

CITY OF ONTARIO
CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY
**TO THE ONTARIO REDEVELOPMENT AGENCY/
PUBLIC FINANCING AUTHORITY AND
REDEVELOPMENT FINANCING AUTHORITY**
AGENDA
MAY 16, 2017

Paul S. Leon
Mayor

Debra Dorst-Porada
Mayor pro Tem

Alan D. Wapner
Council Member

Jim W. Bowman
Council Member

Ruben Valencia
Council Member



Al C. Boling
City Manager

John E. Brown
City Attorney

Sheila Mautz
City Clerk

James R. Milhiser
Treasurer

WELCOME to a meeting of the Ontario City Council.

- All documents for public review are on file with the Records Management/City Clerk's Department located at 303 East B Street, Ontario, CA 91764.
- Anyone wishing to speak during public comment or on a particular item will be required to fill out a blue slip. Blue slips must be turned in prior to public comment beginning or before an agenda item is taken up. The Clerk will not accept blue slips after that time.
- Comments will be limited to 3 minutes. Speakers will be alerted when they have 1 minute remaining and when their time is up. Speakers are then to return to their seats and no further comments will be permitted.
- In accordance with State Law, remarks during public comment are to be limited to subjects within Council's jurisdiction. Remarks on other agenda items will be limited to those items.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council and Staff need to be recognized by the Chair before speaking.

ORDER OF BUSINESS The regular City Council and Housing Authority meeting begins with Closed Session and Closed Session Comment at 6:00 p.m., Public Comment at 6:30 p.m. immediately followed by the Regular Meeting and Public Hearings. No agenda item will be introduced for consideration after 10:00 p.m. except by majority vote of the City Council.

(EQUIPMENT FOR THE HEARING IMPAIRED AVAILABLE IN THE RECORDS MANAGEMENT OFFICE)

CALL TO ORDER (*OPEN SESSION*)

6:00 p.m.

ROLL CALL

Dorst-Porada, Wapner, Bowman, Valencia, Mayor/Chairman Leon

CLOSED SESSION PUBLIC COMMENT The Closed Session Public Comment portion of the Council/Housing Authority meeting is limited to a maximum of 3 minutes for each speaker and comments will be limited to matters appearing on the Closed Session. Additional opportunities for further Public Comment will be given during and at the end of the meeting.

CLOSED SESSION

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APN 1049-121-16; 961 East Main Street; City/Authority Negotiator: Al C. Boling or his designee; Negotiating parties: Benny Banuelos and Charlene O. Banuelos; Under negotiation: Price and terms of payment.

In attendance: Dorst-Porada, Wapner, Bowman, Valencia, Mayor/Chairman Leon

PLEDGE OF ALLEGIANCE

Council Member Valencia

INVOCATION

Pastor Donald Rucker, First Church of the Nazarene

REPORT ON CLOSED SESSION

City Attorney

PUBLIC COMMENTS

6:30 p.m.

The Public Comment portion of the Council/Housing Authority meeting is limited to 30 minutes with each speaker given a maximum of 3 minutes. An opportunity for further Public Comment may be given at the end of the meeting. Under provisions of the Brown Act, Council is prohibited from taking action on oral requests.

As previously noted -- if you wish to address the Council, fill out one of the blue slips at the rear of the chambers and give it to the City Clerk.

AGENDA REVIEW/ANNOUNCEMENTS The City Manager will go over all updated materials and correspondence received after the Agenda was distributed to ensure Council Members have received them. He will also make any necessary recommendations regarding Agenda modifications or announcements regarding Agenda items to be considered.

CONSENT CALENDAR

All matters listed under CONSENT CALENDAR will be enacted by one motion in the form listed below – there will be no separate discussion on these items prior to the time Council votes on them, unless a member of the Council requests a specific item be removed from the Consent Calendar for a separate vote.

Each member of the public wishing to address the City Council on items listed on the Consent Calendar will be given a total of 3 minutes.

