

PUBLIC PARKS PROCEEDS AGREEMENT

THIS PUBLIC PARKS PROCEEDS AGREEMENT (this “**Agreement**”) dated as of 12/2/2025, 2025 (the “**Effective Date**”), is by and between the City of Ontario, a California municipal corporation (the “**City**”), and San Bernardino County, a political subdivision of the State of California (the “**County**”) (collectively City and County are the “**Parties**” and each, a “**Party**”), with reference to the following:

RECITALS

- A. City and County are desirous of advancing the quality of life of their respective residents and protecting the natural environment by supporting and encouraging long term development of high-quality parks and open space for the benefit of present and future residents.
- B. County is the owner in fee of certain real properties within the City acquired pursuant to the Wildlife, Coastal, and Park Land Conservation Bond Act (a “**Property**” or the “**Properties**”) as modified by uncodified legislation in Senate Bill 1124 (“SB 1124”).
- C. City has adopted a master plan for a recreational and open space public facility commonly known as the “Grand Park” in the City of Ontario city limits totaling approximately 340 acres (“**Grand Park**” or the “**Project**”), but currently approximately only 120 acres have been acquired for the Project. City desires to enter into this Agreement to fund and facilitate the City’s ability to acquire and develop land for the Project.
- D. The Parties desire to work together to achieve necessary or desirable agreements between Parties for the funding, acquisition, and disposition of land for enlargement and development of the Project, and the intent of this Agreement is to provide City backed incentives for the County to sell one or more of the Properties to City for the benefit of the Project and other related City parks and projects serving the residents of both City and County. The Parties acknowledge that the County could continue to hold ownership of the Properties for long term investment opportunity, and this Agreement is to incentivize the County to sell at an earlier date.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1

TERM, CONDITIONS TO RESALE, AND OTHER PARAMETERS OF AGREEMENT

1.1 **Term of this Agreement.** The term of this Agreement (the “**Term**”) shall commence upon the Effective Date and, unless earlier terminated in accordance with the terms hereof, shall terminate twenty (20) years after the Effective Date, subject to extensions agreed to in writing by the Parties (the “**Termination Date**”). The Parties may agree to extend the Term as reasonably necessary for up to one year, or for another specific time period as may deemed

necessary to allow additional time to satisfy the conditions set forth below, as well as any other relevant issues, which Party's consent shall not be unreasonably withheld, conditioned, or delayed (the "**Extension Period**").

1.2 Sale and Resale of Properties. To incentivize County to sell one or more Properties to City (an "**Eligible City-County Purchase**"), City agrees as follows:

1.2.1 City will pay the fair market value for each Property, as established through an appraisal and reasonable negotiation between the Parties.

1.2.2 City shall resell (as provided under Section 1.2.4) all Properties but not without ensuring all of the following steps are completed before the close of escrow of the subsequent sale: (a) City has complied with the Surplus Land Act (Gov. Code §§ 54220 et seq.); (b) City has complied with CEQA (Pub. Res. Code § 21000 et seq.) and/or the Endangered Species Act; and (c) City has complied with any other applicable statute or required approval necessary to consummate a subsequent Property sale by City to another party.

1.2.3 City will bear sole responsibility and all risk, and shall have exclusive authority over the manner in which it carries out the process of either: (a) completing all entitlements, approvals or authorizations to establish use in accordance with the Project or City's requirements; or (b) negotiating for a subsequent bona fide third-party buyer to complete all entitlements, approvals or authorizations to establish use in accordance with City requirements, in each case City shall use commercially reasonable efforts to cause completion of within two (2) years of the closing date of the sale of any Properties from the County to the City; provided, however, that such periods may be extended as reasonably necessary, as mutually agreed by the Parties, which Party's consent shall not be unreasonably withheld, conditioned, or delayed, to permit City's compliance with Section 1.2.2.

1.2.4 As a condition to the purchase of the Properties by City, City shall resell the Properties to bona fide third-party purchasers pursuant to separate purchase and sale agreements only for more than the price the City paid to the County for the Properties (each, a "**Resale**"), based on the Net Proceeds (as defined in Section 2.1) above the original purchase price generated by any City Resale of County Properties sold by the County to the City which sale occurs during this Agreement's Term, and the City will pay the County its proportionate share of the Net Proceeds in accordance with Section 2.1 below.

1.3 Cooperation. The Parties shall cooperate in good faith to prepare, submit, and obtain all necessary approvals from any necessary Governmental Authorities for each Eligible City-County Purchase and Resale.

