

FAIRPLEX MITIGATION FUND ADVISORY COMMITTEE
Pomona, California

BYLAWS
November 4, 2019

The following Rules for the Transaction of Business and the Conduct of Meetings (hereinafter, the “**Bylaws**”) are hereby adopted by the City Council of the City of Pomona:

A. NAME, PURPOSE, RESPONSIBILITIES AND MEMBERSHIP

A-1 NAME AND PURPOSE

In accordance with the provisions of the *City of Pomona Municipal Code Section 50-651*, there is hereby established a Fairplex Mitigation Fund Advisory Committee. The Advisory Committee shall be subject to the *Brown Act (Government Code Section 54950 et seq.)*. The Advisory Committee shall function in an advisory capacity and be responsible for recommending to the City Council the use of the Mitigation Fund and the priority of proposed projects as set forth in the Agreement Regarding Interim Use of Fairplex (Interim Agreement).

A-2 RESPONSIBILITIES AND DUTIES

The duties and responsibilities of the Committee shall be as described in Section 50-653 of the *City of Pomona Municipal Code*.

A-3 MEMBERSHIP

1. Representation

The Fairplex Mitigation Fund Advisory Committee shall consist of nine (9) Committee Members. In accordance with the Interim Agreement and Municipal Code Section 50-651, each Council Member shall appoint one committee member who is a resident of Pomona residing within the improvement area boundary depicted in “Exhibit A - Mitigation Fund Boundary” of the Agreement Regarding Interim Use of Fairplex as approved by the Pomona City Council on July 29, 2019. The Fairplex and the Board of Supervisors of the County of Los Angeles will each appoint one member to the Advisory Committee. Bylaws must be approved by the City Council. The appointments, terms, and service of the Committee Members shall be governed by Sections 2-521, 2-523, and 2-524 of the City of Pomona Municipal Code and Section 801(c) of the City Charter.

2. Vacancies; Resignations

When a vacancy or failure to appoint or reappoint occurs for any reason, the Finance Director/City Treasurer, Public Works Director or Chair shall notify the City Manager of the need for the respective Council Member(s) to make an appointment to the vacant seat. Any member of the Committee may resign at any time by giving written notice to the Finance Director/City Treasurer or Public Works Director, who shall forward such notice to the City Manager. Any such resignation will take effect upon receipt or upon a future date specified therein. The acceptance of such resignation shall not be necessary to make it effective.

A-4 STAFF LIAISON

The City Manager has initially designated the Finance Director/City Treasurer and Public Works Director as the staff liaisons, in accordance with *Section 50-652 of the City of Pomona Municipal Code*. The City Manager may, from time-to-time, at his or her sole discretion, designate a different member of staff to serve as the staff liaison, without requiring further amendment to these Bylaws. All references in the Bylaws to the Finance Director/City Treasurer and Public Works Director shall be understood to refer to the staff liaisons, as referenced in *Section 50-652 of the City of Pomona Municipal Code*.

B. OFFICERS

B-1 CHAIR, VICE-CHAIR, AND SECRETARY

The Fairplex Mitigation Fund Advisory Committee shall, by majority vote, select a new Chair and Vice-Chair every year at its first regular meeting of the year. The Secretary shall be the Finance Director/City Treasurer or Public Works Director, and shall not be a member of the Committee.

B-2 CHAIR TO PRESIDE

The Chair shall be the Presiding Officer at all meetings of the Fairplex Mitigation Fund Advisory Committee. In the absence of the Chair, the Vice-Chair shall preside. In the absence of both the Chair and Vice-Chair, the Secretary of the Fairplex Mitigation Fund Advisory Committee shall call the committee to order, whereupon a temporary Presiding Officer shall be elected by the Committee Members present to serve until adjournment. The Chair cannot be on more than one committee or city commission.

B-3 DURATION OF TERM

The term of the Chair and Vice-Chair shall be one (1) year. Two consecutive terms may be served at the pleasure of the committee. However, every effort should be made to allow all Committee Members to serve their term as Officers, provided that such Members so desire.

and have served on the Fairplex Mitigation Fund Advisory Committee for at least one (1) year. The Committee may elect a member desirous of being an officer and not having at least one year experience on 8/9 vote. For the initial formation of the committee the Chair and Vice Chair will be selected by a majority vote of the Fairplex Mitigation Fund Advisory Committee.