1. APPROVAL OF MINUTES

Minutes for the regular meeting of the City Council and Housing Authority of April 18, 2017, approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills April 2, 2017 through April 15, 2017 and **Payroll** April 2, 2017 through April 15, 2017, when audited by the Finance Committee.

3. A RESOLUTION AGREEING TO THE TERMINATION OF THE HOMEOWNER PROTECTION PROGRAM JOINT POWERS AUTHORITY

That the City Council adopt a resolution agreeing to the termination of the Homeowner Protection Program Joint Powers Authority.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AGREEING TO THE TERMINATION OF THE HOMEOWNER PROTECTION PROGRAM JOINT POWERS AUTHORITY.

4. A CONSTRUCTION CONTRACT FOR THE ATP CYCLE I SAFE ROUTES TO SCHOOL SIDEWALK IMPROVEMENTS AT VARIOUS LOCATIONS/HARDY & HARPER, INC.

That the City Council approve the plans and specifications, waive all minor irregularities and award a construction contract (on file in the Records Management Department) to Hardy & Harper, Inc. of Santa Ana, California for the ATP Cycle I Safe Routes to School Sidewalk Improvements at Various Locations in the bid amount of \$777,000 plus a fifteen (15%) percent contingency of \$116,550 for a total authorized expenditure of \$893,550; and authorize the City Manager to execute said contract and related documents, and file a notice of completion at the conclusion of all construction activities for the project.

5. A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 18913-3 LOCATED AT THE SOUTHEAST CORNER OF PARKPLACE AVENUE AND PARKVIEW STREET

That the City Council adopt a resolution approving an improvement agreement, improvement security and Final Tract Map No 18913-3 located at the southeast corner of Parkplace Avenue and Parkview Street within the Subarea-29 Specific Plan area.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 18913-3, LOCATED AT THE SOUTHEAST CORNER OF PARKPLACE AVENUE AND PARKVIEW STREET.

6. FISCAL YEAR 2016-17 THIRD BUDGET UPDATE REPORT

That the City Council approve the budget adjustments and recommendations as listed in the Fiscal Year 2016-17 Third Budget Update Report.

7. MAINTENANCE SERVICE AGREEMENT FOR WEED ABATEMENT SERVICES/SO CAL LAND MAINTENANCE

That the City Council authorize the City Manager to execute a five-year Maintenance Service Agreement (on file with the Records Department) for Contract No. PM1617-6 with SoCal Land Maintenance, Inc. located in Anaheim, California, for an annual estimated cost of \$104,873 plus a 5% contingency of \$5,244; and authorize addition of future services; and authorize the option to extend the agreement for up to two additional years consistent with the City Council approved budgets.

8. CONSTRUCTION CONTRACT FOR STREET CRACK SEALING SERVICES/SAFE USA, INC.

That the City Council authorize the City Manager to execute a three-year Construction Contract (on file with the Records Management Department) for Contract No. SM1617-4 with Safe USA, Inc., located in Ontario, California, for an annual estimated cost of \$92,000; and authorize addition of future services; and the option to extend the agreement for up to two additional years consistent with the City Council approved budgets.

9. MAINTENANCE SERVICE AGREEMENT FOR CITYWIDE STREET SWEEPING SERVICES/CLEANSTREET, INC.

That the City Council authorize the City Manager to execute a five-year Maintenance Service Agreement (on file with the Records Department) for Contract No. SM1617-2 with CleanStreet, Inc., located in Gardena, California, for an annual estimated cost of \$1,144,010 plus a 5% contingency of \$57,205; and authorize addition of future services; and authorize the option to extend the agreement for up to two additional years consistent with the City Council approved budgets.

10. MAINTENANCE SERVICE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR THE CITY LANDSCAPE ASSESSMENT MAINTENANCE DISTRICTS/MERCHANTS LANDSCAPE, INC.

