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the 2020A Bonds on DTC's records. The ownership interest of each actual purchaser of each 2020A Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the 2020A Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive 2020A Bonds



representing their ownership interests in 2020A Bonds, except in the event that use of the book-entry system for the 2020A Bonds is discontinued.

To facilitate subsequent transfers, all 2020A Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of 2020A Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the 2020A Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such 2020A Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of 2020A Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the 2020A Bonds, such as prepayments, tenders, defaults, and proposed amendments to the 2020A Bond documents. For example, Beneficial Owners of 2020A Bonds may wish to ascertain that the nominee holding the 2020A Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the 2020A Bonds within a maturity are being prepaid, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to 2020A Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts 2020A Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the 2020A Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Authority, the City or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, the Authority or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.



A 2020A Bond Owner shall give notice to elect to have its 2020A Bonds purchased or tendered, through its Participant, to the Trustee, and shall effect delivery of such 2020A Bonds by causing the Direct Participant to transfer the Participant's interest in the 2020A Bonds, on DTC's records, to the Trustee. The requirement for physical delivery of 2020A Bonds in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the 2020A Bonds are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered 2020A Bonds to the Trustee's DTC account.

DTC may discontinue providing its services as depository with respect to the 2020A Bonds at any time by giving reasonable notice to the Authority or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, physical certificates are required to be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry only transfers through DTC (or a successor securities depository). In that event, 2020A Bonds will be printed and delivered to DTC.

THE TRUSTEE, AS LONG AS A BOOK-ENTRY ONLY SYSTEM IS USED FOR THE 2020A BONDS, WILL SEND ANY NOTICE OF REDEMPTION OR OTHER NOTICES TO OWNERS ONLY TO DTC. ANY FAILURE OF DTC TO ADVISE ANY DTC PARTICIPANT, OR OF ANY DTC PARTICIPANT TO NOTIFY ANY BENEFICIAL OWNER, OF ANY NOTICE AND ITS CONTENT OR EFFECT WILL NOT AFFECT THE VALIDITY OF SUFFICIENCY OF THE PROCEEDINGS RELATING TO THE REDEMPTION OF THE 2020A BONDS CALLED FOR REDEMPTION OR OF ANY OTHER ACTION PREMISED ON SUCH NOTICE.



**DRAFT**  
**07/01/2020**

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INDENTURE

by and between

WEST COVINA PUBLIC FINANCING AUTHORITY

and

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

Dated as of July 1, 2020

Relating to

[\$Par Amount]  
West Covina Public Financing Authority  
Lease Revenue Bonds  
2020 Series A  
(Federally Taxable)

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## INDENTURE

This INDENTURE is dated as of July 1, 2020, by and between the WEST COVINA PUBLIC FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the “Authority”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States of America with a corporate trust office in Los Angeles, California and qualified to accept and administer the trusts hereby created, as trustee (the “Trustee”).

### RECITALS:

**WHEREAS**, the City of West Covina, California (the “City”) and the West Covina Housing Authority, have previously entered into a Joint Exercise of Powers Agreement, dated as of June 1, 1990, as amended from time to time, establishing the West Covina Public Financing Authority (the “Authority”) for the purpose of assisting the City by issuing bonds and other obligations for authorized purposes; and

**WHEREAS**, the City is obligated by the Public Employees’ Retirement Law, commencing with Section 20000 of the Government Code of the State of California, as amended (the “Retirement Law”), to make payments relating to pension benefits accruing to the California Public Employees’ Retirement System’s (“CalPERS”) members, including the City; and

**WHEREAS**, the City is obligated specifically to make certain payments to CalPERS in respect of current and retired public safety employees and miscellaneous employees under the pension programs of CalPERS that amortize such obligations over a fixed period of time, including normal costs (collectively, the “CalPERS Obligation”); and

**WHEREAS**, the Pension Obligation is evidenced by a contract or contracts with CalPERS with respect to public safety employees and miscellaneous employees of the City, as heretofore and hereafter amended from time to time (collectively, the “CalPERS Contract”); and

**WHEREAS**, the City desires that the Authority issue its Lease Revenue Bonds, 2020 Series A (Federally Taxable) (the “2020A Bonds”) for the purposes of funding: (i) all or a portion of its CalPERS Obligation, including normal costs; (ii) working capital for the City; (iii) a reserve for the 2020A Bonds; and (iv) costs of issuing the 2020A Bonds; and

**WHEREAS**, the Authority has determined to issue the 2020A Bonds pursuant to this Indenture and the Act for such purposes; and

**WHEREAS**, the City and the Authority have entered into a Site and Facility Lease, dated as of July 1, 2020 (the “Site Lease”), whereby the Authority has agreed to lease the Leased Property (as defined herein) from the City; and

**WHEREAS**, the Authority and the City have entered into a Lease Agreement, dated as of July 1, 2020 (the “Lease”), whereby the Authority has agreed to lease the Leased Property to the City; and



**WHEREAS**, under and pursuant to the Lease, the City is obligated to make 2020A Base Rental Payments (as defined herein) to the Authority for the sublease of the Leased Property; and

**WHEREAS**, as security for its obligations hereunder, the Authority has assigned without recourse all its rights to receive the 2020A Base Rental Payments scheduled to be paid by the City under and pursuant to the Lease and certain other rights to the Trustee pursuant to this Indenture; and

**WHEREAS**, to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and to secure the payment of the principal thereof, premium, if any, and interest thereon, the Authority has authorized the execution and delivery of this Indenture; and

**WHEREAS**, the Authority has determined that all acts and proceedings required by law necessary to make the Bonds, when executed by the Authority, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of the Indenture have been in all respects duly authorized;

**NOW, THEREFORE, THIS INDENTURE WITNESSETH**, that to secure the payment of the principal of and the interest and premium (if any) on all Bonds at any time issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable considerations, the receipt whereof is hereby acknowledged, the Authority does hereby covenant and agree with the Trustee, for the benefit of the respective Owners from time to time of the Bonds, as follows:

## **ARTICLE I DEFINITIONS; AUTHORIZATION AND PURPOSE OF BONDS; EQUAL SECURITY**

**SECTION 1.01. Definitions.** Unless the context otherwise requires, the terms defined in this Section shall for all purposes of this Indenture and of any Supplemental Indenture and of the Bonds and of any certificate, opinion, request or other document herein mentioned have the meanings herein specified.

**“Act”** means Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code of the State, as in existence on the Closing Date or as thereafter amended from time to time.

**“Additional Rental Payments”** means the additional rental payable by the City under and pursuant to Section 3(b) of the Lease.



**“Assignment Agreement”** means that certain 2020A Assignment Agreement, dated as of July 1, 2020, by and between the Authority and the Trustee.

**“Authority”** means the West Covina Public Financing Authority, a joint powers authority duly organized and existing under the Joint Exercise of Powers Agreement and the laws of the State.

**“Authorized Denominations”** means \$5,000 or any integral multiple thereof.

**“Bond Counsel”** means (a) Norton Rose Fulbright US LLP, or (b) any other attorney or firm of attorneys appointed by or acceptable to the Authority of nationally recognized experience.

**“Bond Law”** means the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 of the Act, as in existence on the Closing Date or as thereafter amended from time to time.

**“Bond Year”** means each twelve-month period extending from August 2 in one calendar year to August 1 of the succeeding calendar year, both dates inclusive, except that the first Bond Year shall begin on the Closing Date and shall end on August 1, 2020.

**“Bonds”** means the Authority’s Lease Revenue Bonds, 2020 Series A (Federally Taxable).

**“Business Day”** means a day other than (i) a Saturday or Sunday, (ii) a day on which the commercial banks in the city in which the Trustee maintains its Trust Office are authorized or required by law or executive order to close or (iii) a day on which the New York Stock Exchange is closed.

**“Certificate of the Authority”** means a certificate in writing signed by the Chairman of the Authority, the Executive Director or by any other officer of the Authority duly authorized by the Chairman, the Executive Director or any other officer of the Authority duly authorized for that purpose, as evidenced in writing to the Trustee.

**“Certificate of the City”** means a certificate in writing signed by the City Manager of the City or by any other officer of the City duly authorized for that purpose, as evidenced in writing to the Trustee.

**“City”** means the City of West Covina, California.

**“Closing Date”** means July \_\_, 2020, being the date of delivery of the Bonds to the Original Purchaser thereof.

**“Costs of Issuance”** means all items of expense directly or indirectly relating to the authorization, issuance, sale and delivery of the Bonds, including but not limited to printing expenses, rating agency fees, filing and recording fees, fees, expenses and charges of the City, the Authority, the Trustee, and their respective counsel (including the fees of Bond Counsel and Disclosure Counsel), including the Trustee’s first annual administrative fee, costs of obtaining



bond insurance, a Qualified Reserve Fund Credit Instrument or Permitted Investment for monies held in the funds and accounts created and held hereunder, fees, charges and disbursements of bond counsel, disclosure counsel and other attorneys, municipal advisors, accounting firms, consultants and other professionals, fees and charges for preparation, execution and safekeeping of the Bonds and any other cost, charge or fee in connection with the original issuance of the Bonds and the execution and delivery of the Lease.

**“Defeasance Securities”** means (1) cash, (2) non-callable direct obligations of the United States of America (“Treasuries”), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) pre-refunded municipal obligations rated “AAA” and “Aaa” by S&P and Moody’s, respectively.

**“Depository”** means DTC and its successors and assigns or if (a) the then Depository resigns from its functions as securities depository of the Bonds, or (b) the Authority discontinues use of the Depository pursuant to Section 2.13 hereof, any other securities depository which agrees to follow the procedures requested to be followed by a securities depository in connection with the Bonds and which is selected by the Authority.

**“Depository Participant”** means a member of, or participant in, the Depository.

**“DTC”** means The Depository Trust Company, New York, New York, and its successors and assigns.

**“Event of Default”** means any of the events described in Section 8.01.

**“Fiscal Year”** means any twelve-month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the Authority as its official fiscal year period.

**“Indenture”** means this Indenture, dated as of July 1, 2020, as originally executed or as it may from time to time be amended or supplemented in accordance herewith.

**“Independent Certified Public Accountant”** means any certified public accountant or firm of certified public accountants appointed and paid by the Authority, and who, or each of whom:

- (a) is in fact independent and not under domination of the Authority or the City;
- (b) does not have any substantial interest, direct or indirect, in the Authority or the City; and
- (c) is not connected with the Authority or the City as an officer or employee of the Authority or the City but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.



**“Information Services”** means the Electronic Municipal Market Access System (referred to as “EMMA”), a facility of the Municipal Securities Rulemaking Board, at <http://emma.msrb.org>; provided, however, in accordance with then current guidelines of the Securities and Exchange Commission, Information Services shall mean such other organizations providing information with respect to called Bonds as the Authority may designate in writing to the Trustee.

**“Interest Payment Date”** means February 1 and August 1 of each year, commencing February 1, 2021.

**“Joint Exercise of Powers Agreement”** means that certain Joint Exercise of Powers Agreement, dated as June 1, 1990, as amended from time to time, by and between the City and the West Covina Housing Authority, together with supplements thereto.

**“Lease”** means that certain Lease Agreement, dated as of July 1, 2020, by and between the Authority as lessor and the City as lessee, as it may be further amended or modified.

**“Lease Revenue Fund”** means the fund by that name established and held by the Trustee pursuant to Section 4.02.

**“Leased Property”** means, collectively, those certain parcels of real property, together with the improvements thereon, leased by the Authority to the City pursuant to the Lease, as more fully described in Exhibit A to the Lease, as such Exhibit A may be revised and amended from time to time pursuant to the terms hereof and of the Lease.

**“Maximum Annual Debt Service”** in respect of any Bond Year means the largest of the sums obtained for that or any succeeding Bond Year after totaling the following for each such Bond Year:

(a) The principal amount of all Outstanding Bonds maturing or required to be redeemed by mandatory sinking account redemption in such Bond Year; and

(b) The interest that would be due during such Bond Year on the aggregate principal amount of Bonds which would be Outstanding in such Bond Year if the Bonds Outstanding on the date of such computation were to mature or be redeemed in accordance with the applicable maturity or mandatory sinking account redemption schedule. At the time and for the purpose of making such computation, the amount of Bonds already retired in advance of the above mentioned schedule or schedules shall be deducted pro rata from the remaining amounts thereon.

**“Moody’s”** means Moody’s Investors Service, and its successors and assigns.

**“Nominee”** means the nominee of the Depository, which may be the Depository, as determined from time to time pursuant hereto.

**“Original Purchaser”** means, with respect to the 2020A Bonds, Hilltop Securities, Inc.



**“Outstanding,”** when used as of any particular time with reference to Bonds means (subject to the provisions of Section 10.07) all Bonds theretofore executed, issued and delivered by the Authority under this Indenture except:

(a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation;

(b) Bonds paid or deemed to have been paid within the meaning of Section 10.03; and

(c) Bonds in lieu of which or in substitution for which other Bonds shall have been executed, issued and delivered pursuant to this Indenture or any Supplemental Indenture.

**“Owner”** when used with respect to any Bond, means the person in whose name the ownership of such Bond shall be registered on the Registration Books.

**“Permitted Investments”** means any of the following which at the time of investment are legal investments under the laws of the State for the moneys proposed to be invested therein (the Trustee is entitled to conclusively rely on a Request of the Authority directing investment in such Permitted Investment as a certification by the Authority to the Trustee that such Permitted Investment is a legal investment under the laws of the State), but only to the extent that the same are acquired at fair market value:

(a) Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) or obligations the timely payment of the principal of and interest on which are fully and unconditionally guaranteed by the United States of America, including instruments evidencing a direct ownership interest in securities described in this clause such as Stripped Treasury Coupons rated or assessed in the highest rating category by S&P and Moody’s and held by a custodian for safekeeping on behalf of holders of such securities.