B-4 POWERS AND DUTIES OF PRESIDING OFFICER

1. Participation

The Presiding Officer may move, second, debate, and vote from the Chair. He/She shall not be deprived of any of the rights and privileges of a committee member by reason of his/her acting as Presiding Officer.

2. Questions to be stated

The Presiding Officer, or such member of the City staff as he/she may designate, shall verbally restate each question immediately prior to calling for the vote. Following the vote, the Secretary to the committee shall announce whether the question carried or was defeated. The Presiding Officer in his/her discretion may publicly explain the effect of vote for the audience or he/she may direct the Secretary to do so before proceeding to the next item of business.

C. MEETINGS

C-1 REGULAR MEETINGS

Notwithstanding *Section 2-525 of the City of Pomona Municipal Code*, the Fairplex Mitigation Fund Advisory Committee shall hold regular meetings three (3) times each calendar year on the third Wednesday of the months of March, June, and October at 6:00 p.m. in the City Council Conference Board Room, adjacent to the City Council Chambers located at 505 South Garey Avenue in the City of Pomona; provided that if such day shall be a legal holiday, such regular meeting shall be held on the following Wednesday.

C-2 ADJOURNED MEETINGS

Any regular or adjourned meeting may be adjourned to a time, place, and date specified in the order of adjournment but not beyond the next regular meeting. If no time is stated in the order of adjournment, it shall be the same time as for a regular meeting. Once adjourned, the meeting may not be reconvened. All adjourned regular meetings are a regular meeting for all purposes.

C-3 SPECIAL MEETINGS

Special meetings may be called at any time, as directed by the City Manager and/or City Council, by the Secretary delivering personally, or by mail, written notice to each Committee Member, and to each local newspaper of general circulation, radio or television

station requesting notice in writing. Such notice must be delivered personally or by mail at least twenty-four (24) hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings.

C-4 MEETINGS TO BE PUBLIC

All regular, adjourned, and special meetings of the Fairplex Mitigation Fund Advisory Committee shall be open to the public and shall be held in accordance with the Brown Act. Public participation at regular, adjourned and special meetings shall be limited to the committee's subject matter jurisdiction and consistent with the requirements of the Brown Act.

C-5 ATTENDANCE

Committee Members are expected to diligently attend and participate in all meetings of the committee. Requests for excused absences shall be received by the Secretary for the committee. Two (2) unexcused absences in one calendar year may be considered grounds for removal of office by the City Council.

C-6 QUORUM

The Fairplex Mitigation Fund Advisory Committee consists of nine (9) members, one (1) of which is the Chair. Five (5) members of the Committee shall constitute a quorum and shall be sufficient to transact regular business. If less than five (5) Committee members appear at a regular meeting, or if all members are absent, the Secretary of the Fairplex Mitigation Fund Advisory Committee or his/her designee may adjourn the meeting to a stated day and hour. The Secretary shall cause a written notice of the adjournment to be delivered personally to each committee member at least twenty-four (24) hours before the adjourned meeting is to commence.

D. AGENDA

D-1 AGENDA, PREPARATION OF

An agenda shall be prepared for each regular meeting containing the specific items of business to be transacted and the order thereof. Items of business may be placed on the agenda by any Fairplex Mitigation Fund Advisory Committee Member, the City Manager or designee, Finance Director/City Treasurer, Public Works Director or designee, or the City Attorney or designee. The Secretary shall prepare the agenda. Whenever feasible, each item on the agenda shall contain a staff report and recommendation for the specific action requested to be taken by the Committee. No matters other than those listed on the agenda shall be acted upon by the Committee.