That the City Council authorize the City Manager to execute a five-year Maintenance Service Agreement (on file with the Records Department) for Contract No. PM1617-5 with Merchants Landscape, Inc., located in Rancho Cucamonga, California, for an annual estimated cost of \$370,368 plus a contingency of \$16,350; and authorize addition of future services; and authorize the option to extend the agreement for up to two additional years consistent with the City Council approved budgets.

11. PROFESSIONAL SERVICES AGREEMENT WITH G&K SERVICES FOR UNIFORM AND DUST CONTROL ITEM RENTAL AND CLEANING

That the City Council approve and authorize the City Manager to execute a Professional Services Agreement (on file in the Records Management Department) with G&K Services of Ontario, California to provide uniform and dust control item rental and cleaning services for approximately \$78,000 annually for three years with the option to extend the agreement at the City's discretion for up to two consecutive one-year periods consistent with City Council approved budgets.

12. AMENDMENT TO THE EXISTING AGREEMENT WITH THE CITY OF FONTANA REGARDING TRANSFER OF RIGHT OF FIRST PURCHASE FOR RECHARGED RECYCLED WATER

That the City Council approve and authorize the City Manager to execute an amendment to the existing agreement with the City of Fontana, subject to non-substantive changes, regarding the transfer of right of first purchase for recharged recycled water consistent with City Council approved budgets.

13. AGREEMENT WITH THE COUNTY OF SAN BERNARDINO FOR THE OPERATION OF A HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITY

That the City Council approve and authorize the City Manager to execute an Agreement (on file with the Records Management Department) with the County of San Bernardino (County) for the Operation of a Household Hazardous Waste (HHW) Collection Facility.

PUBLIC HEARINGS

Pursuant to Government Code Section 65009, if you challenge the City's zoning, planning or any other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the public hearing.

14. A PUBLIC HEARING REGARDING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT AND RETENTION AGREEMENT BETWEEN THE CITY OF ONTARIO AND WAXIE'S ENTERPRISES, INC. PURSUANT TO GOVERNMENT CODE SECTION 53083; CONSIDERATION OF RESOLUTIONS ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT, APPROVING THE RETENTION AGREEMENT, AND MAKING RELATED FINDINGS

That the City Council take the following actions:

- (A) Hold a public hearing;
- (B) Adopt a resolution accepting the Economic Development Subsidy Report prepared pursuant to Government Code Section 53083 regarding a Retention Agreement (on file with the Records Management Department) by and between the City of Ontario and Waxie's Enterprises, Inc. an Arizona corporation DBA Waxie Sanitary Supply ("Waxie");
- (C) Adopt a resolution approving the Retention Agreement for no less than fifteen years, authorizing the City Manager to execute the Retention Agreement, and making related findings; and
- (D) Direct City staff to file a categorical exemption based upon the City Council's finding that the impacts for this existing facility is not a project and subject to environmental review and that there is no possibility that the activity in question may have a significant effect on the environment.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT PREPARED PURSUANT TO GOVERNMENT CODE SECTION 53083 REGARDING THE RETENTION AGREEMENT BETWEEN THE CITY OF ONTARIO AND WAXIE'S ENTERPRISES, INC.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE RETENTION AGREEMENT BETWEEN THE CITY OF ONTARIO AND WAXIE'S ENTERPRISES, INC. AND MAKING RELATED FINDINGS.

15. A PUBLIC HEARING TO CONSIDER THE ISSUANCE OF LEASE REVENUE BONDS FOR THE PURPOSE OF REFINANCING EXISTING OUTSTANDING BONDS