(b) Bonds or notes which are exempt from federal income taxes and for the payment of which cash or obligations described in clause (a) of this definition in an amount sufficient to pay the principal of, premium, if any, and interest on when due have been irrevocably deposited with a trustee or other fiscal depository and which are rated the same rating as direct obligations of the United States of America by S&P and Moody’s.

(c) Obligations, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following: Federal Home Loan Bank System, Government National Mortgage Association, Farmer’s Home Administration, Federal Home Loan Mortgage Corporation or Federal Housing Administration; provided that with respect to the funds and accounts established under this Indenture, such obligations shall at no time exceed an amount equal to ten percent (10%) of the aggregate principal amount of the Bonds Outstanding.

(d) Deposit accounts, including time deposits, trust funds, trust accounts, overnight bank deposits, interest bearing deposits, interest bearing money market accounts, certificates of deposit (including those placed by a third party pursuant to an agreement between the Trustee and the Authority) or savings accounts (i) fully insured by the Federal Deposit Insurance



Corporation or (ii) with banks whose short term obligations are rated no lower than A-1 by S&P and P-1 by Moody's including those of the Trustee and its affiliates.

(e) Federal funds or banker's acceptances with a maximum term of one year of any bank that (i) has an unsecured, uninsured and unguaranteed obligation rating of "Prime-1" or "A3" by Moody's and "A-1" or "A" or better by S&P (including the Trustee and its affiliates) or (ii) is insured by the FDIC.

(f) Repurchase or reverse repurchase obligations (including those of the Trustee or any of its affiliates) with a term not exceeding 30 days pursuant to a written agreement between the Trustee and either a primary dealer on the Federal Reserve reporting dealer list which falls under the jurisdiction of the SIPC or a federally chartered commercial bank whose long-term debt obligations are rated A or better by S&P and Moody's, with respect to any security described in clause (1); provided that the securities which are the subject of such repurchase obligation (i) must be free and clear of all liens, (ii) in the case of a SIPC dealer, were not acquired pursuant to a repurchase or reverse repurchase agreement, (iii) must be deposited with the Trustee and maintained through weekly market valuations in an amount equal to 104% of the invested funds plus accrued interest; and further provided that the Trustee must have a valid first perfected security interest in such securities.

(g) Taxable government money market portfolios that have a rating by S&P of Am-G or Am or better and rated in one of the three highest rating categories of Moody's, subject to a maximum permissible limit equal to six months of principal and interest on the Bonds including portfolios of the Trustee and its affiliates.

(h) Tax-exempt government money market portfolios that have a rating by S&P of Am-G or Am or better and rated in one of the three highest rating categories of Moody's consisting of securities which are rated in the highest Rating Categories of S&P and Moody's subject to a maximum permissible limit equal to six months of principal and interest on the Bonds.

(i) Money market mutual funds registered under the Investment Company Act of 1940, the shares in which are registered under the Securities Act of 1933 and that have a rating by S&P of AA-Am-G or AA-Am and rated in one of the two highest Rating Categories of Moody's, including those managed or advised by the Trustee or its affiliates or for which the Trustee or an affiliate of the Trustee serves as administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee.

(j) Commercial paper having, at the time of investment or contractual commitment to invest therein, a rating from Moody's and S&P, of A1 and P1, respectively.



(k) The Local Agency Investment Fund of the State, created pursuant to Section 16429.1 of the California Government Code, to the extent the Trustee is authorized to register such investment in its name.

(l) Investment agreements, including guaranteed investment contracts (“GICs”) forward purchase agreements and reserve fund put agreements with banks or other financial institutions rated, or guaranteed by institutions rated, or with senior unsecured debt rated, by S&P or Moody’s, in one of the three highest rating categories assigned by such agencies.

(m) The California Investment Trust managed by The California Investment Trust Retirement Plan Group.

(n) Any other investments which meet the criteria established by applicable published investment guidelines issued by each rating agency then rating the Bonds.

**“Qualified Reserve Fund Credit Instrument”** means an irrevocable standby or direct-pay letter of credit or surety bond issued by a commercial bank, national banking association or insurance company and deposited with the Trustee pursuant to Section 3.04(d) provided that all of the following requirements are met: (i) the long-term credit rating of such bank or insurance company at the time of delivery of such letter of credit or surety bond is rated in one of the two highest rating categories by Moody’s or S&P and, if rated by A.M. Best & Company, a minimum rating of “A”; (ii) such letter of credit or surety bond or policy has a term which ends no earlier than the last Interest Payment Date of the Bonds; (iii) such letter of credit or surety bond has a stated amount at least equal to the portion of the 2020A Reserve Requirement with respect to which funds are proposed to be released pursuant to Section 3.04(d); and (iv) the Trustee is authorized pursuant to the terms of such letter of credit or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the amounts available to repay the principal of and interest on the Bonds.

**“Record Date”** means, with respect to any Interest Payment Date, the fifteenth calendar day of the month immediately preceding such Interest Payment Date, whether or not such day is a Business Day.

**“Registration Books”** means the records maintained by the Trustee pursuant to Section 2.09 for the registration and transfer of ownership of the Bonds.

**“Rental Payments”** means, collectively, the 2020A Base Rental Payments and any Additional Rental Payments.

**“Request of the Authority”** means a request in writing signed by the Chairman or Executive Director of the Authority or by any other officer of the Authority duly authorized by the Chairman or by the Authority for that purpose, as evidenced in writing to the Trustee.

**“Request of the City”** means a request in writing signed by the Mayor or the City Manager or by any other officer of the City duly authorized for that purpose by the Mayor or City Manager or by the City Council, as evidenced in writing to the Trustee.



**“Responsible Officer”** means any member of the Authority or any other person authorized by resolution of the Authority to act on behalf of the Authority under or with respect to the Lease or this Indenture.

**“Revenues”** means (i) all Base Rental Payments payable by the City pursuant to the Lease (including prepayments), (ii) any proceeds of Bonds deposited with the Trustee and all moneys on deposit in the funds and accounts established hereunder, (iii) investment income with respect to such moneys held by the Trustee and (iv) any insurance proceeds or condemnation awards received by or payable to the Trustee relating to the Base Rental Payments.

**“S&P”** means S&P Global Ratings, and its successors and assigns.

**“Securities Depositories”** means The Depository Trust Company, New York, New York and its successors and assigns or if (i) the then Securities Depository resigns from its functions as depository of the Bonds or (ii) the Authority discontinues use of the then Securities Depository pursuant to Section 2.13, any other securities depository which agrees to follow the procedures required to be followed by a securities depository in connection with the Bonds and which is selected by the Authority.

**“Series”** whenever used in this Indenture with respect to the Bonds means all of the Bonds designated as being of the same series, authenticated and delivered in a simultaneous transaction, regardless of variations in maturity, interest rate, redemption and other provisions, and any Bonds thereafter authenticated and delivered upon transfer or exchange of or in lieu of or in substitution for (but not to refund) such Bonds as provided herein.

**“Site Lease”** means that certain Site and Facility Lease, dated as of July 1, 2020, by and between the City and the Authority, pursuant to which the Authority leases the Leased Property from the City.

**“State”** means the State of California.

**“Supplemental Indenture”** means any agreement supplemental to or amendatory of this Indenture entered into in accordance with the provisions of Article VII.

**“Trust Office”** means the corporate trust office of the Trustee in Los Angeles, California or such other offices as may be specified to the Authority by the Trustee in writing or, solely for purposes of the surrender of the Bonds for payment, transfer or exchange, the corporate trust operations or agency office designated by the Trustee.

**“Trustee”** means U.S. Bank National Association, and its successors and assigns, and any other banking corporation or association that may at any time be substituted in its place as provided in Article VI hereof.

**“Written Request of the Authority”** means a request in writing signed by a Responsible Officer.

**“2020A Base Rental Payments”** means all 2020A Base Rental Payments under the Lease.



**“2020A Bonds”** means the West Covina Public Financing Authority Lease Revenue Bonds, 2020 Series A (Federally Taxable).

**“2020A Costs of Issuance Fund”** means the fund by that name established and held by the Trustee pursuant to Section 3.03.

**“2020A Interest Account”** means the account by that name established and held by the Trustee pursuant to Section 4.02(a).

**“2020A Insurance and Condemnation Fund”** means the fund by that name established and held by the Trustee pursuant to Section 3.05.

**“2020A Principal Account”** means the account by that name established and held by the Trustee pursuant to Section 4.02(b).

**“2020A Reserve Fund”** means the fund by that name established and held by the Trustee pursuant to Section 3.04.

**“2020A Reserve Requirement”** means, as of any calculation date in a Bond Year, an amount equal to Maximum Annual Debt Service.

**SECTION 1.02. Rules of Construction.** All references in this Indenture to “Articles,” “Sections,” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; and the words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

**SECTION 1.03. Authorization and Purpose of Bonds.** The Authority has reviewed all proceedings heretofore taken relative to the authorization of the 2020A Bonds and has found, as a result of such review, and hereby finds and determines that all things, conditions, and acts required by law to exist, to happen and to be performed precedent to and in the issuance of the 2020A Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Authority is now authorized under the Joint Exercise of Powers Agreement and the Bond Law and each and every requirement of law, to issue the 2020A Bonds in the manner and form provided in this Indenture. Accordingly, the Authority hereby authorizes the issuance of the 2020A Bonds pursuant to the Bond Law and this Indenture for the purpose described in the recitals hereof.

**SECTION 1.04. Equal Security.** In consideration of the acceptance of the Bonds by the Owners thereof, this Indenture shall be deemed to be and shall constitute a contract between the Authority and the Owners from time to time of the Bonds; and the covenants and agreements herein set forth to be performed on behalf of the Authority shall be for the equal and proportionate benefit, security and protection of all Owners without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution or delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.



## ARTICLE II ISSUANCE OF 2020A BONDS

**SECTION 2.01. Designation.** The 2020A Bonds are authorized to be issued by the Authority under and subject to the Bond Law and the terms of this Indenture and shall be designated, respectively, as the “West Covina Public Financing Authority Lease Revenue Bonds, 2020 Series A (Federally Taxable).” The 2020A Bonds shall be issued in the original aggregate principal amount of \$[Par Amount].

**SECTION 2.02. Terms of 2020A Bonds.** The 2020A Bonds shall be dated the Closing Date, shall mature on the dates and in the amounts, and shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) at the rates, set forth in the following table:

<b>Maturity Date (August 1)</b>	<b>Principal Amount</b>	<b>Interest Rate</b>
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The 2020A Bonds shall be delivered in fully registered form, numbered from one upwards in consecutive numerical order (with such alphabetical prefix as shall be determined). The 2020A Bonds shall be executed and delivered in their respective Authorized Denominations.

Each 2020A Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (i) it is authenticated during the period from the day after the Record Date for an Interest Payment Date to and including such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (ii) it is authenticated on or prior to the Record Date for the first Interest Payment Date, in which event it shall bear interest from the Closing Date; provided, however, that if, at the time of authentication of any 2020A Bond interest with respect to such 2020A Bond is in default, such 2020A Bond shall bear interest from the Interest Payment Date to which interest has been paid or made available for payment with respect to such 2020A Bond.

Interest with respect to any 2020A Bond shall be payable in lawful money of the United States of America on each Interest Payment Date to the Owner thereof as of the close of business on the Record Date, such interest to be paid by check of the Trustee, mailed by first class mail no later than the Interest Payment Date to the Owner at his address as it appears, on such Record



Date, on the Registration Books maintained by the Trustee; *provided, however*, that at the written request of the Owner of at least \$1,000,000 in aggregate principal amount of Outstanding 2020A Bonds filed with the Trustee prior to any Record Date, interest on such 2020A Bonds shall be paid to such Owner on each succeeding Interest Payment Date (unless such request has been revoked in writing) by wire transfer of immediately available funds to an account in the United States designated in such written request. Payments of defaulted interest with respect to the 2020A Bonds shall be paid by check or draft to the registered Owners of the 2020A Bonds as of a special record date to be fixed by the Trustee, notice of which special record date shall be given to the registered Owners of the 2020A Bonds not less than ten days prior thereto. The principal of and premium, if any, on the 2020A Bonds are payable by check when due upon surrender thereof at the Trust Office in lawful money of the United States of America.

### **SECTION 2.03. Redemption of Bonds.**

(a) Extraordinary Redemption. The 2020A Bonds are subject to redemption prior to their respective maturity dates, upon notice as hereinafter provided, as a whole or in part on any date, from prepayments of 2020A Base Rental Payments made by the City pursuant to the Lease from funds received by the City due to a taking of the Leased Property or any portion thereof under the power of eminent domain or from insurance proceeds received by the City due to damage to or destruction of the Leased Property or any portion thereof, under the circumstances and upon the conditions and terms prescribed herein and in the Lease.

Redemption of 2020A Bonds pursuant to this subparagraph (a) shall be made at a redemption price equal to the sum of the principal of the 2020A Bonds to be redeemed plus accrued interest thereon to the date fixed for redemption, without premium.

(b) 2020A Bonds Optional Redemption from Prepayments of 2020A Base Rental Payments. The 2020A Bonds maturing on or after August 1, 2031 shall be subject to redemption prior to their respective maturity dates as a whole or in part on any date on or after August 1, 2030, in any order deemed reasonable by the Authority, and by lot within a maturity, from prepayments of 2020A Base Rental Payments made at the option of the City pursuant to Section 11(b) of the Lease, at a redemption price equal to the principal amount of the 2020A Bonds to be redeemed, plus accrued but unpaid interest to the date fixed for redemption, without premium.