D-2 ORDER AND CONDUCT OF BUSINESS

At the time set for each meeting, the Fairplex Mitigation Fund Advisory Committee Members, Finance Director/City Treasurer, Public Works Director or his/her designee and department representatives who have been requested to be present shall take their regular places in the City Council Conference Board Room adjacent to the City Council Chambers or other location, as designated on the agenda. The Chair shall call the meeting to order and the business of the Committee shall be taken up for consideration and disposition in the order set forth in Section C-4, except that with the consent of a majority of the Fairplex Mitigation Fund Advisory Committee Members present, items may be taken out of order. "*Robert's Rules of Order, Newly Revised*," shall govern the conduct of the meetings; provided, however, that if any rules or parliamentary procedure set forth in these Bylaws conflict with the identified Robert's Rules of Order, these Bylaws shall prevail.

D-3 AGENDA, POSTING OF

The agenda of the Fairplex Mitigation Fund Advisory Committee shall be posted at least three (3) days prior to the meeting in the following public places, and in all manners as required by the *Brown Act*:

- The bulletin board in the front of City Hall, Council Chambers, 505 South Garey Avenue
- The City Library
- City Hall Lobby
- City Website

D-4 AGENDA, CONTENTS OF

The agenda shall contain the title headings and shall be conducted in the order and manner as set forth below:

- CALL TO ORDER
- FLAG SALUTE
- ROLL CALL
- PUBLIC COMMENT

The Secretary shall call the roll of the Fairplex Mitigation Fund Advisory Committee Members, and the names of those present shall be entered in the minutes.

APPROVAL OF THE MINUTES

The Fairplex Mitigation Fund Advisory Committee shall review and approve the minutes of the previous meeting. Any changes and amendments to the draft minutes may be made by a majority vote of the Committee.

CONSENT CALENDAR

All items listed under the Consent Calendar are considered to be routine and will be enacted by one motion unless separate discussion is requested by a member of the Committee.

UNFINISHED BUSINESS

The Committee may continue discussion of any items carried over from previous meetings. These items include all matters properly brought before the Committee, which require a decision. The Committee may recognize staff members or members of the audience for comment pertinent to the item.

NEW BUSINESS

New Business items include matters properly brought before the Committee, which require a decision. The Committee may recognize staff members or members of the audience for comments pertinent to the item.

COMMITTEE ITEMS

The Committee may discuss any such other matters as may be brought to it by the Finance Director/City Treasurer, Public Works Director or designee, City Attorney, or other staff members. If action needs to be taken, the items must be properly scheduled on the agenda prior to such action.

STAFF ITEMS

The Committee shall consider all verbal or written communication from staff. If action needs to be taken, the items must be properly scheduled on the agenda. Results of the most recent City Council meeting pertinent to the Fairplex Mitigation Fund Advisory Committee may also be presented.

DISCUSSION

The Committee shall discuss, and take action where appropriate of, those items as designated for discussion on the agenda.

ADJOURNMENT

The meeting shall be adjourned to a time and date certain after a motion to adjourn has been made and carried.

E. ADDRESSING THE COMMITTEE

E-1 WRITTEN CORRESPONDENCE

The City Manager and Finance Director/City Treasurer, Public Works Director or designee is authorized to receive and open all mail addressed to the Fairplex Mitigation Fund Advisory Committee and he/she shall give it immediate attention. Any communication

requiring Committee action shall be placed upon the agenda, together with a report and recommendation by the City staff. All correspondence requiring same shall be answered or acknowledged as soon as practical.

E-2 RIGHT TO ADDRESS FAIRPLEX MITIGATION FUND ADVISORY COMMITTEE

Subject to the provisions of Section D-3, D-4, and E-8, interested persons shall have the absolute right to address the Committee on matters on the agenda, as well as matters not otherwise on the agenda but within the subject matter jurisdiction of the Committee, where permitted by the Brown Act. All public comment and input shall be made during the period(s) set aside on the agenda; provided, however, that the Committee may direct that public input and comment on matters on the agenda be heard when the matter regularly comes up on the agenda.

E-3 MANNER OF ADDRESSING COMMITTEE

Any person desiring to address the Committee shall stand and wait to be recognized by the Presiding Officer. After being recognized, he/she shall be asked to provide the Secretary with his/her name and address on forms provided. He/she shall then approach the podium, be asked to provide his/her name and address for the record, and proceed to address the Committee.