1.4 Definitions; Recitals. Initially-capitalized terms used in this Agreement (including in the Recitals to this Agreement) are defined pursuant to Section 8.1. The Recitals are incorporated into this Agreement by this reference.

1.5 Limitations of this Agreement. By its execution of this Agreement, except for City's entitling the Properties sold from County to City and the Resale of such Properties which are conditions of such initial sale, neither City nor County are committing itself to or agreeing to

undertake any other acts or activities requiring the subsequent independent exercise of discretion by City or County, Regulatory Approval, or any department thereof.

ARTICLE 2 FUND SHARING FOR PROPERTY REALES

2.1 Share of Resale of Property. For any City Resale of a Property after the Effective Date and which are subsequently required to be sold by City for more than the net sale price above the original purchase price of such Eligible City-County Purchase, City and County shall share in the sales proceeds (net of closing costs as included in the purchase sale agreement for each Resale including reasonable broker commissions, if any, collectively, the “**Net Proceeds**”) so that City receives sixty percent (60%) and County shall receive forty percent (40%) for each Resale. Such proceeds shall be paid by City to County within 30 days of the close of escrow of any City Property Resale (the “**Revenue Sharing Payment**”). City shall additionally market each Eligible City-County Purchase for Resale and economic development for the funding, acquisition, and disposition of land for enlargement and development of the Project.

2.2 No Resale Below Purchase Price. City shall not make any Resale to a third party for amounts equal to or less than the actual purchase price City paid County for such Property purchase.

ARTICLE 3 INDEMNIFICATION AND INSURANCE

3.1 Indemnification. The Parties shall indemnify, defend, and hold harmless the other party, its respective officers, agents and employees, from and against any claims, damages, costs, expenses, or liabilities (collectively, “**Claims**”) arising out of or in any way connected with this Agreement including, without limitation, Claims for loss or damage to any property, or for death or injury to any person or persons but only in proportion to and to the extent that such Claims arise from the negligent or wrongful acts or omissions of Parties, its officers, agents, partners, or employees. In the event that either Party is determined to be comparatively at fault for any Claims, which result from its respective obligations under this Agreement, the Party determined to be comparatively at fault shall indemnify the other to the extent of its comparative fault.

3.2 Insurance. The Parties are authorized self-insured public entities for purposes of Professional Liability, Automobile Liability, General Liability and Worker’s Compensation, and warrant that through their respective programs of self-insurance they have adequate coverage or resources to protect against any claim, demand, liability, damage, cost and expense, including reasonable attorney’s fees and costs (including any claims based on a party’s indemnity obligation) arising out of performance of the terms, conditions or obligations of this Agreement.

ARTICLE 4 ASSIGNMENT AND TRANSFER

4.1 Prohibition Against Transfer of the Agreement. Parties shall not sell, convey, assign, transfer, alienate or otherwise dispose of all or any of its interests, rights or obligations in,

to or under this Agreement, perform a party's obligations or otherwise do any of the above or make any contract or agreement to do any of the same ("**Transfer**").

4.2 Effect of Violation.

4.2.1 Event of Default. If a Party makes a Transfer or Significant Change in violation of **Section 4.1** and such violation remains uncured after sixty (60) days after such Party's receipt of written notice from the non-violating Party of such violation, then either the non-violating Party may, in its sole discretion, either cancel this Agreement, or declare an Event of Default from and after the time of the Transfer or Significant Change.

4.2.2 No Release of Obligations. Except by the specific written approval of a party which such party may give or withhold in its sole discretion, no Transfer or Significant Change shall relieve Parties from any obligations under this Agreement.

ARTICLE 5 REMEDIES

5.1 Waiver of Consequential Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS AGREEMENT, NONE OF THE PARTIES, NOR ANY OF THEIR EMPLOYEES, AGENTS, REPRESENTATIVE OR CONSULTANTS, NOR THE AFFILIATES OF ANY OF THEM, SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGES, FOR LOST REVENUES OR LOST PROFITS, OR FOR ANY OTHER SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR SIMILAR DAMAGES, IN EACH CASE ARISING OUT OF, RELATING TO OR RESULTING FROM (A) AN ACTUAL OR ALLEGED DEFAULT OR BREACH OF THIS AGREEMENT, (B) THE TRANSACTIONS CONTEMPLATED UNDER THIS AGREEMENT, OR (C) THE RELATIONSHIP OF THE PARTIES HEREUNDER, IN EACH CASE EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EACH PARTY HEREBY EXPRESSLY RELEASES THE OTHER PARTIES, AND THEIR EMPLOYEES, AGENTS, REPRESENTATIVE OR CONSULTANTS, AND THE AFFILIATES OF ANY OF THEM, THEREFROM.