(c) Mandatory Sinking Account Redemption. The 2020A Term Bond maturing on August 1, 20\_\_ is subject to mandatory redemption, in part by lot, from sinking account payments set forth in the following schedule commencing August 1, 20\_\_, and on August 1 in each year thereafter to and including August 1, 20\_\_ at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption.

<b>Redemption Date</b> <b><u>(August 1)</u></b>	<b>Principal Amount</b> <b><u>To be Redeemed</u></b>
	\$



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\* Maturity.

The 2020A Term Bond maturing on August 1, 20\_\_ is subject to mandatory redemption, in part by lot, from sinking account payments set forth in the following schedule commencing August 1, 20\_\_, and on August 1 in each year thereafter to and including August 1, 20\_\_ at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption.

<b>Redemption Date</b> <b><u>(August 1)</u></b>	<b>Principal Amount</b> <b><u>To be Redeemed</u></b>
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\* Maturity.

The 2020A Term Bond maturing on August 1, 20\_\_ is subject to mandatory redemption, in part by lot, from sinking account payments set forth in the following schedule commencing August 1, 20\_\_, and on August 1 in each year thereafter to and including August 1, 20\_\_ at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption.

<b>Redemption Date</b> <b><u>(August 1)</u></b>	<b>Principal Amount</b> <b><u>To be Redeemed</u></b>
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\* Maturity.

The 2020A Term Bond maturing on August 1, 20\_\_ is subject to mandatory redemption, in part by lot, from sinking account payments set forth in the following schedule commencing August 1, 20\_\_, and on August 1 in each year thereafter to and including August 1, 20\_\_ at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption.

<b>Redemption Date</b> <b><u>(August 1)</u></b>	<b>Principal Amount</b> <b><u>To be Redeemed</u></b>
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\* Maturity.

(d) If some but not all of a 2020A Term Bond has been redeemed pursuant to extraordinary or optional redemptions, the total amount of sinking account payments to be made



subsequent to such redemption shall be reduced in an amount equal to the principal amount of such 2020A Term Bond so redeemed by reducing each such future sinking account payment on a *pro rata* basis (as nearly as practicable) in integral multiples of \$5,000, as shall be designated pursuant to written notice filed by the Authority with the Trustee. In the event of any reductions in the amount of sinking account payments due as a result of some but not all of the 2020A Bonds being redeemed pursuant to extraordinary or optional redemptions, the Authority shall provide the Trustee with a revised schedule reflecting such reductions.

(e) Notice of Redemption. The Trustee on behalf and at the expense of the Authority shall send (by first class mail or other means acceptable to the recipient thereof) notice of any redemption to the respective Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, to the Securities Depositories and to one or more Information Services, at least twenty (20) but not more than sixty (60) days prior to the date fixed for redemption; *provided, however*, that neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall designate the CUSIP numbers, the Bond numbers and the maturity or maturities (except in the event of redemption of all of the Bonds) of the Bonds to be redeemed, and shall require that such Bonds be then surrendered at the Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date. Neither the Authority nor the Trustee shall have any responsibility for any defect in the CUSIP number that appears on any Bond or in any redemption notice with respect thereto, and any such redemption notice may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the Authority nor the Trustee shall be liable for any inaccuracy in such numbers.

Any notice given pursuant to this Section 2.03 may be conditional and/or rescinded by written notice given to the Trustee by the Authority and the Trustee shall provide notice of such rescission as soon thereafter as practicable in the same manner, and to the same recipients, as notice of such redemption was given pursuant to this Section.

(f) Selection of Bonds for Redemption. Whenever provision is made in this Indenture for the redemption of less than all of the Bonds, the Trustee shall select the Bonds to be redeemed from all Bonds not previously called for redemption, in such maturities as the Authority shall designate (and by lot within any maturity). For purposes of such selection, all Bonds shall be deemed to be comprised of separate \$5,000 portions and such portions shall be treated as separate Bonds, which may be separately redeemed.

(g) Partial Redemption of Bonds. If only a portion of any Bond is called for redemption, then upon surrender of such Bond the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds, interest rate and maturity date, in aggregate principal amount equal to the unredeemed portion of the Bond being redeemed.

(h) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of, premium, if any, and interest on the Bonds so called



for redemption shall have been duly provided, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date. All Bonds redeemed pursuant to this Section 2.03 shall be canceled by the Trustee. All moneys held by or on behalf of the Trustee for the payment of principal of or interest or premium on Bonds, whether at redemption or maturity, shall be held in trust for the account of the Owners thereof and the Trustee shall not be required to pay Owners any interest on, or be liable to Owners for any interest earned on, moneys so held.

**SECTION 2.04. Form of 2020A Bonds.** The 2020A Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, shall be substantially in the form set forth in Exhibit A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

**SECTION 2.05. Execution of Bonds.** The Bonds shall be signed in the name and on behalf of the Authority with the manual or facsimile signature of its Chairman, and attested with the manual or facsimile signature of its Secretary or any Assistant Secretary duly appointed by the Authority, and shall be delivered to the Trustee for authentication by it. In case any officer of the Authority who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed shall have been authenticated or delivered by the Trustee or issued by the Authority, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the Authority as though the individual who signed the same had continued to be such officer of the Authority. Also, any Bond may be signed on behalf of the Authority by any individual who on the actual date of the execution of such Bond shall be the proper officer although on the nominal date of such Bond such individual shall not have been such officer.

Only such of the Bonds as shall bear thereon a certificate of authentication, manually executed on behalf of the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

**SECTION 2.06. Transfer of Bonds.** Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by his duly authorized attorney, upon presentation and surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed. Whenever any Bond shall be surrendered for transfer, the Authority shall execute and the Trustee shall thereupon authenticate and deliver to the transferee a new Bond or Bonds of like tenor, interest rate, maturity and aggregate principal amount in Authorized Denominations. The cost of printing any Bonds and any services rendered or expenses incurred by the Trustee in connection with any such transfer shall be paid by the Authority, except that the Trustee shall require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer. The Trustee shall not be required to transfer, pursuant to this Section, (a) any Bond during the period established by the



Trustee for the selection of Bonds for redemption or (b) any Bond selected for redemption pursuant to Section 2.03(e).

**SECTION 2.07. Exchange of Bonds.** Bonds may be exchanged at the Trust Office of the Trustee for the same aggregate principal amount of Bonds of the same tenor, interest rate, and maturity and of other Authorized Denominations. The cost of printing any Bonds and any services rendered or expenses incurred by the Trustee in connection with any such exchange shall be paid by the Authority, except that the Trustee shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. The Trustee shall not be required to exchange, pursuant to this Section, (a) any Bond during the period established by the Trustee for the selection of Bonds for redemption or (b) any Bond selected for redemption pursuant to Section 2.03(e).

**SECTION 2.08. Temporary Bonds.** The Bonds may be issued initially in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Authority and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Authority and be registered and authenticated by the Trustee upon the same conditions and in substantially the same manner as the definitive Bonds. If the Authority issues temporary Bonds, it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange therefor at the Trust Office of the Trustee, and the Trustee shall authenticate and deliver in exchange for such temporary Bonds definitive Bonds of like tenor, maturity and aggregate principal amount in Authorized Denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds authenticated and delivered hereunder.

**SECTION 2.09. Registration Books.** The Trustee will keep or cause to be kept at its Trust Office sufficient records for the registration and transfer of the Bonds, which shall at all times during regular business hours be open to inspection by the Authority with reasonable prior notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer, or cause to be registered or transferred, on said records, Bonds as herein provided.

**SECTION 2.10. Bonds Mutilated, Lost, Destroyed or Stolen.** If any Bond shall become mutilated, the Authority, at the expense of the Owner of said Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor, maturity and aggregate principal amount in an Authorized Denomination in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it. If any Bond issued hereunder shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence shall be satisfactory to it and indemnity satisfactory to it shall be given, the Authority, at the expense of the Bond Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall have been called for redemption, instead of issuing a substitute Bond the Trustee may pay the same without surrender thereof upon receipt of indemnity satisfactory to the Trustee).



The Authority may require payment of a reasonable fee for each new Bond issued under this Section and of the expenses that may be incurred by the Authority and the Trustee. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original contractual obligation on the part of the Authority whether or not the Bond alleged to be lost, destroyed or stolen shall be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds secured by this Indenture.

**SECTION 2.11. Book-Entry System; Limited Obligation.** The Bonds shall be initially executed, authenticated and delivered in the form of a separate single fully registered Bond (which may be typewritten) for each of the maturities of the Bonds. Upon initial execution, authentication and delivery, the ownership of each such Bond shall be registered in the Bond Register in the name of the Nominee as nominee of the Depository. Except as provided in Section 2.13 hereof, all of the Outstanding Bonds shall be registered in the Bond Register kept by the Trustee in the name of the Nominee and the Bonds may be transferred, in whole but not in part, only to the Depository, to a successor Depository or to another nominee of the Depository or of a successor Depository. Each Bond shall bear a legend substantially to the following effect: "UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AS DEFINED IN THE INDENTURE) TO THE TRUSTEE FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

With respect to Bonds registered in the Bond Register in the name of the Nominee, the Authority and the Trustee shall have no responsibility or obligation to any Depository Participant or to any person on behalf of which such a Depository Participant holds a beneficial interest in the Bonds. Without limiting the immediately preceding sentence, the Authority and the Trustee shall have no responsibility or obligation with respect to (a) the accuracy of the records of the Depository, the Nominee or any Depository Participant with respect to any beneficial ownership interest in the Bonds, (b) the delivery to any Depository Participant, beneficial owner or any other person, other than the Depository, of any notice with respect to the Bonds, including any Redemption Notice, (c) the selection by the Depository and the Depository Participants of the beneficial interests in the Bonds to be redeemed in part, or (d) the payment to any Depository Participant, beneficial owner or any other person, other than the Depository, of any amount with respect to principal of, interest on, or premium, if any, of the Bonds. The Authority and the Trustee may treat and consider the person in whose name each Bond is registered in the Bond Register as the holder and absolute Owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on, the Bond, for the purpose of giving Redemption Notices with respect to the Bonds and other notices with respect to the Bonds, and for all other purposes whatsoever, including, without limitation, registering transfers with respect to the Bonds.



The Trustee shall pay all principal of, premium, if any, and interest on, the Bonds only to or upon the order of the respective Bond Owners, as shown in the Bond Register kept by the Trustee, or their respective attorneys duly authorized in writing, and all such payments shall be valid hereunder with respect to payment of principal of, premium, if any, and interest on, the Bonds to the extent of the sum or sums so paid. No person other than a Bond Owner, as shown in the Bond Register, shall receive a Bond evidencing the obligation to make payments of principal of, premium, if any, and interest on, such Bond pursuant to this Indenture. Upon delivery by the Depository to the Trustee and the Authority of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to Record Dates, the word Nominee in this Indenture shall refer to such new nominee of the Depository.

**SECTION 2.12. Representation Letter.** To qualify the Bonds for the Depository's book-entry system, the Authority has previously authorized, executed, countersigned and delivered to such Depository a letter from the Authority representing such matters as shall be necessary to so qualify the Bonds (the "Representation Letter"). The execution and delivery of the Representation Letter shall not in any way limit the provisions of Section 2.11 hereof or in any other way impose upon the Authority or the City any obligation whatsoever with respect to persons having beneficial interests in the Bonds other than the Owners, as shown in the Bond Register kept by the Trustee. In the written acceptance by the Trustee of the Representation Letter, the Trustee shall agree, and hereby agrees, to take all actions necessary for all representations of the Trustee in the Representation Letter with respect to the Trustee to at all times be complied with. In addition to the execution and delivery of the Representation Letter, the Authority Representative and all other officers of the Authority, and their respective deputies and designees, each is hereby authorized to take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

**SECTION 2.13. Transfers Outside Book-Entry System.** If at any time the Depository notifies the Authority that it is unwilling or unable to continue as Depository with respect to the Bonds or if at any time the Depository shall no longer be registered or in good standing under the Securities Exchange Act or other applicable statute or regulation and a successor Depository is not appointed by the Authority within 90 days after the Authority receives notice or becomes aware of such condition, as the case may be, Section 2.11 hereof shall no longer be applicable and the Authority shall execute and the Trustee shall authenticate and deliver Bonds as provided below. In addition, the Authority may determine at any time that the Bonds shall no longer be represented by global bonds and that the provisions of Section 2.11 hereof shall no longer apply to the Bonds. In any such event the Authority shall execute and the Trustee shall authenticate and deliver Bonds as provided below. Bonds executed, authenticated and delivered in exchange for global bonds pursuant to this Section 2.13 shall be registered in such names and delivered in such Authorized Denominations as the Depository, pursuant to instructions from the Depository Participants or otherwise, shall instruct the Authority and the Trustee. The Trustee shall deliver such Bonds to the persons in whose names such Bonds are so registered.

If the Authority determines to replace the Depository with another qualified securities depository, the Authority shall prepare or cause to be prepared a new fully-registered global bond for each of the maturities of the Bonds, registered in the name of such successor or



substitute securities depository or its nominee, or make such other arrangements as are acceptable to the Authority, the Trustee and such securities depository and not inconsistent with the terms of this Indenture.

**SECTION 2.14. Payments and Notices to the Nominee.** Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments of principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the Representation Letter or as otherwise instructed by the Depository.

**SECTION 2.15. Initial Depository and Nominee.** The initial Depository under this Indenture shall be DTC. The initial Nominee shall be Cede & Co., as nominee of DTC.



### **ARTICLE III DEPOSIT AND APPLICATION OF PROCEEDS**

**SECTION 3.01. Issuance of 2020A Bonds.** Upon the execution and delivery of this Indenture, the Authority shall execute and deliver the 2020A Bonds to the Trustee for authentication and delivery to the original purchaser thereof upon the Request of the Authority.