E-4 TIME LIMITATION

Every person addressing the Committee shall limit his/her address to three (3) minutes or such reasonable time as is granted by the majority of the Committee. When any group of persons wishes to address the Committee on the same subject matter, it shall be proper for the Presiding Officer to request that a spokesperson be chosen to represent the group to avoid unnecessary repetition.

F. DEBATE AND DECORUM

F-1 GETTING THE FLOOR

Every Committee Member desiring to speak shall first address the Presiding Officer to gain recognition and shall confine himself/herself to the question under debate.

F-2 QUESTIONS TO STAFF

Every Committee Member desiring to question the City staff shall, after recognition by the Presiding Officer, address his/her questions to the Finance Director/City Treasurer, Public Works Director or his/her designee. In the case of the Finance Director/City Treasurer or designee, he/she shall be entitled either to answer the inquiry himself/herself or to designate another member of the staff for that purpose.

F-3 INTERRUPTIONS

A Committee Member, once recognized, shall not be interrupted when speaking unless called to order by the Presiding Officer, unless a point of order or personal privilege is raised by another Committee Member, or unless the speaker chooses to yield to a question by another Committee Member. If a Committee Member is called to order while speaking, he/she shall cease speaking until the question or order is determined. If it is determined to be in order, he/she may proceed. After recognition by the Presiding Officer, members of the City staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.

F-4 POINTS OF ORDER

The Presiding Officer shall determine all points of order subject to the right of any Committee Member to appeal to the Committee. He/she may request an opinion of the City Attorney or designee, if present, in making such determination. If an appeal is taken, the question shall be: "Shall the decision of the Presiding Officer be sustained?" The Committee's decision shall conclusively determine such question of order.

F-5 POINT OF PERSONAL PRIVILEGE

The right of a Committee Member to address the Committee on a question of personal privilege shall be limited to cases in which his/her integrity, character or motives, are questioned or in an instance in which the welfare of the Committee is concerned. A Committee Member raising a point of personal privilege may interrupt another Committee Member who has the floor, subject only to the power of the Presiding Officer to call him/her out of order.

F-6 REMARKS OF COMMITTEE MEMBERS AND SYNOPSIS OF DEBATE

Any Committee Member shall have the right of having an abstract of his/her statement and/or a synopsis of the debate on any subject under consideration by the Committee entered into the minutes. This right shall be exercised by specific direction to the Secretary at the Fairplex Mitigation Fund Advisory Committee Meeting.

F-7 DECORUM AND ORDER, COMMITTEE AND CITY STAFF

While the Committee is in session, the Committee Members and City staff shall preserve order and decorum. A member shall neither, by conversation or other action, delay or interrupt the proceedings or the peace of the Committee, nor disturb any member while speaking or refuse to obey the directives of the Presiding Officer.

F-8 DECORUM AND ORDER, AUDIENCE

Public members attending Committee meetings shall observe the same rules of order and decorum applicable to the Committee and staff. Any person making irrelevant, impertinent, or profane remarks or who becomes boisterous while addressing the Committee or while

attending the Committee meeting, such that there is an actual disruption of the continued progress of the meeting, shall be removed from the room, if the City Staff is so directed by the Presiding Officer, and such person may be barred from further audience before the Committee at that meeting. Unauthorized remarks from the audience, stamping of feet, whistling, shouting, and similar demonstrations shall likewise be considered inappropriate decorum, and the Presiding Officer may direct the staff to remove such offenders from the room if such conduct actually disrupts the continued progress of the meeting.

G. MOTIONS

G-1 PRESENTATION OF MOTIONS

A motion is the formal statement of a proposal or question to the Committee for consideration and action. The Presiding Officer and each Committee Member has the right to present a motion.

G-2 SECOND REQUIRED

A motion by any Committee Member shall not be considered by the Committee and voted on unless it receives a second. Once the motion has been properly made and seconded, the Presiding Officer shall open the matter for debate offering the first opportunity to debate to the moving party and, thereafter, to any Fairplex Mitigation Fund Advisory Committee member properly recognized by the Presiding Officer. Once the motion has been fully debated and the Presiding Officer calls for a vote, no further debate will be allowed; Fairplex Mitigation Fund Advisory Committee Members, however, may be allowed to explain their vote.