5.2 Transaction Document Separate From This Agreement. Notwithstanding any other provisions of this Agreement, the Parties' respective rights and remedies with respect to the Transaction Document shall be governed exclusively by the applicable Transaction Document and the rights and remedies under this Agreement shall be limited to the matters contained herein.

ARTICLE 6 GENERAL PROVISIONS

6.1 Notices.

6.1.1 Manner of Delivery. All notices, statutory notices, demands, statements or communications (collectively, "**Notices**") given or required to be given by either Party to the other hereunder shall be in writing, shall be sent by United States certified or registered mail, postage prepaid, return receipt requested, or by recognized overnight delivery service (such as, but

not limited to, Federal Express), or delivered personally to each Party at the appropriate address set forth below, or to such other place as each Party may from time to time designate in a Notice to the other Party.

6.1.2 Addresses for Notices. All notices shall be properly addressed and delivered to the Parties at the addresses set forth below or at such other addresses as either Party may designate by written notice given in the manner provided in this Section 6.1.2:

To City: City of Ontario
Attn: City Manager
303 E. B Street
Ontario, CA 91764
Phone: 909-395-2289

With a copy to: City Attorney (at the same address)

To County: San Bernardino County
Attn: Director of Real Estate Services
385 N. Arrowhead Ave., 3rd Floor
San Bernardino, CA 92415

6.2 Time of Performance. Time is of the essence for timely performance under this Agreement. All periods for performance specified in this Agreement in terms of days shall be calendar days, and not Business Days, unless otherwise expressly provided in this Agreement.

6.3 Interpretation of Agreement.

6.3.1 No Presumption Against Drafter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each Party has been represented by experienced and knowledgeable legal counsel. Accordingly, this Agreement shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party responsible for drafting any part of this Agreement (including California Civil Code Section 1654).

6.4 Successors and Assigns. This Agreement is binding upon and shall inure to the benefit of the permitted successors and assigns of the Parties, subject to the limitations on assignment set forth in Section 3.1. Where the term "**Party**," or "**Parties**" is used in this Agreement, it means and includes their respective successors and permitted assigns.

6.5 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and permitted assigns. No third party beneficiaries are intended or created by this Agreement.

6.6 Counterparts. This Agreement may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument. The

Parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the Party whose name is contained therein. Each Party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

6.7 Entire Agreement. This Agreement (including all of the Exhibits) constitutes the entire agreement among the Parties with respect to the subject matter of this Agreement and supersedes all negotiations or previous agreements, among the Parties with respect to all or any part of the terms and conditions mentioned in or incidental to this Agreement. No parol evidence of any prior draft of this Agreement, or of any other agreement shall be permitted to contradict or vary the terms of this Agreement.

6.8 Amendment. Neither this Agreement nor any of its terms may be amended, modified or supplemented except by a written instrument executed by the Parties in each instance.

6.9 Governing Law; Choice of Venue. The Laws of the State of California shall govern the interpretation and enforcement of this Agreement. As part of the consideration for the Parties entering into this Agreement, except as otherwise provided in this Agreement, the Parties agree that all actions or proceedings arising directly or indirectly under this Agreement shall be litigated in courts having jurisdiction within the State of California and the venue shall be in San Bernardino County. The Parties expressly consent to the jurisdiction of any such local, state or federal court, and consent that any service of process in such action or proceeding may be made by personal service upon the applicable Party wherever it may then be located, or by certified or registered mail directed to the applicable Party at the address set forth in Section 6.1.2 for the delivery of notices.

6.10 Disputes.

6.10.1 Negotiation. Except as otherwise provided in this Article, at any time following the receipt by one Party of a written notice from the other Party of a conflict, disagreement or dispute between the Parties arising under this Agreement (a “**Dispute**”), the receiving Party may require that an authorized representative of each Party (each with authority to settle) meet, confer, and attempt to resolve such Dispute. If the Dispute is not resolved during such meeting or within five (5) Business Days thereafter, neither Party may initiate litigation under this Article unless the Dispute is first subjected to mediation. This requirement for mediation may only be waived in a written instrument.