**SECTION 3.02. Application of Proceeds of Sale of 2020A Bonds.** Upon the receipt of payment for the 2020A Bonds on the Closing Date, the Trustee shall apply \$\_\_\_\_\_ of the net proceeds of the sale of the 2020A Bonds (representing the principal amount of the 2020A Bonds of \$[Par Amount].00, plus a [net] original issue [premium/discount] of \$\_\_\_\_\_, less an underwriter's discount of \$\_\_\_\_\_), as follows:

- (1) The Trustee shall transfer \$\_\_\_\_\_ to the City pursuant to a Written Request of the Authority dated the Closing Date; [further wire instructions to come]
- (2) The Trustee shall deposit in the 2020A Costs of Issuance Fund the amount of \$\_\_\_\_\_; and
- (3) The Trustee shall deposit in the 2020A Reserve Fund the amount of \$\_\_\_\_\_, representing the 2020A Reserve Requirement as of the Closing Date.

The Trustee may establish such temporary funds, accounts and subaccounts as may be necessary or desirable to accomplish such deposits and transfer.

**SECTION 3.03. 2020A Costs of Issuance Fund.** There is hereby established a fund to be held by the Trustee known as the "2020A Costs of Issuance Fund," into which shall be deposited a portion of the proceeds of the sale of the 2020A Bonds pursuant to Section 3.02. The moneys in the 2020A Costs of Issuance Fund shall be used to pay Costs of Issuance related to the 2020A Bonds from time to time and shall be disbursed by the Trustee upon delivery to the Trustee of a requisition, substantially in the form attached hereto as Exhibit B, executed by an officer of the Authority. On the date that is 180 days following the Closing Date, or upon the earlier receipt by the Trustee of a Request of the Authority certifying that all Costs of Issuance related to the 2020A Bonds have been paid or provided for, the Trustee shall transfer any remaining amounts in the 2020A Costs of Issuance Fund to the Lease Revenue Fund and the Trustee shall then close the 2020A Costs of Issuance Fund.

**SECTION 3.04. 2020A Reserve Fund.** (a) There is hereby created a separate fund to be known as the "2020A Reserve Fund," which shall be held in trust by the Trustee. An amount equal to the 2020A Reserve Requirement shall be maintained in the 2020A Reserve Fund at all times, subject to the provisions of Section 4.02(c), and any deficiency therein shall be replenished from the first available Revenues pursuant to Section 4.02(c).

(b) Moneys in the 2020A Reserve Fund shall be used solely for the purpose of paying the principal of and interest on the Bonds, including the redemption price of the Bonds coming



due and payable by operation of mandatory sinking fund redemption pursuant to Section 2.03, if the Revenues are insufficient therefor. If the amount on deposit in the Lease Revenue Fund on any date is insufficient to enable the Trustee to pay in full the aggregate amount of principal of and interest on the Bonds coming due and payable, including the redemption price of the Bonds coming due and payable by operation of mandatory sinking fund redemption pursuant to Section 2.03, the Trustee shall withdraw the amount of such insufficiency from the 2020A Reserve Fund and transfer such amount to the Lease Revenue Fund.

(c) If the amount on deposit in the 2020A Reserve Fund exceeds the 2020A Reserve Requirement on the fifteenth (15th) calendar day of the month preceding any Interest Payment Date, the amount of such excess shall be withdrawn therefrom by the Trustee and transferred to the Lease Revenue Fund and credited against the Base Rental Payments next due from the City.

(d) The Authority may fund all or a portion of the 2020A Reserve Requirement with one or more Qualified Reserve Fund Credit Instruments. In any case where the 2020A Reserve Fund is funded with a combination of cash and a Qualified Reserve Fund Credit Instrument, the Trustee shall deplete all cash balances before drawing on the Qualified Reserve Fund Credit Instrument. With regard to replenishment, any available moneys provided by the Authority shall be used first to reinstate the Qualified Reserve Fund Credit Instrument and second, to replenish the cash in the Reserve Fund. If the Qualified Reserve Fund Credit Instrument is drawn upon, the Authority shall make payment of interest on amounts advanced under the Qualified Reserve Fund Credit Instrument after making any payments pursuant to Section 4.02.

If the Qualified Reserve Fund Credit Instrument will lapse or expire, the Trustee shall draw upon such Qualified Reserve Fund Credit Instrument prior to its lapsing or expiring in the full amount of such Qualified Reserve Fund Credit Instrument, make deposits from available Revenues to the Reserve Fund to increase the amount on deposit therein to the Reserve Requirement or substitute such Qualified Reserve Fund Credit Instrument with a Qualified Reserve Fund Credit Instrument that satisfies the requirements of this subsection (d).

**SECTION 3.05. 2020A Insurance and Condemnation Fund.** The Trustee shall establish and maintain a separate fund to be known as the “2020A Insurance and Condemnation Fund,” into which shall be deposited Net Proceeds (as defined in the Lease) required to be deposited therein pursuant to Section 9 of the Lease. The Trustee shall disburse or transfer all amounts in the 2020A Insurance and Condemnation Fund, as stated in a Request of the City (as described below) for the payment of the cost of the reconstruction of the Leased Property (including reimbursement to the City for any such costs paid by it). Before any payment of money is made from the 2020A Insurance and Condemnation Fund, the Authority shall file or shall cause the City to file with the Trustee a requisition in substantially the form set forth as Exhibit C hereto.

**SECTION 3.06. Validity of Bonds.** The validity of the authorization and issuance of the Bonds shall not be affected in any way by any proceedings taken with respect to the application of the proceeds of the Bonds, and the recital contained in the Bonds that the same are issued pursuant to the Bond Law shall be conclusive evidence of their validity and of the regularity of their issuance.



## **ARTICLE IV REVENUES; FLOW OF FUNDS**

**SECTION 4.01. Pledge of Revenues; Assignment of Rights.** Subject to the provisions of Section 6.03, the Bonds shall be secured by a first lien on and pledge (which shall be effected in the manner and to the extent hereinafter provided) of all of the Revenues, including all of the moneys in the 2020A Interest Account, the 2020A Principal Account and the 2020A Reserve Fund, including all amounts derived from the investment of such moneys. The Bonds shall be equally secured by a pledge, charge and lien upon the Revenues and such moneys without priority for number, date of the Bonds, date of execution or date of delivery; and the payment of the interest on and principal of the Bonds and any premiums upon the redemption of any portion thereof shall be and are secured by an exclusive pledge, charge and lien upon the Revenues and such moneys. So long as any of the Bonds are Outstanding, the Revenues and such moneys shall not be used for any other purpose; except that out of the Revenues there may be apportioned such sums, for such purposes, as are expressly permitted by Section 4.02.

The Authority hereby transfers in trust and assigns to the Trustee, for the benefit of the Owners from time to time of the Bonds, all of the Revenues and all of the right, title and interest (but none of the obligations) of the Authority in the Lease with respect to the Revenues, including its rights to receive the Base Rental Payments scheduled to be paid by the City under and pursuant to the Lease and any and all of the other rights of the Authority under the Lease as may be necessary to enforce payment of such Base Rental Payments when due or otherwise to protect the interest of the Owners of the Bonds, including its leasehold title to the Leased Property leased to the City pursuant to the Lease with respect to the Base Rental Payments. The Trustee accepts such assignments. The Trustee shall be entitled to and shall receive all of the Revenues, and any Revenues collected or received by the Authority shall be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee.

Each of the Authority and the City covenant and agree to take such action as is necessary from time to time to preserve the priority of the pledge set forth in this Section 4.01 under applicable law, and at the expense of the Authority or the City and the Trustee shall cooperate with the Authority and/or the City in taking such action.

**SECTION 4.02. Lease Revenue Fund; Receipt, Deposit and Application of Revenues.** All Revenues shall be deposited by the Trustee in a special fund designated as the "Lease Revenue Fund," which the Trustee shall establish, maintain and hold in trust hereunder. In the event the City pays more than 100% of the Base Rental Payments coming due 15 Business Days prior to any Interest Payment Date, the Trustee shall deposit into the Lease Revenue Fund only that portion of the Base Rental Payments which the City is required to make under Section 3(a) of the Lease, and shall remit any excess to the City.

On or before each Interest Payment Date, the Trustee shall transfer from the Lease Revenue Fund and deposit into the following respective accounts (each of which the Trustee shall establish and maintain within the Lease Revenue Fund), the following amounts in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting from lack of Revenues sufficient to make any



earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

(a) **2020A Interest Account.** The Trustee shall establish and maintain a separate account to be known as the “2020A Interest Account.” On or before each Interest Payment Date, the Trustee shall deposit in the 2020A Interest Account an amount required to cause the aggregate amount on deposit in the 2020A Interest Account to equal the amount of interest becoming due and payable on such Interest Payment Date on all respective Outstanding 2020A Bonds. No deposit shall be made into the 2020A Interest Account if the amount contained therein is at least equal to the interest becoming due and payable upon all respective Outstanding 2020A Bonds on each succeeding Interest Payment Date within the then current Bond Year. All moneys in the 2020A Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the 2020A Bonds as it shall become due and payable (including accrued interest on any 2020A Bonds redeemed prior to maturity).

(b) **2020A Principal Account.** The Trustee shall establish and maintain a separate account to be known as the “2020A Principal Account.” On or before each Interest Payment Date, the Trustee shall deposit in the 2020A Principal Account an amount required to cause the aggregate amount on deposit in the 2020A Principal Account to equal the principal amount of the 2020A Bonds maturing on such Interest Payment Date pursuant to Section 2.02 or Section 2.03 or pursuant to a Supplemental Indenture, as the case may be. All moneys in the 2020A Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the 2020A Bonds.

(c) **2020A Reserve Fund.** If the amount on deposit in the 2020A Reserve Fund at any time falls below the 2020A Reserve Requirement, the Trustee shall promptly notify the City and the Authority of such fact and the Trustee shall promptly (i) withdraw the amount of such insufficiency from available Revenues on deposit in the 2020A Lease Revenue Fund, and (ii) transfer such amount to the 2020A Reserve Fund. No deposit need be made in the 2020A Reserve Fund so long as the balance therein at least equals the 2020A Reserve Requirement.

(d) **Surplus.** On or before February 1 and August 1 of each year the Trustee shall determine the Revenues, if any, remaining in the Lease Revenue Fund after making the deposits required by paragraphs (a) through (c) above, and shall apply such amount as a credit against the next following Base Rental Payment.

#### **SECTION 4.03. Reserved.**

**SECTION 4.04. Investments.** All moneys in any of the funds or accounts established with the Trustee pursuant to this Indenture shall be invested by the Trustee solely in Permitted Investments pursuant to the written direction of the Authority given to the Trustee two Business Days in advance of the making of such investments. In the absence of any such direction from the Authority, the Trustee shall invest any such moneys in money market funds described in subsection (g) of the definition of Permitted Investments; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received a written direction of the Authority specifying a specific money market fund that satisfies the requirements of said subsection in which such investment is



to be made and, if no such written direction is so received, the Trustee shall hold such moneys uninvested. Obligations purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account.

The Trustee shall transfer all investment earnings on amounts in the 2020A Principal Account and the 2020A Interest Account to the Lease Revenue Fund. All investment earnings on amounts in the 2020A Insurance and Condemnation Fund shall be retained therein. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee, or any of its affiliates, may act as principal or agent in the acquisition of any investment and may impose its customary charges therefor. The Trustee may act as manager, sponsor, advisor or depository with respect to any Permitted Investment. The Trustee shall incur no liability for the selection (other than as provided herein) of investments or losses arising from any investments made pursuant to this Section. The Authority acknowledges that regulations of the Comptroller of the Currency grant the Authority the right to receive brokerage confirmations of security transactions to be effected by the Trustee hereunder as they occur, at no additional cost. The Authority specifically waives the right to receive such confirmation to the extent permitted by applicable law and agrees that it will instead receive periodic cash transaction statements which shall include detail for the investment transactions effected by the Trustee hereunder; provided, however, that the Authority retains its right to receive brokerage confirmation on any investment transaction requested by the Authority.

**SECTION 4.05. Valuation and Disposition of Investments.** For the purpose of determining the amount in any fund or account, Permitted Investments credited to such fund or account shall be valued at least semiannually on or before each Interest Payment Date at cost (excluding any brokerage commissions and excluding any accrued interest) by the Authority.

## **ARTICLE V COVENANTS OF THE AUTHORITY**

**SECTION 5.01. Punctual Payment.** The Authority shall punctually pay or cause to be paid the principal, interest and premium (if any) to become due in respect of all the Bonds, in strict conformity with the terms of the Bonds and of this Indenture, according to the true intent and meaning thereof, but only out of applicable Revenues and other assets pledged for such payment as provided in this Indenture.

**SECTION 5.02. Extension of Payment of Bonds.** The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended.

**SECTION 5.03. Against Encumbrances.** The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the applicable Revenues and



other assets pledged or assigned under this Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by this Indenture and Supplemental Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, including other programs under the Bond Law, and reserves the right to issue other obligations for such purposes.

**SECTION 5.04. Power to Issue Bonds and Make Pledge and Assignment.** The Authority is duly authorized pursuant to law to issue the Bonds and to enter into this Indenture and to pledge and assign the Revenues, the Lease and other assets purported to be pledged and assigned, respectively, under this Indenture in the manner and to the extent provided in this Indenture. The Bonds and the provisions of this Indenture are and will be the legal, valid and binding special obligations of the Authority in accordance with their terms, and the Authority and the Trustee (subject to the provisions of Section 6.02 hereof) shall at all times, to the extent permitted by law, defend, preserve and protect said pledge and assignment of Revenues and other assets and all the rights of the Bond Owners under this Indenture against all claims and demands of all persons whomsoever.