G-3 PROCEDURAL RULES OF ORDER (Per Robert's Rules of Order; Newly Revised)

Once the main motion is properly placed on the floor, several related motions may be employed in addressing the main motion, and if properly made and seconded, must be disposed of before the main motion can be acted upon. The following motions are appropriate and may be made by the Presiding Officer or any Fairplex Mitigation Fund Advisory Committee Members at any appropriate time during the discussion of the main motion. They are listed in order of precedence.

1. Subsidiary Motions – The first three (3) subsidiary motions are non-debatable; the last four (4) are debatable.
 - a. Lay on the Table - Any Fairplex Mitigation Fund Advisory Committee Member may move to lay the matter under discussion on the table. This motion temporarily suspends any further discussion of the pending motion without setting a time certain to resume debate. In order to bring the matter back before the Fairplex Mitigation Fund Advisory Committee, a motion must be adopted that the matter be taken from the table. A motion to take from the table must be made at the same meeting at which it was placed on the table or at the next

regular meeting of the City Council. Otherwise, the motion that was tabled dies, although it can be raised later as a new motion.

- b. Move Previous Question – Any Fairplex Mitigation Fund Advisory Committee Member may move to immediately bring the question being debated by the Fairplex Mitigation Fund Advisory Committee to a vote, suspending any further debate. The motion must be made and seconded without interrupting one who already has the floor. A two-thirds (2/3) vote of the quorum present is required for passage.
 - c. Limit or Extend Limits of Debate - Any Committee Member may move to put limits on the length of the debate. The motion must be made and seconded and requires a two-thirds (2/3) vote of the quorum present to pass.
 - d. Postpone to a Time Certain - Any Committee Member may move to postpone debate and action on the motion to a date and time certain.
 - e. Commit or Refer – Any Committee Member may move that the matter being discussed should be referred to staff, a committee, or a subcommittee for further study. The motion may contain directions for the staff, committee, or subcommittee, as well as a date upon which the matter will be returned to the Fairplex Mitigation Fund Advisory Committee agenda. If no date is set for returning the item to the Fairplex Mitigation Fund Advisory Committee agenda, any Committee Member may move, at any time, to require the item to be returned to the agenda.
 - f. Amend - Any Committee Member may amend the main motion or any amendment made to the main motion, after the main motion is seconded. Before the main motion may be acted upon, all amendments and amendments to amendments must first be acted upon. An amendment must be related to the main motion or amendment to which it is directed. Any amendment which substitutes new motion rather than amending the existing motion is out of order and may be so declared by the Presiding Officer.
 - g. Postpone Indefinitely - Any Committee Member may move to postpone indefinitely the vote on the floor, thus avoiding a direct vote on the pending motion and suspending any further action on the matter.
2. Motions of Privilege, Order and Convenience - The following actions by the Committee are to ensure orderly conduct of meetings and are for the convenience of the Presiding Officer and Committee Members. These motions take precedence over any pending main or subsidiary motion and may be debated, except as noted.
- a. Call for Orders of the Day - Any Committee Member may demand that the agenda be followed in the order stated herein. No second is required and the Presiding Officer must comply unless the Committee sets aside the agenda order of the day. This motion is not debatable.
 - b. Question of Privilege - Any Committee Member, at any time during the meeting, may make a request of the Chair to accommodate the needs of the Fairplex Mitigation Fund Advisory Committee or his/her personal needs for such things as reducing noise, adjusting air conditioning, ventilation, lighting, etc. The validity of the question is ruled on by the Presiding Officer.