6.10.2 Mediation. Disputes not resolved through negotiation shall be subject to mandatory mediation. A request for mediation shall be filed in writing by a Party with the other Party, and the Parties shall promptly attempt to mutually agree upon a Mediator. If the Parties have not reached agreement on a Mediator within five (5) Business Days of the request, either Party may file the request with JAMS in Los Angeles, California, with a copy to the other Party, and the mediation shall, unless another location is mutually agreed upon, be administered by JAMS and held in Los Angeles, California by a single Mediator having demonstrated expertise regarding the subject of the Dispute and appointed in accordance with JAMS Rules. Mediation shall proceed in advance of arbitration, which shall be stayed pending mediation unless stayed for a longer period by agreement of the Parties or court order. The Parties to the mediation shall share the Mediator’s

fee and any filing fees equally. Representatives of the Parties must attend the mediation session in person with authority to settle the dispute and with authority to adjust pre-existing settlement authority if necessary. To the extent there are other parties in interest, such as architects, insurers, contractors or subcontractors, then representatives of such other parties, also with authority to settle the Dispute and to adjust pre-existing settlement authority if necessary, shall also attend the mediation session in person. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

6.10.3 Litigation. All Disputes that cannot be resolved through mediation shall be resolved by a Court of competent jurisdiction.

6.11 Reserved.

6.12 Further Assurances. The Parties agree to execute and acknowledge such other and further documents as may be necessary or reasonably required to express the intent of the Parties or otherwise effectuate the terms of this Agreement.

6.13 Attorneys' Fees and Costs. If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable under Section 3.1 Indemnification.

6.14 Severability. If any provision of this Agreement, or its application to any Person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Agreement.

6.15 Effective Date. This Agreement shall become effective on the Effective Date.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of County. County represents and warrants as follows, as of the Effective Date:

7.1.1 Authority. The County is a political subdivision of the State of California duly organized and in good standing under the Laws of California with all corporate power to execute and deliver and perform its obligations under this Agreement and the agreements contemplated by this Agreement.

7.1.2 Litigation. County is not party to, and has no knowledge of, any pending or threatened actions, suits, proceedings or undischarged judgments affecting County or the Project, before any court, Governmental Authority, or arbitrator which might materially and

adversely affect the enforceability of this Agreement, or prevent County from performing its obligations under this Agreement.

7.1.3 **Condemnation.** County has no knowledge of, any condemnation proceedings relating to the Project or any part thereof or any access ways or roadways adjacent to the Project or any part thereof.

7.1.4 **Violations.** County has not received written notice of, and has no knowledge of, any uncured violations of any federal, state or local law relating to the use or operation of the Project.

7.2 **Representations of the City.** The City represents (as to itself only) as follows, as of the Effective Date:

7.2.1 **Authority.** The City is a municipal corporation duly organized and is in good standing under the Laws of California with all corporate power to execute and deliver and perform its obligations under this Agreement and the agreements contemplated by this Agreement.

7.2.2 **Litigation.** City is not party to, and has no knowledge of, any pending or threatened actions, suits, proceedings or undischarged judgments affecting City or the Project, before any court, Governmental Authority, or arbitrator which might materially and adversely affect the enforceability of this Agreement, or prevent City from performing its obligations under this Agreement.

7.2.3 **Condemnation.** City has no knowledge of, any condemnation proceedings relating to the Project or any part thereof or any access ways or roadways adjacent to the Project or any part thereof.

7.2.4 **Violations.** City has not received written notice of, and has no knowledge of, any uncured violations of any federal, state or local law relating to the use or operation of the Project.

ARTICLE 8 DEFINITIONS

8.1 **Definitions.** Initially-capitalized terms used but not defined in this Agreement (including in the Recitals and Exhibits to this Agreement) shall have the meanings ascribed thereto in this Agreement. The following terms as used in this Agreement shall have the following meanings, unless the context indicates otherwise:

“**Governmental Authority**” means any and all entities, courts, boards, agencies, bureaus, commissions, offices, divisions, subdivisions, departments, bodies, or authorities of any nature whatsoever of any governmental unit (Federal, state, county, city or otherwise) whether now or hereafter in existence.

“**Regulatory Approval**” means any authorization, approval or permit required by or from any Governmental Authority having jurisdiction over the Project, or the Project relating to the development or construction of the Project, or the Project. The term “**Regulatory Approval**” shall

not include any authorization, approval or permit required for the Party's use and occupancy of the Project.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly appointed representatives as of the Effective Date.

Date: _____, 2025

CITY OF ONTARIO,
a California municipal corporation

By: _____
Scott Ochoa, City Manager

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: _____
Ruben Duran
City Attorney

Signatures continue on the following page.

Date: _____, 2025

SAN BERNARDINO COUNTY



Dawn Rowe, Chair, Board of Supervisors

Dated: _____

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

Lynna Monell

Clerk of the Board of Supervisors
of San Bernardino County

By _____

APPROVED AS TO FORM:

LAURA FEINGOLD
COUNTY COUNSEL

By: _____

Name: _____

Title: _____

Date: _____