**SECTION 5.05. Accounting Records and Financial Statements.** The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate trust industry standards, in which complete and accurate entries shall be made of all transactions by the Trustee relating to the proceeds of Bonds, the Revenues, the Lease and all funds and accounts established pursuant to this Indenture. Such books of record and account shall be available for inspection by the Authority and the City during regular business hours with reasonable prior notice.

**SECTION 5.06. No Additional Obligations.** The Authority covenants that no additional bonds, notes or indebtedness shall be issued or incurred that are payable out of the Revenues in whole or in part.

**SECTION 5.07. Lease.** The Trustee, as assignee of the Authority's rights under the Lease with respect to the Revenues pursuant to Section 4.01 hereof and the Assignment Agreement(s), shall receive amounts due from the City pursuant to the Lease with respect to the Revenues. The Authority will faithfully comply with, keep, observe and perform all the agreements, conditions, covenants and terms contained in the Lease required to be complied with, kept, observed and performed by it and, together with the Trustee, will enforce the Lease against the City in accordance with its terms. So long as any Bond remain Outstanding, the Authority will not alter, amend or modify the Lease, except pursuant to Section 21 thereof.

**SECTION 5.08. Further Assurances.** The Authority will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Owners of the Bonds the rights and benefits provided in this Indenture.



## **ARTICLE VI THE TRUSTEE**

**SECTION 6.01. Appointment of Trustee.** U.S. Bank National Association, a national banking association duly organized and existing under and by virtue of the laws of the United States of America, is hereby appointed Trustee by the Authority for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Indenture. The Authority agrees that it will maintain a Trustee which has (or which is a wholly-owned subsidiary of a corporation which has) a combined capital and surplus of at least \$75,000,000, and which is subject to supervision or examination by Federal or State authority, so long as any Bonds are Outstanding. If such bank or trust company or such parent corporation publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this Section 6.01 the combined capital and surplus of such bank or trust company or such parent corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Trustee is hereby authorized to pay the principal of and interest and redemption premium (if any) on the Bonds when duly presented for payment at maturity, or on redemption prior to maturity, and to cancel all Bonds upon payment thereof. The Trustee shall keep accurate records of all funds and accounts administered by it and of all Bonds paid and discharged.

**SECTION 6.02. Acceptance of Trusts.** The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(b) Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a Certificate of the Authority.

(c) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Owners pursuant to this Indenture, unless such Owners shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(d) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond or other paper or document.

(e) The Trustee, prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no covenants of or against the



Trustee shall be implied in this Indenture. In case an Event of Default hereunder or under the Lease has occurred (which has not been cured or waived), the Trustee may exercise such of the rights and powers vested in it by this Indenture and by the Lease, and shall use the same degree of care and skill in the exercise of such rights and powers as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(f) The Trustee may execute any of the trusts or powers hereunder and perform the duties required of it hereunder either directly or by or through attorneys, receivers or agents, shall not be liable for the acts or omissions of such attorneys, receivers or agents appointed with due care, and shall be entitled to advice of counsel concerning all matters of trust and its duties hereunder. The Trustee may conclusively rely on an opinion of counsel as full and complete authorization and protection for any action taken, suffered or omitted by it hereunder.

(g) The Trustee shall not be responsible for any recital herein, in the Lease, or in the Bonds, or for any of the supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby and makes no representation as to the validity or sufficiency of the Bonds, this Indenture or the Lease. The Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Authority hereunder or on the part of the Authority or the City under the Lease. The Trustee shall not be responsible for the application of the proceeds of the Bonds paid over by it to the Authority in accordance with Section 10.03 hereof.

(h) The Trustee may become the Owner or pledgee of Bonds secured hereby with the same rights it would have if not the Trustee; may acquire and dispose of other bonds or evidences of indebtedness of the Authority with the same rights it would have if it were not the Trustee; and may act as a depositary for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Bonds, whether or not such committee shall represent the Owners of the majority in aggregate principal amount of the Bonds then Outstanding.

(i) The Trustee may rely and shall be protected in acting or refraining from acting, in good faith and without negligence, upon any notice, resolution, opinion, report, direction, request, requisition, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it to be genuine and to have been signed or presented by the proper person or persons. Any action taken or omitted to be taken by the Trustee in good faith and without negligence pursuant to this Indenture or the Lease upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Bond, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof. The Trustee shall not be bound to recognize any person as an Owner of any Bond or to take any action at his request unless the ownership of such Bond by such person shall be reflected on the Registration Books.

(j) The permissive right of the Trustee to do things enumerated in this Indenture or in the Lease shall not be construed as a duty and it shall not be answerable for other than its negligence or willful default. The immunities and exceptions from liability of the Trustee shall extend to its officers, directors, employees and agents.



(k) The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default hereunder or under the Lease except failure by the Authority or the City to make any of the payments to the Trustee required to be made by the Authority pursuant hereto or thereto or failure by the Authority or the City to file with the Trustee any document required by this Indenture or the Lease to be so filed subsequent to the issuance of the Bonds by a certain date, unless the Trustee shall be specifically notified in writing of such default by the Authority or by the Owners of at least 25% in aggregate principal amount of the Bonds then Outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee must, to be effective, be delivered at the Trust Office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Event of Default hereunder except as aforesaid.

(l) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, accountants and representatives, shall have the right but shall not be required to inspect all books, papers and records of the Authority pertaining to the Bonds, and to make copies of any of such books, papers and records which are not privileged by statute or by law.

(m) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises hereof.

(n) Notwithstanding anything elsewhere in this Indenture with respect to the execution of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, the Trustee shall have the right, but shall not be required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, as may be deemed desirable for the purpose of establishing the right of the Authority to the execution of any Bonds, the withdrawal of any cash or the taking of any other action by the Trustee.

(o) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law.

(p) Whether or not expressly provided therein, every provision of this Indenture, the Site Lease and the Lease relating to the conduct or affecting the liability of the Trustee shall be subject to the provisions of this Section.

(q) The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds.

(r) The Trustee is authorized and directed to enter into the Assignment Agreement in its capacity as Trustee.

(s) The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be



amended and replaced whenever a person is to be added or deleted from the listing. If the Authority or the City elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Authority and the City agree: (i) to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties; other than in the event of the Trustee's own negligence or willful misconduct; (ii) that they are fully informed of the protections and risks associated with the various methods of transmitting instructions to the Trustee and that there may be more secure methods of transmitting instructions than the method(s) selected by the Authority or the City; and (iii) that the security procedures (if any) to be followed in connection with its transmission of instructions provide to them a commercially reasonable degree of protection in light of its particular needs and circumstances.

**SECTION 6.03. Fees, Charges and Expenses of Trustee.** The Trustee shall be paid and reimbursed by the Authority for reasonable fees for its services rendered hereunder and all advances (with interest on such advances at the maximum rate allowed by law), counsel fees (including expenses) and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. Upon the occurrence of an Event of Default hereunder, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior to payment of any Bond upon the amounts held hereunder for the foregoing fees, charges and expenses incurred by it. When the Trustee incurs expenses or renders services after the occurrence of an Event of Default, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

**SECTION 6.04. Notice to Bond Owners of Default.** If an Event of Default hereunder or under the Lease occurs with respect to any Bonds of which the Trustee has been given or is deemed to have notice, as provided in Section 6.02(k) hereof, then the Trustee shall, within 30 days of the receipt of such notice, give written notice thereof by first class mail to the Owner of each such Bond, unless such Event of Default shall have been cured before the giving of such notice; *provided, however*, that unless such Event of Default consists of the failure by the Authority to make any payment when due, the Trustee may elect not to give such notice if and so long as the Trustee in good faith determines that it is in the best interests of the Bond Owners not to give such notice.

**SECTION 6.05. Intervention by Trustee.** In any judicial proceeding to which the Authority or the City is a party that, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners of any of the Bonds, the Trustee may intervene on behalf of such Bond Owners, and subject to Section 6.02(c), shall do so if requested in writing by the Owners of at least 25% in aggregate principal amount of such Bonds then Outstanding.

**SECTION 6.06. Removal of Trustee.** The Trustee may be removed at any time by an instrument or concurrent instruments in writing, filed with the Trustee and signed by the Owners



of a majority in aggregate principal amount of the Outstanding Bonds. The Authority may also remove the Trustee at any time upon 30 days' notice, except during the existence of an Event of Default. The Trustee may be removed at any time for any breach of the Trustee's duties set forth herein.

**SECTION 6.07. Resignation by Trustee.** The Trustee and any successor Trustee may at any time give written notice of its intention to resign as Trustee hereunder, such notice to be given to the Authority and the City by registered or certified mail. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. Upon such acceptance, the Authority shall cause notice thereof to be given by first class mail, postage prepaid, to the Bond Owners at their respective addresses set forth on the Registration Books.

**SECTION 6.08. Appointment of Successor Trustee.** In the event of the removal or resignation of the Trustee pursuant to Sections 6.06 or 6.07, respectively, the Authority shall promptly appoint a successor Trustee. In the event the Authority shall for any reason whatsoever fail to appoint a successor Trustee within 60 days following the delivery to the Trustee of the instrument described in Section 6.06 or within 60 days following the receipt of notice by the Authority pursuant to Section 6.07, the Trustee may, at the expense of the Authority, apply to a court of competent jurisdiction for the appointment of a successor Trustee meeting the requirements of Section 6.01. Any such successor Trustee appointed by such court shall become the successor Trustee hereunder notwithstanding any action by the Authority purporting to appoint a successor Trustee following the expiration of such 60-day period.

**SECTION 6.09. Merger or Consolidation.** Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company shall meet the requirements set forth in Section 6.01, shall be the successor to the Trustee and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

**SECTION 6.10. Concerning any Successor Trustee.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Authority an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the Request of the Authority, or of the Trustee's successor, execute and deliver an instrument transferring to such successor all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as the Trustee hereunder to its successor. Should any instrument in writing from the Authority be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor Trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority.



**SECTION 6.11. Appointment of Co-Trustee.** It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in the case of litigation under this Indenture, and in particular in case of the enforcement of the rights of the Trustee on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action that may be desirable or necessary in connection therewith, it may be necessary that the Trustee or the Authority appoint an additional individual or institution as a separate trustee or co-trustee. The following provisions of this Section are adopted to these ends. If the Trustee or the Authority appoints an additional individual or institution as a separate trustee or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate trustee or co-trustee but only to the extent necessary to enable such separate trustee or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate trustee or co-trustee shall run to and be enforceable by either of them. Should any instrument in writing from the Authority be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, shall resign or shall be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

**SECTION 6.12. Indemnification; Limited Liability of Trustee.** The Authority further covenants and agrees, to the extent permitted by law, to indemnify and save the Trustee and its officers, directors, agents and employees, harmless against any loss, expense, action, suit, claim, judgment and liabilities arising out of or in the exercise and performance of its powers and duties hereunder and under the Site Lease and the Lease, including the costs and expenses of defending against any claim of liability and fees and expenses of its attorneys, but excluding any and all losses, expenses and liabilities that are due to the negligent or willful misconduct of the Trustee, its officers, directors or employees. No provision in this Indenture shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability hereunder. The Trustee shall not be liable for any action taken or omitted to be taken by it in accordance with the direction of the Owners of at least 25% in aggregate principal amount of Bonds Outstanding relating to the time, method and place of conducting any proceeding or remedy available to the Trustee under this Indenture or exercising any power conferred upon the Trustee under this Indenture. The obligations of the Authority under this Section shall survive the termination of this Indenture and the resignation or removal of the Trustee under this Indenture.



## **ARTICLE VII**

### **MODIFICATION AND AMENDMENT OF THE INDENTURE**

**SECTION 7.01. Amendment.** This Indenture and the rights and obligations of the Authority and the Owners may be modified or amended at any time by a Supplemental Indenture, which shall become binding to the extent permitted by law upon adoption, without consent of any Owner, but only for any one or more of the following purposes:

(a) to add to the covenants and agreements of the Authority in this Indenture contained, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or powers herein reserved to or conferred upon the Authority so long as such limitation or surrender of such rights or powers shall not materially adversely affect the Owners;

(b) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture, or in any other respect whatsoever as the Authority may deem necessary or desirable; or

(c) for any other purpose that does not materially adversely affect the interests of the Owners.

Except as set forth in the preceding paragraph of this Section, this Indenture and the rights and obligations of the Authority and of the Owners may only be modified or amended at any time by a Supplemental Indenture, which shall become binding when the written consent of the Owners of a majority in aggregate principal amount of the affected Bonds then Outstanding are filed with the Trustee. No such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to pay the principal, interest or redemption premiums (if any) at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the Owner, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) modify any of the rights or obligations of the Trustee without its written consent thereto.

**SECTION 7.02. Effect of Supplemental Indenture.** From and after the time any Supplemental Indenture becomes effective pursuant to this Article VII, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Outstanding Bonds, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Prior to entering into any Supplemental Indenture pursuant to this Section, the Authority shall deliver to the Trustee an opinion of Bond Counsel to the effect that such Supplemental Indenture has been adopted in accordance with the requirements of this Indenture.

**SECTION 7.03. Endorsement or Replacement of Bonds After Amendment.** After the effective date of any action taken as hereinabove provided, the Authority may determine that the Bonds shall bear a notation, by endorsement in form approved by the Authority, as to such



action, and in that case upon demand of the Owner at such effective date and presentation of such Bond for that purpose at the Trust Office of the Trustee, a suitable notation as to such action shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as, in the opinion of the Authority, shall be necessary to conform to such Owners' action shall be prepared and executed, and in that case upon demand of the Owner at such effective date such new Bonds shall be exchanged at the Trust Office of the Trustee, without cost to each Owner, for Bonds then Outstanding, upon surrender of such Outstanding Bonds.