- c. Recess - Any Committee Member may move for a recess.
- d. Adjourn - Any Committee Member may move to adjourn at any time, even if there is business pending. The motion is not debatable.
- e. Point of Order - Any Committee Member may require the Presiding Officer to enforce the rules of the Committee by raising a point of order. The point of order shall be ruled upon by the Presiding Officer, as set forth in these Bylaws.
- f. Appeal - Should any Committee Member be dissatisfied with a ruling from the Presiding Officer, he/she may move to appeal the ruling to the full Committee.
- g. Suspend the Rules - Any Committee Member may move to suspend the rules if necessary to accomplish a matter that would otherwise violate the rules.
- h. Division of Question - Any Committee Member may move to divide the subject matter of a motion which is made up of several parts in order to vote separately on each part. This motion may also be applied to complex ordinances or resolutions.
- i. Reconsider - The Committee may reconsider any vote taken at the same meeting, but no later than the same or next meeting, to correct inadvertent or precipitant errors, or consider new information not available at the time of the vote. The motion to reconsider must be made by a Committee Member who voted on the prevailing side, must be seconded and requires a majority vote of the quorum for passage, regardless of the vote reconsidered. If the motion to reconsider is successful, the matter to be reconsidered takes no special preference over other pending matters and any special voting requirements related thereto shall still apply. Except pursuant to a motion to reconsider, once a matter has been determined and voted upon, the same matter cannot be brought up again at the same meeting.
- j. Rescind, Repeal or Annul - The Committee may rescind, repeal or annul any prior action taken with reference to any legislative matter so long as the action to rescind, repeal or annul complies with all the rules applicable to the initial adoption, including any special voting or notice requirements or unless otherwise specified by law.

H. VOTING

H-1 VOTING PROCEDURE

All Committee Members present at a meeting when a motion comes up for a vote shall vote for or against the motion or shall abstain. The Secretary shall declare the result and note for the record all "yes" votes and all "no" votes. The Committee may also vote by roll call vote, ballot or voting machine. Regardless of the manner of voting, the results reflecting all "yes" and "no" votes must be clearly set forth for the record. In order to be adopted, a motion requires the "yes" vote of a majority of the quorum present, unless the vote of a majority of the body is required by statute, ordinance, or resolution. An abstention shall not be counted as a "yes" or a "no" vote but the Committee Member abstaining shall be counted for the purpose of determining the quorum.

H-2 ORDER OF VOTING

The Secretary shall take roll call votes in the following order:

1. First, the Committee Member making the motion;
2. Second, the Committee Member seconding the motion;
3. Followed by the balance of the Committee in any order.

H-3 CHANGE OF VOTE

A Member may change his/her vote only if he/she makes a timely request to do so immediately following the announcement of the vote by the Chair and prior to the time that the next item in the order of business is taken up.

H-4 FAILURE TO VOTE

Every member should vote unless disqualified for cause except by vote of the Committee or by opinion of the City Attorney or designee. Self-disqualification, without approval, which results in a tie vote, shall be avoided, but no Committee Member shall be forced to vote. A Committee Member who abstains shall in effect consent that a majority of the quorum may act for him.

H-5 CONFLICT OF INTEREST

Committees shall not vote if private or personal interests are likely to conflict with the general public interest. The *State Fair Political Practices Act* shall apply to every Committee Member.

H-6 LOST MOTIONS

A lost motion is one that fails to receive the necessary number of votes to carry. Tie votes result in a lost motion. Lost motions may be renewed at any subsequent Committee meeting. To revive a lost motion at the same meeting, the proper action is a motion to reconsider, as discussed above.

H-7 RECORDATION OF VOTES

Voting results of the Fairplex Mitigation Fund Advisory Committee shall be recorded in the minutes and shall include, by Committee Member name, “yes” votes, “no” votes, abstentions, and absences.

I. PREPARATION OF MINUTES

The Secretary of the Committee shall have exclusive responsibility for preparation of the minutes, and any directions for changes in the minutes shall be made only by action of the Committee.

J. REPRESENTATION BEFORE PUBLIC BODIES

Any official representation on behalf of the Committee before the City Council, or any other public body, shall be made by the Finance Director/City Treasurer, Public Works Director or the Chair, Vice-Chair in the Chair's absence, or a member of the Committee specifically designated by the Committee.

K. AMENDMENTS

These By-Laws may be amended by the City Council on its own initiative or on the recommendation of the Fairplex Mitigation Fund Advisory Committee per a majority vote and provided the proposed amendment has been presented at one prior regular meeting before the action is taken. Failure of the Committee to follow the By-Laws established herein shall not invalidate or otherwise effect any action of the Committee.

L. USE OF FUNDS HELD IN MITIGATION FUND

1. The Fairplex Mitigation Fund Advisory Committee may recommend expenditures from the Mitigation Fund for improvement projects that are located in the City within the improvement area boundary described and depicted in Exhibit A of the Agreement Regarding Interim Use of Fairplex as approved by the Pomona City Council on July 29, 2019. The Advisory Committee's recommendations for expenditures from the Mitigation Fund must be to improve negative impacts of Fairplex's operations or to install improvements calculated to mitigate adverse impacts on surrounding properties from Fairplex Events. In no event shall Mitigation Funds be used by the City to meet the City's general fund obligations unrelated to mitigating an impact of the Fairplex Events, including without limitation the funding of standard maintenance and repair activities and basic public services. The Mitigation Fund collected in accordance with this Agreement shall not be used to pay or credit any obligation of Fairplex to the City.
2. The Advisory Committee may make recommendations on the expenditure of funds in the Mitigation Fund for a period of twenty-four (24) months following the expiration or earlier termination of this Agreement. All funds remaining in the Mitigation Fund after such twenty-four (24) month period shall be returned to Fairplex prior to the expiration of the City's fiscal year.

M. CONTRIBUTION OF FUNDS TO THE MITIGATION FUND

Subject to applicable laws, Fairplex shall fund the Mitigation Fund for a period of three (3) years following the effective Date of August 8, 2019 by implementing the revenue generating measures set forth in this Section 7(e) of the Agreement Regarding Interim Use of Fairplex as approved by the Pomona City Council on July 29, 2019. Fairplex represents that such revenue generation measures set forth in this Section 7(e) do not violate any existing requirements or obligations of Fairplex.

1. Commencing on the Effective Date of August 20, 2019, Fairplex shall increase the percentage of parking revenues paid to the City by 1%. Fairplex shall again

increase the revenues paid to the City an additional 1% every 12 months until the maximum of 5% of parking revenues is reached. Because the current parking revenue percentage paid to the City is at 2%, the increases in parking revenues above the 2% base shall be deposited into the Mitigation Fund. This amount is 1% in the first year of the Term, 2% in the second year of the Term, and 3% in the final year of the Term.

2. For new Music Events (excluding music events during the Los Angeles County Fair) with 10,000 or more anticipated attendees per day, Fairplex shall add a three-dollar (\$3.00) fee to the ticket price for all tickets priced under \$75.00 and a five-dollar (\$5.00) fee to the ticket price for all tickets priced \$75.00 and above. The additional fee shall be paid to the City and deposited into the Mitigation Fund.
3. Fairplex shall assess a one-dollar and fifty cents (\$1.50) City fee for every full price adult fair ticket sold, which fee shall be paid to the City and deposited into the Mitigation Fund.
4. Survival. Except for Fairplex's obligation to contribute funds to the Mitigation Fund as set forth in Section 7 of the Agreement Regarding Interim Use of Fairplex as approved by the Pomona City Council on July 29, 2019, shall survive the expiration or earlier termination of this Agreement until the earlier of (1) all of the funds in the Mitigation Fund have been spent, or (2) twenty-four (24) months.

N. ANNUAL REPORTING AND RIGHT TO AUDIT

The Parties shall meet and confer annually during the Term to review each Party's obligations hereunder and to ensure that the mutual goals and purpose of this Agreement are being implemented. The Parties shall confirm that the revenues described in Section 7 of the Agreement Regarding Interim Use of Fairplex as approved by the Pomona City Council on July 29, 2019, are being collected by Fairplex, and being deposited into the Mitigation Fund. An annual report documenting the status of the Mitigation Fund (including an audited report describing the list of expenses, if any), the Parties' obligations, and implementation of other identified goals shall be prepared by Fairplex and provided to the City and County for the regular scheduled month of June Fairplex Mitigation Fund Advisory Committee meeting. In addition, either Party, at any time with five (5) days written notice, may inspect the books and records of the other Party that document compliance with this Agreement.

APPROVED AND ADOPTED

This 4th day of November, 2019.