## **ARTICLE VIII**

### **EVENTS OF DEFAULT AND REMEDIES OF BOND OWNERS**

**SECTION 8.01. Events of Default.** The following events shall be Events of Default hereunder:

(a) Default in the due and punctual payment of the principal of or premium on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, or by proceedings for redemption.

(b) Default in the due and punctual payment of any installment of interest on any Bond when and as such interest installment shall become due and payable.

(c) Failure by the Authority to observe and perform any of the covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, other than as referred to in the preceding clauses (a) and (b), for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied has been given to the Authority by the Trustee, or to the Authority and the Trustee by the Owners of not less than 50% in aggregate principal amount of the Outstanding Bonds; provided, that if such default is such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Authority within the applicable period and diligently pursued until the default is corrected, which period shall not be longer than sixty (60) days from the date of written notice specifying the failure.

(d) The filing by the Authority of a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, filed with or without the consent of the Authority, seeking reorganization under the Federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property.

(e) Default under Section 10 of the Lease and such default shall not have been remedied within any applicable grace period thereunder.

**SECTION 8.02. Remedies; No Acceleration.** Upon the occurrence of an Event of Default the Trustee shall have the right:



(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the Authority or any member, officer or employee thereof, to compel the Authority or any such member, officer or employee to perform and carry out its or his or her duties under law and the agreements and covenants required to be performed by it or him contained herein or in the Lease;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Trustee; or

(c) by suit in equity upon the happening of an Event of Default to require the Authority and its members, officers and employees to account as the trustee of an express trust.

If an Event of Default shall have occurred and be continuing and if requested so to do by the Owners of a majority in aggregate principal amount of Outstanding Bonds and indemnified as provided in Section 6.02(c), the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article VIII, as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Owners.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Owners) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or the Owners hereunder or now or hereafter existing at law or in equity.

No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver or any such Event of Default or acquiescence therein; such right or power may be exercised from time to time as often as may be deemed expedient.

The Trustee shall have no right to declare the principal of or interest on the Bonds to be due and payable immediately.

Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Owner any plan of reorganization, arrangement, adjustment, or composition affecting the Bonds or the rights of any Owner thereof, or to authorize the Trustee to vote in respect of the claim of any Owner in any such proceeding without the approval of the Owners so affected.

**SECTION 8.03. Application of Revenues and Other Funds After Default.** All amounts received by the Trustee pursuant to any right given or action taken by the Trustee under the provisions of this Indenture shall be applied by the Trustee in the following order of priority:

First, to the payment of the fees, costs and expenses of the Trustee, including reasonable compensation to its agents, attorneys and counsel;

Second, to the payment of the whole amount of interest on and principal of the Bonds then due and unpaid, *provided, however*, that if such amounts shall be insufficient to pay in full the full amount of such interest and principal, then such amounts shall be applied to the payment of such principal and interest without preference or priority of



principal over interest, or interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest.

**SECTION 8.04. Power of Trustee to Control Proceedings.** If the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; *provided, however*, that the Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in aggregate principal amount of the Outstanding Bonds opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation and if the Trustee is indemnified as provided in Section 6.02(c). Any suit, action or proceeding which any Owner shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners similarly situated and the Trustee is hereby appointed (and the successive respective Owners issued hereunder by taking and holding the same, shall be conclusively deemed so to have appointed it) the true and lawful attorney-in-fact of the respective Owners for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney-in-fact.

**SECTION 8.05. Appointment of Receivers.** Upon the occurrence of an Event of Default hereunder, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Revenues and other amounts pledged hereunder, pending such proceedings, with such powers as the court making such appointment shall confer.

**SECTION 8.06. Non-Waiver.** A waiver of any default or breach of duty or contract by the Trustee or any Owners shall not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission of the Trustee or any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy conferred upon the Trustee or Owners by the Bond Law or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee or the Owners, as the case may be.

**SECTION 8.07. Rights of Owners.** No Owner shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee indemnity reasonably acceptable to the Trustee



against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of 60 days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of any remedy hereunder; it being understood and intended that no one or more Owners shall have any right in any manner whatever by his or their action to enforce any right under this Indenture, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of this Indenture shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners.

The right of any Owner to receive payment of the principal of and interest and premium (if any) on such Bond as herein provided or to institute suit for the enforcement of any such payment, shall not be impaired or affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

**SECTION 8.08. Termination of Proceedings.** In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case, the Authority, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, with regard to the property subject to this Indenture, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

## **ARTICLE IX RESERVED**

## **ARTICLE X MISCELLANEOUS**

**SECTION 10.01. Limited Liability of Authority.** Notwithstanding anything in this Indenture contained, the Authority shall not be required to advance any moneys derived from any source of income other than the Revenues for the payment of the principal of or interest on the Bonds, or any premiums upon the redemption thereof, or for the performance of any covenants herein contained (except to the extent any such covenants are expressly payable hereunder from the Revenues or otherwise from amounts payable under the Lease). The Authority may, however advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose and may be used by the Authority for such purpose without incurring indebtedness.

The Bonds shall be revenue bonds, payable exclusively from the Revenues and other funds as in this Indenture provided. The general fund of the Authority is not liable, and the



credit of the Authority is not pledged, for the payment of the interest and premiums (if any) on or principal of the Bonds. The Owners shall never have the right to compel the forfeiture of any property of the Authority except the Revenues and other funds pledged to the payment of the Bonds as provided in this Indenture. The principal of and interest on the Bonds, and any premiums upon the redemption of any thereof, shall not be a legal or equitable pledge, charge, lien or encumbrance upon any property of the Authority or upon any of its income, receipts or revenues except the Revenues and other funds pledged to the payment thereof as provided in this Indenture.

**SECTION 10.02. Benefits of Indenture Limited to Parties.** Nothing in this Indenture, expressed or implied, is intended to give to any person other than the Authority, the Trustee, the City and the Owners, any right, remedy or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Trustee, the City and the Owners.

**SECTION 10.03. Defeasance; Discharge of Indenture.** If the Authority shall pay and discharge any or all of the Outstanding Bonds in any one or more of the following ways:

(a) by well and truly paying or causing to be paid the principal of and interest and premiums (if any) on such Bonds, as and when the same become due and payable;

(b) by irrevocably depositing with the Trustee, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established with the Trustee pursuant to this Indenture, is fully sufficient to pay such Bonds, including all principal, interest and redemption premiums (if any); or

(c) by irrevocably depositing with the Trustee or an escrow agent, in trust pursuant to an escrow deposit agreement, Defeasance Securities in such amount as an Independent Certified Public Accountant shall determine in a written report acceptable in form and substance to the Authority, and addressed, to the Authority and the Trustee, filed with the Trustee (upon which report the Trustee may conclusively rely) will, together with the interest to accrue thereon and available moneys then on deposit in the funds and accounts established with the Trustee pursuant to this Indenture, be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates; and

(d) delivering an opinion of Bond Counsel acceptable in form and substance to the Authority, and addressed, to the Authority and the Trustee to the effect that the Bonds are no longer Outstanding under the Indenture, and if such Bonds are to be redeemed prior to the maturity thereof notice of such redemption shall have been mailed pursuant to Section 2.03(d) or provision satisfactory to the Trustee shall have been made for the mailing of such notice, then, at the Request of the Authority, and notwithstanding that any of such Bonds shall not have been surrendered for payment, the pledge of the Revenues and other funds provided for in this Indenture with respect to such Bonds, and all other pecuniary obligations of the Authority under this Indenture with respect to all such Bonds, shall cease and terminate, except only the obligation of the Authority to pay or cause to be paid to the Owners not so surrendered and paid all sums due thereon from amounts set aside for such purpose as aforesaid, and all amounts due



the Trustee. Any funds held by the Trustee following any payment or discharge of the Outstanding Bonds pursuant to this Section, which are not required for said purposes, shall after payment of amounts due the Trustee hereunder be paid over to the Authority.

**SECTION 10.04. Successor is Deemed Included in All References to Predecessor.**

Whenever in this Indenture or any Supplemental Indenture the Authority is named or referred to, such reference shall be deemed to include the successor to the powers, duties and functions, with respect to the management, administration and control of the affairs of the Authority, that are presently vested in the Authority, and all the covenants, agreements and provisions contained in this Indenture by or on behalf of the Authority shall bind and inure to the benefit of its successors whether so expressed or not.

**SECTION 10.05. Content of Certificates and Opinions.** Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture except the certificate of destruction pursuant to Section 10.10 shall include (a) a statement that the person or persons making or giving such certificate or opinion have read such covenant or conditions and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such covenant or condition has been complied with; and (d) a statement as to whether, in the opinion of the signers, such condition or covenant has been complied with.

Any such certificate made or given by an officer of the Authority may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate may be based, as aforesaid, are erroneous, or in the exercise of reasonable care should have known that the same were erroneous. Any such certificate or opinion or representation made or given by counsel may be based, insofar as it relates to factual matters, on information with respect to which is in the possession of the Authority, or upon the certificate or opinion of or representations by an officer or officers of the Authority, unless such counsel knows that the certificate or opinion or representations with respect to the matters upon which his certificate, opinion or representation may be based, as aforesaid, are erroneous, or in the exercise of reasonable care should have known that the same were erroneous.

**SECTION 10.06. Execution of Documents by Owners.** Any request, consent or other instrument required by this Indenture to be signed and executed by Owners may be in any number of concurrent writings of substantially similar tenor and may be signed or executed by such Owners in person or by their agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and of the Authority if made in the manner provided in this Section.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof



to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument or writing acknowledged to him the execution thereof.

The ownership of Bonds shall be proved by the Registration Books. Any request, consent or vote of the Owner shall bind every future Owner with respect to the same Bond and the Owner with respect to any Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in pursuance of such request, consent or vote. In lieu of obtaining any demand, request, direction, consent or waiver in writing, the Trustee may call and hold a meeting of the Owners upon such notice and in accordance with such rules and obligations as the Trustee considers fair and reasonable for the purpose of obtaining any such action.

**SECTION 10.07. Disqualified Bonds.** In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, unless all Bonds are then so owned, Bonds that are owned or held by or for the account of the City or the Authority (but excluding Bonds held in any employees' retirement fund) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, *provided, however,* that for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver, only Bonds which the Trustee actually knows to be so owned or held shall be disregarded.

**SECTION 10.08. Waiver of Personal Liability.** No official, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the interest on or principal of the Bonds; but nothing herein contained shall relieve any such official, officer, agent or employee from the performance of any official duty provided by law.

**SECTION 10.09. Partial Invalidity.** If any one or more of the covenants or agreements, or portions thereof, provided in this Indenture on the part of the Authority (or of the Trustee) to be performed should be contrary to law, then such covenant or covenants, such agreement or agreements, or such portions thereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of this Indenture or of the Bonds; but the Owners shall retain all rights and benefits accorded to them under the Bond Law or any other applicable provisions of law.

**SECTION 10.10. Destruction of Canceled Bonds.** Whenever in this Indenture provision is made for the surrender of any Bonds which have been paid or canceled pursuant to the provisions of this Indenture, the Trustee shall cancel and destroy such Bonds and upon Request of the Authority furnish to the Authority a certificate of such destruction.

**SECTION 10.11. Funds and Accounts.** Any fund or account required by this Indenture to be established and maintained by the Authority or the Trustee may be established and maintained in the accounting records of the Authority or the Trustee, as the case may be, either as a fund or an account, and may, for the purpose of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account. All such records with respect to all such funds and accounts held by the Authority shall at all times be maintained in accordance with generally accepted accounting principles and all such records



with respect to all such funds and accounts held by the Trustee shall be at all times maintained in accordance with corporate trust industry practices; in each case with due regard for the protection of the security of the Bonds and the rights of every Owner thereof.

**SECTION 10.12. Payment on Business Days.** Whenever in this Indenture any amount is required to be paid on a day that is not a Business Day, such payment shall be required to be made, without accruing additional interest thereby, on the Business Day immediately following such day.

**SECTION 10.13. Notices.** All notices, requests and other communications provided for hereunder shall be in electronic, telephonic or written form and shall be given to the party to whom sent, addressed to it, at its address or other address or telephone, number telecopier as such party may hereafter specify for the purpose by notice to the other parties set forth below. Each such notice, request or communication shall be effective (i) if given by telephone, telecopier or other electronic means, when such communication is transmitted to the address specified below and any appropriate answerback or confirmation is received, (ii) if given by certified or registered mail, return receipt requested, on the date of receipt appearing on the return postal receipt for notices given by certified or registered mail, (iii) if given by hand delivery, when delivered at the address specified below:

If to the Authority:                      West Covina Public Financing Authority  
    c/of City of West Covina  
    1444 West Garvey Avenue  
    West Covina, California 91790  
    Attention: Executive Director  
    Telephone: (626) 939-8400

If to the City:                                      City of West Covina  
    1444 West Garvey Avenue  
    West Covina, California 91790  
    Attention: City Manager  
    Telephone: (626) 939-8400

If to the Trustee:                                U.S. Bank National Association  
    633 West 5th St., 24th Floor  
    Los Angeles, California 90071  
    Attention: Global Corporate Trust

The Authority and the Trustee may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**SECTION 10.14. Unclaimed Moneys.** Anything in this Indenture to the contrary notwithstanding, any moneys held by the Trustee in trust for the payment and discharge of any of the Bonds that remain unclaimed for two years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Trustee at such date, or for two years after the date of deposit of such moneys if deposited with the Trustee after said date when such Bonds become due and payable, shall be



repaid by the Trustee to the Authority (without liability for interest), as its absolute property and free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners shall look only to the Authority for the payment of such Bonds; *provided, however,* that before being required to make any such payment to the Authority, the Trustee shall, at the written request and expense of the Authority, cause to be mailed to the Owners, at their respective addresses appearing on the Registration Books, a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall not be less than 30 days after the date of mailing of such notice, the balance of such moneys then unclaimed will be returned to the Authority.

**SECTION 10.15. Governing Law.** This Indenture shall be governed by and construed in accordance with the laws of the State of California.



IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be signed by their respective officers, all as of the day and year first above written.

WEST COVINA PUBLIC FINANCING  
AUTHORITY

ATTEST:

By \_\_\_\_\_  
Executive Director

By \_\_\_\_\_  
Secretary

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By \_\_\_\_\_  
Authorized Officer



**EXHIBIT A**

**[FORM OF BOND]**

**UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AS DEFINED IN THE INDENTURE) TO THE TRUSTEE FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.**

No. \_\_\_\_

\$\_\_\_\_\_

**WEST COVINA PUBLIC FINANCING AUTHORITY  
LEASE REVENUE BOND  
2020 SERIES A  
(FEDERALLY TAXABLE)**

RATE OF INTEREST:

MATURITY DATE:

DATED DATE:

CUSIP:

\_\_\_\_%

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The WEST COVINA PUBLIC FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the "Authority"), for value received, hereby promises to pay (but only out of the Revenues, as defined in the Indenture hereinafter referred to, and certain other moneys) to the Registered Owner identified above or registered assigns (the "Registered Owner"), on the Maturity Date identified above or any earlier redemption date, the Principal Amount identified above in lawful money of the United States of America; and to pay interest thereon at the Rate of Interest identified above in like money from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond (unless this Bond is authenticated on or before an Interest Payment Date and after the fifteenth calendar day of the month preceding such Interest Payment Date, in which case it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or prior to September 15, 2020, in which event it shall bear interest from the Dated Date identified above; provided, however, that if, at the time of authentication of this Bond, interest is in default on this



Bond, this Bond shall bear interest from the Interest Payment Date to which interest hereon has previously been paid or made available for payment), payable semiannually on February 1 and August 1 in each year, commencing February 1, 2021 (the "Interest Payment Dates") until payment of such Principal Amount in full. The Principal Amount hereof is payable by check or wire upon presentation hereof upon maturity or earlier redemption at the designated corporate trust office (the "Trust Office") of U.S. Bank National Association, as trustee (the "Trustee"). Interest hereon is payable by check of the Trustee mailed by first class mail on each Interest Payment Date to the Registered Owner hereof at the address of the Registered Owner as it appears on the registration books of the Trustee as of the fifteenth calendar day of the month preceding such Interest Payment Date (except that in the case of a Registered Owner of at least \$1,000,000 in aggregate principal amount of Outstanding Bonds, such payment may, at such Registered Owner's option, be made by wire transfer of immediately available funds in accordance with written instructions provided by such Registered Owner prior to the fifteenth calendar day of the month preceding such Interest Payment Date).

This Bond is one of a duly authorized issue of bonds of the Authority designated the "West Covina Public Financing Authority Lease Revenue Bonds, 2020 Series A (Federally Taxable)" (herein, the "Bonds"), in an aggregate principal amount of \$[Par Amount] issued under an Indenture, dated as of July 1, 2020 (the "Indenture"), by and between the Authority and the Trustee. Reference is hereby made to the Indenture and all indentures supplemental thereto for a description of the rights thereunder of the owners of the Bonds, of the nature and extent of the Revenues (as that term is defined in the Indenture), of the rights, duties and immunities of the Trustee and of the rights and obligations of the Authority thereunder; and all of the terms of the Indenture are hereby incorporated herein and constitute a contract between the Authority and the Registered Owner hereof, and to all of the provisions of which Indenture the Registered Owner hereof, by acceptance hereof, assents and agrees.

The Bonds are authorized to be issued pursuant to the provisions of the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4, Chapter 5, Division 7, Title 1 of the Government Code of the State of California (the "Act"). The Bonds are special obligations of the Authority and, as and to the extent set forth in the Indenture, are payable solely from and secured by a first lien on and pledge of the Revenues as provided in the Indenture. All of the Bonds are equally secured by a pledge of, and charge and lien upon, all of the Revenues, and the Revenues constitute a trust fund for the security and payment of the principal of and interest on the Bonds. The full faith and credit of the Authority are not pledged for the payment of the principal of or interest or premium (if any) on the Bonds. The Bonds are not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the Authority or any of its income or receipts, except the Revenues and such other moneys and securities as provided in the Indenture.

The Bonds have been issued for the purpose of refinancing certain capital facilities for the City. The Authority and the City have entered into a Lease Agreement, dated as of July 1, 2020 (the "Lease"), under which the City is obligated to pay amounts which are anticipated to be sufficient to enable the Authority to pay the principal of and interest on the Bonds.

The Bonds are subject to redemption prior to their maturity as provided in the Indenture.



The Bonds are subject to redemption prior to their respective maturity dates, upon notice as provided in the Indenture, as a whole or in part on any date, from prepayments of 2020A Base Rental Payments made by the City pursuant to the Lease from funds received by the City due to a taking of the Leased Property or any portion thereof under the power of eminent domain or from insurance proceeds received by the City due to damage to or destruction of the Leased Property or any portion thereof, under the circumstances and upon the conditions and terms prescribed in the Indenture and in the Lease. Redemption of Bonds pursuant to this paragraph shall be made at a redemption price equal to the sum of the principal of the Bonds to be redeemed plus accrued interest thereon to the date fixed for redemption, without premium.

The Bonds may be issued in denominations of \$5,000 or any integral multiple thereof. Subject to the limitations and upon payment of the charges, if any, provided in the Indenture, this Bond may be exchanged at the Trust Office of the Trustee for a like aggregate principal amount, interest rate and maturity of fully registered Bonds of other authorized denominations.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Trust Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new fully registered Bond or Bonds, of Authorized Denomination or Denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. The Authority and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Authority and the Trustee shall not be affected by any notice to the contrary. The Trustee shall not be required to register the transfer or exchange of any Bond during the period in which the Trustee is selecting Bonds for redemption or any Bond selected for redemption.

The Indenture and the rights and obligations of the Authority and of the owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time in the manner, to the extent, and upon the terms provided in the Indenture; provided that no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to pay the principal, interest or premiums at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee, all as more fully set forth in the Indenture.

It is hereby certified that all things, conditions and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and statutes of the State of California and by the Act (as such term is defined on the reverse side hereof) and the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Constitution or statutes of the State of California or by the Act.



This Bond shall not be entitled to any benefit under the Indenture (as such term is defined on the reverse side hereof), or become valid or obligatory for any purpose, until the certificate of authentication hereon shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, the Authority has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signatures of its Chairman and Secretary as of the Dated Date identified above.

WEST COVINA PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary



## **TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

This is one of the Bonds described in the within-mentioned Indenture and registered on the Bond Registration Books.

Dated: \_\_\_\_\_, 20\_\_

U.S. Bank National Association, as Trustee

By \_\_\_\_\_  
Authorized Officer



## ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto \_\_\_\_\_  
\_\_\_\_\_, whose tax identification number is \_\_\_\_\_, the within-  
mentioned registered Bond and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_  
\_\_\_\_\_ attorney to transfer the same  
on the books of the Trustee with full power of substitution in the premises.

Dated:

Signature guaranteed:

NOTE: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

NOTICE: Signature must be guaranteed by a member of an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or other similar program.



**EXHIBIT B**

**FORM OF 2020A COSTS OF ISSUANCE REQUISITION**

REQUISITION NO. \_\_

with reference to

\$[Par Amount]  
West Covina Public Financing Authority  
Lease Revenue Bonds  
2020 Series A  
(Federally Taxable)

I. The West Covina Public Financing Authority (the "Authority") hereby requests U.S. Bank National Association, as trustee (the "Trustee"), pursuant to that certain Indenture, dated as of July 1, 2020 (the "Indenture"), by and between the Authority and the Trustee, under the terms of which the Authority has issued its Lease Revenue Bonds, 2020 Series A (Federally Taxable), to pay from the moneys in the 2020A Costs of Issuance Fund established pursuant to the Indenture, the amounts shown on Schedule I attached hereto to the parties indicated in Schedule I.

II. The payees, the purposes for which the costs have been incurred, and the amount of the disbursements requested are itemized on Schedule I hereto.

III. Each obligation mentioned in Schedule I hereto has been properly incurred and is a proper charge against the 2020A Costs of Issuance Fund. None of the items for which payment is requested has been reimbursed previously from the 2020A Costs of Issuance Fund.

Dated: \_\_\_\_\_, 20\_\_

WEST COVINA PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT C**

**FORM OF 2020A NET PROCEEDS REQUISITION**

REQUISITION NO. \_\_\_\_ (to be numbered sequentially)

with reference to

\$[Par Amount]  
West Covina Public Financing Authority  
Lease Revenue Bonds  
2020 Series A  
(Federally Taxable)

I. The West Covina Public Financing Authority (the "Authority") hereby requests U.S. Bank National Association, as trustee (the "Trustee"), pursuant to that certain Indenture, dated as of July 1, 2020 (the "Indenture"), by and between the Authority and the Trustee, under the terms of which the Authority has issued its Lease Revenue Bonds, 2020 Series A (Federally Taxable), to pay from the moneys in the 2020A Insurance and Condemnation Fund established pursuant to the Indenture, the amounts shown on Schedule I attached hereto to the parties indicated in Schedule I.

II. The payees, the purposes for which the costs have been incurred, and the amount of the disbursements requested are itemized on Schedule I hereto.

III. Each obligation mentioned in Schedule I hereto has been properly incurred and is a proper charge against the 2020A Insurance and Condemnation Fund. None of the items for which payment is requested has been reimbursed previously from the 2020A Insurance and Condemnation Fund.

IV. There has not been filed with or served upon the City or the Authority a stop notice or any other notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the money payable to the person[s] named on Schedule I hereto which has not been released or will not be released simultaneously with the payment of such obligation, other than liens accruing by mere operation of law.

Dated: \_\_\_\_\_, 20\_\_

WEST COVINA PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Title: \_\_\_\_\_



**DRAFT  
07/01/2020**

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**ASSIGNMENT AGREEMENT**

Dated as of July 1, 2020

by and between

**WEST COVINA PUBLIC FINANCING AUTHORITY**

and

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee**

Relating to the

**[\$Par Amount]  
West Covina Public Financing Authority  
Lease Revenue Bonds  
2020 Series A  
(Federally Taxable)**

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EXHIBIT A — DESCRIPTION OF THE LEASED PROPERTY



## ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT, dated as of July 1, 2020 (this “Assignment Agreement”), by and between the WEST COVINA PUBLIC FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California (the “Authority”) and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America and authorized to accept assignments of the nature herein set forth, as trustee (the “Trustee”);

### **WITNESSETH:**

WHEREAS, the Authority has entered into a Site and Facility Lease, dated as of July 1, 2020 (the “Site Lease”), with the City of West Covina (the “City”), whereby the Authority has agreed to lease certain real property located within the City, as described in Exhibit A attached hereto (the “Leased Property”), from the City; and

WHEREAS, the Authority has entered into a Lease Agreement, dated as of July 1, 2020 (the “Lease”), with the City, whereby the Authority has agreed to lease the Leased Property to the City; and

WHEREAS, under and pursuant to the Lease, the City is obligated to make base rental payments, including the 2020A Base Rental Payments as defined therein, to the Authority for the lease of the Leased Property; and

WHEREAS, the 2020A Base Rental Payments have been pledged by the Authority as security for the payment of principal of and interest on its \$[Par Amount] Lease Revenue Bonds, 2020 Series A (Federally Taxable), authorized and issued pursuant to an Indenture, dated as of July 1, 2020 (the “Indenture”), by and between the Authority and the Trustee; and

WHEREAS, the Authority desires to assign to the Trustee without recourse certain of its rights under the Lease and the Site Lease, including all of its rights to receive the 2020A Base Rental Payments scheduled to be paid by the City under and pursuant to the Lease;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**Section 1. Definitions.** All capitalized terms used herein without definition shall have the meanings given to such terms in the Indenture or the Lease, as appropriate.

**Section 2. Assignment.** The Authority does hereby assign and transfer to the Trustee all of the Authority’s rights, title and interest in and to (but none of its obligations under) the Lease and the Site Lease (excepting only (i) the Authority’s rights to give approvals and consents thereunder, including, without limitation, to amendments, and the Authority’s rights to the payment of Additional Rental Payments pursuant to Section 3(b) of the Lease and to indemnification pursuant to Section 14 of the Lease, and (ii) the Authority’s rights to receive lease payments other than the 2020A Base Rental Payments), including the Authority’s rights to



receive 2020A Base Rental Payments, as well as its rights to enforce payment of such 2020A Base Rental Payments when due or otherwise to protect its interests in the event of a default by the City under the Lease, in accordance with the terms thereof, in trust nonetheless and provided that should the Authority well and truly perform all of its obligations under the Indenture, this Assignment Agreement shall terminate and all interest in the Lease and the Site and Facilities Lease shall revert to the Authority. The 2020A Base Rental Payments shall be applied, and the rights of the Authority assigned hereunder shall be exercised by the Trustee, as provided in the Indenture.

**Section 3. Acceptance of Assignment.** The Trustee hereby accepts the assignment and transfer of such of the Authority's rights, title and interest in and to the Lease and the Site Lease as are assigned and transferred pursuant to the terms of this Assignment Agreement.

**Section 4. No Additional Rights or Duties.** Excepting only the assignment and transfer of rights to the Trustee pursuant to Section 2 hereof, this Assignment Agreement shall not confer any rights nor impose any duties, obligations or responsibilities upon the Trustee beyond those expressly provided in the Lease, the Site Lease and the Indenture. The Trustee does not warrant the accuracy of any of the recitals hereto. This Assignment Agreement shall not impose any duties, obligations or responsibilities upon the Authority or the City beyond those expressly provided in the Lease, the Site Lease and the Indenture or as otherwise set forth herein.

**Section 5. Further Assurances.** The Trustee will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Assignment Agreement, and for the better assuring and confirming to the Trustee the rights and obligations intended to be conveyed pursuant hereto.

**Section 6. Counterparts.** This Assignment Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

**Section 7. Governing Law.** This Assignment Agreement shall be governed by and construed in accordance with the laws of the State of California.

**Section 8. Notices.** All notices under this Assignment Agreement shall be in accordance with Section 10.13 of the Indenture.

**Section 9. Binding Effect; Successors.** This Assignment Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Whenever in this Assignment Agreement any party is named or referred to, such reference shall be deemed to include such party's successors and assigns and all covenants and agreements contained in this Assignment Agreement by or on behalf of any party hereto shall bind and inure to the benefit of such party's successors and assigns whether so expressed or not.



**IN WITNESS WHEREOF**, the parties hereto have executed this Assignment Agreement as of the date first above written.

WEST COVINA PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Executive Director

ATTEST:

\_\_\_\_\_  
Secretary

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By \_\_\_\_\_  
Authorized Officer

**[REMOVE NOTARY PAGES IF LEASED  
PROPERTY CONSISTS ONLY OF STREETS]**



A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE  
VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE  
DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE  
TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF LOS ANGELES )

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

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

WITNESS my hand and official seal.

\_\_\_\_\_ [Seal]



A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE  
VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE  
DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE  
TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF LOS ANGELES )

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

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

WITNESS my hand and official seal.

\_\_\_\_\_ [Seal]



**EXHIBIT A**

**DESCRIPTION OF THE LEASED PROPERTY**

The Leased Property consists of the following streets, which are owned by the City:

[to come]

Such streets are approximately \_\_\_\_\_ feet in length and approximately \_\_\_\_\_ square feet (\_\_\_\_ acres).





Attachment No. 11

# **Departmental Regular Matters – City Manager Consideration of Issuance of Lease Revenue Bonds Discussion**

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**West Covina City Council Meeting  
July 7, 2020**



# The City's Current CalPERS Situation: Why The Unfunded Liabilities?

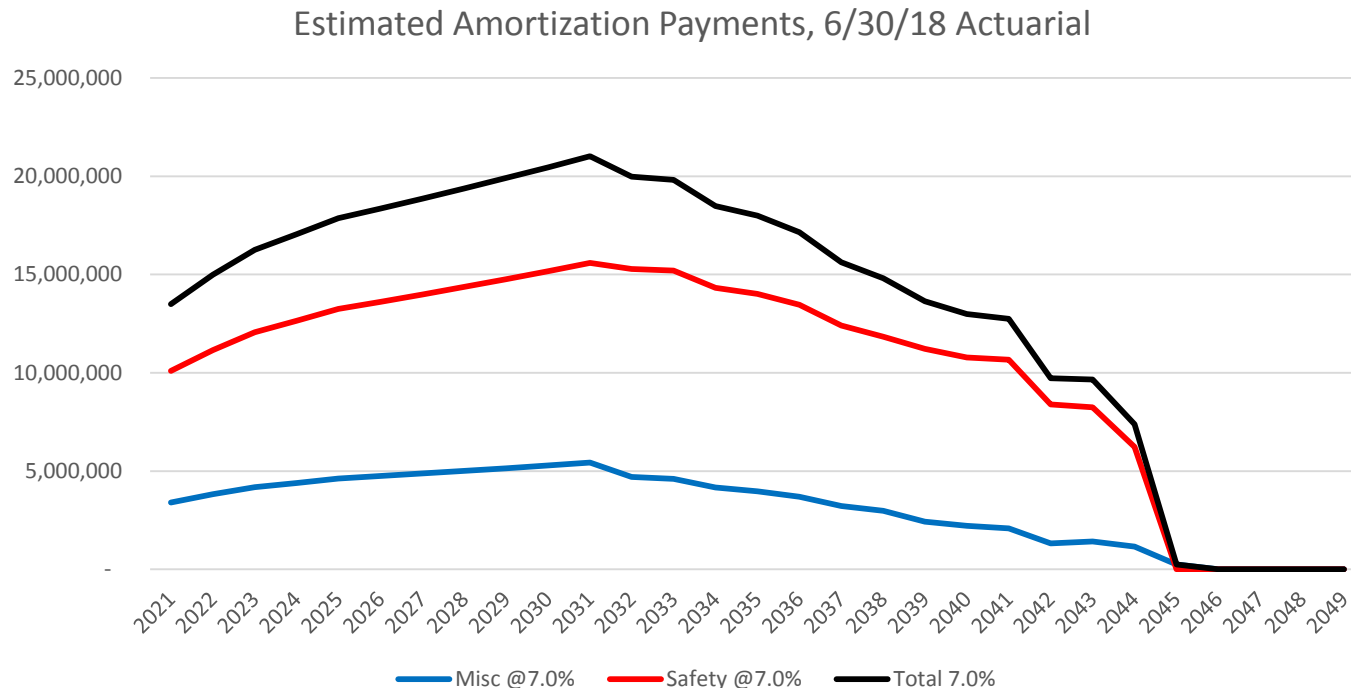
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- CalPERS was founded in 1932 and currently has 2,890 member agencies including the State, counties, cities, school districts and special districts
- The City joined CalPERS in May 1966
- The City has always paid its required contributions to CalPERS
- Over the past few decades CalPERS system went from excess cash (“super-funded”) to being under-funded, thus creating unfunded liabilities
- In general, unfunded liabilities of CalPERS agencies are the result of:
  - Lowering the CalPERS discount rate, from as high as 8.25% in 2004 to 7.0% today
  - Investment losses, especially in 2008
  - Increased benefits offered by many employers between 1999 and 2012
  - Increased life expectancy
  - CalPERS’ previous contribution policy, which eased the burden on employers after the Great Recession, but did not make faster progress in paying off unfunded liabilities



# The City's Current CalPERS Situation

- In the most recent actuarial study the combined funded ratio is 64.8% @ 7.0% Discount Rate (combined for Safety and Miscellaneous plans)
- At 6/30/20, the City is estimated to have a total unfunded liability of approximately \$200 million (\$199,686,217)
- If no action is taken, CalPERS projects that future required payments toward unfunded liabilities will increase by \$8.7 million (72%) from \$12.3 million in FYE 2020 to a peak of \$21.0 million in FYE 2031.





## What is a Lease Revenue Bond (“LRB”)?

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- Lease Revenue Bonds require a leased asset, in this case a portion of City streets will be pledged as the leased assets
- Debt service on the Bonds would be payable from the rental payments to be made by the City to the Authority under a lease agreement (the “Lease Agreement”)
- Proceeds of the bonds will be used to payoff a portion of the CalPERS UAL and a small amount of working capital (\$1 million, paid back over 4 years)
- Interest payments on the Lease Revenue Bonds are taxable for purpose of federal income taxes
- Investors in Lease Revenue Bonds typically require issuers to fund a Debt Service Reserve Fund (DSR) as additional security. The DSR typically funds the final debt service payment on the bonds at maturity
- The City has a 2018 Lease Revenue Bond currently outstanding (Civic Center)



## The City's Goals for Lease Revenue Bonds

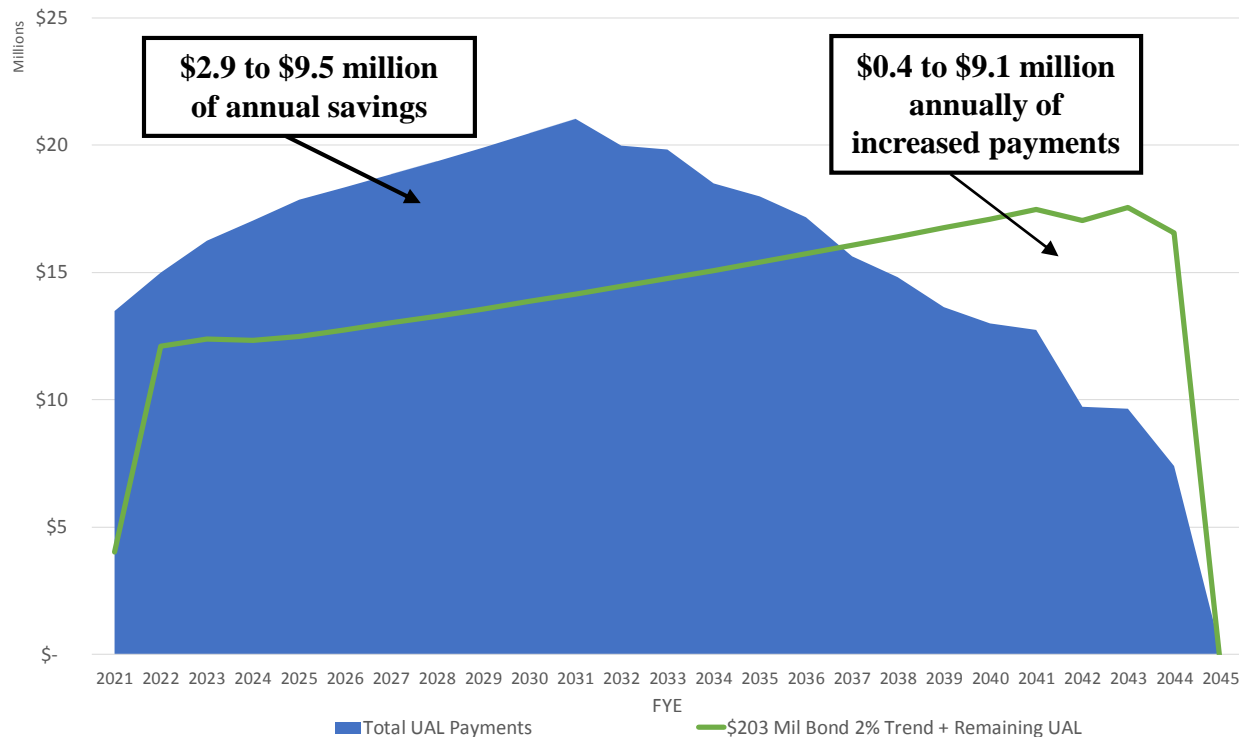
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1. Achieve fiscal sustainability and financial stability. The City will align projected revenues/projected expenditures and adopt best management practices
2. Change the payment pattern (e.g., a smooth pattern for bond repayment, vs an irregular pattern with no bonds). A predictable payment pattern makes budgeting easier
3. Obtain higher expected investment returns on investments at retirement system (e.g., 7%) than borrowing cost (e.g., ~3.5-5.0%)
4. Leave amortization period unchanged
5. Raise the funded level of the pension plan (e.g., from 64.8% to 98.1%)
6. Establish a long-term legally sound plan well-suited to the City's needs
7. Help mitigate the budget effects of COVID 19



## Pension Funding Example: \$184.1 Million to CalPERS

- Results in approximately 98.1% funded ratio at 7% discount rate
- Includes amortization bases up to 25 years, POB is slightly shorter, 24 years
- Expected borrowing cost is 4.186% including all costs of issuance
- Produces large expected savings in most years (~2.9-9.5 million)
- Has up to \$9.1 million dissavings/additional cost in later years
- NPV Savings estimated at 19.6%, \$44.8 million





## Relevant Statistics

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- Since 1986 approximately:
  - ❑ \$109 billion in pension bonds have been issued
  - ❑ \$30 billion issued in California, from 82 issuers
  - ❑ Recent local California pension bonds issued:
    - ❑ AAA, Glendora, \$64 million 2019
    - ❑ AA+, La Verne, \$52 million 2018
    - ❑ AA, Ontario \$236.5 million 2020
    - ❑ AA, City of Riverside, \$432 million 2020
    - ❑ AA, County of Riverside, \$720 million, 2020
    - ❑ AA-, Baldwin Park, \$54 million 2019
  - ❑ Two recent CA lease revenue bonds, El Monte and Ridgecrest, have included pension financing.
  - ❑ Post 2012, **all** POBs have been sold as fixed rate bonds

Data Sources: MSRB EMMA, IPREO, SDC, Bloomberg, Boston College



## Staff Recommendation:

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- That the City Council adopt Resolution No. 2020-
  - ❑ Approving the Issuance and Delivery of Lease Revenue Bonds for the purpose of funding the City's CalPERS Obligation



# Finance Team

Members of Finance POB Team		
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## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** David Carmany  
City Manager

**SUBJECT:** Police Department Update

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### RECOMMENDATION:

It is recommended that the City Council receive and file this informational report.

### BACKGROUND:

Due to the recent civil unrest, Police Departments across the country are taking steps to review their policies and the way that they engage with the public.

### DISCUSSION:

The West Covina Police Department takes this matter seriously. In response to some of the questions from the general public and community groups, the Department would like to address some of these questions and concerns.

The Police Department provided City Council with copies of their use of force policies for review. Previously, staff has also provided Council with statistical data with respect to calls for service over the last three years which will be briefly discussed.

### OPTIONS:

It is recommended that the City Council:

- 1) Receive and file the update from the Police Department

**Prepared by:** Richard Bell, Chief of Police

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**CITY COUNCIL GOALS & OBJECTIVES:** Enhance Public Safety