That the City Council of the City of Ontario, the Board of Directors of the Ontario Public Financing Authority, and the Board of Directors of the Ontario Redevelopment Financing Authority hold a public hearing to consider adoption of resolutions and approve related bond documents pertaining to the issuance of approximately \$35 million of lease revenue bonds to refinance the outstanding 2001 Lease Revenue Bonds and 2007 Lease Revenue Bonds.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF A GROUND LEASE, LEASE AGREEMENT, INDENTURE, ESCROW AGREEMENT (2001 BONDS), ESCROW AGREEMENT (2007 BONDS), BOND PURCHASE CONTRACT AND CONTINUING DISCLOSURE CERTIFICATE IN CONNECTION WITH THE ISSUANCE OF ONTARIO PUBLIC FINANCING AUTHORITY 2017 LEASE REVENUE REFUNDING BONDS, APPROVING THE ISSUANCE OF SUCH BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$35,000,000, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT IN CONNECTION WITH THE OFFERING AND SALE OF SUCH BONDS AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS.

RESOLUTION NO. OPFA-_____

A RESOLUTION OF THE ONTARIO PUBLIC FINANCING AUTHORITY AUTHORIZING THE EXECUTION AND DELIVERY BY THE AUTHORITY OF A GROUND LEASE, LEASE AGREEMENT, INDENTURE, BOND PURCHASE CONTRACT AND ASSIGNMENT AGREEMENT IN CONNECTION WITH THE ISSUANCE OF ONTARIO PUBLIC FINANCING AUTHORITY 2017 LEASE REVENUE REFUNDING BONDS, AUTHORIZING THE ISSUANCE OF SUCH BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$35,000,000, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT IN CONNECTION WITH THE OFFERING AND SALE OF SUCH BONDS AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS.

RESOLUTION NO. ORFA- _____

A RESOLUTION OF THE ONTARIO REDEVELOPMENT FINANCING AUTHORITY AUTHORIZING THE EXECUTION AND DELIVERY OF LEASE TERMINATION DOCUMENTS IN CONNECTION WITH THE REFUNDING OF THE 2001 LEASE REVENUE BONDS (CAPITAL PROJECTS) AND 2007 LEASE REVENUE BONDS (CAPITAL PROJECTS) AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS.

16. A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES); INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES; AND ADOPTION OF A RESOLUTION TO INCUR BONDED INDEBTEDNESS

That City Council:

- (A) Adopt a resolution establishing Community Facilities District No. 38 (Park & Turner NE Facilities), authorizing the levy of special taxes within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution deeming it necessary to incur bonded indebtedness within Community Facilities District No. 38 (Park & Turner NE Facilities);
- (C) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities);
- (D) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
- (E) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities); and

- (F) Adopt a resolution authorizing the execution and delivery of an acquisition and funding agreement with Lennar Homes of California, Inc., a California corporation.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACQUISITION AND FUNDING AGREEMENT WITH LENNAR HOMES OF CALIFORNIA, INC.

17. A PUBLIC HEARING TO CONSIDER FILE NO. PCUP16-023, A CONDITIONAL USE PERMIT TO ESTABLISH A 4-STORY, 131-ROOM HOTEL TOTALING 93,177 SQUARE FEET ON APPROXIMATELY 4.5 ACRES OF LAND, IN CONJUNCTION WITH FILE NO. PDEV16-050 FOR A DEVELOPMENT PLAN TO CONSTRUCT THE HOTEL, LOCATED AT 900 NORTH VIA PIEMONTE, WITHIN THE URBAN COMMERCIAL LAND USE DISTRICT AND PIEMONTE OVERLAY DISTRICT OF THE ONTARIO CENTER SPECIFIC PLAN

That the City Council hold a public hearing to consider adoption of a resolution approving File No. PCUP16-023, pursuant to the facts and reasons contained in the staff report, attached resolution, and subject to the conditions of approval contained in the attached departmental reports.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.
Oral presentation.
Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PCUP16-023, A CONDITIONAL USE PERMIT FOR TO ESTABLISH A 93,177 SQUARE FOOT HOTEL (ELEMENT HOTEL) ON 4.5 ACRES OF LAND, LOCATED AT 900 NORTH VIA PIEMONTE, WITHIN THE PIEMONTE OVERLAY OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 0210-204-18. RELATED FILE NO. PDEV16-050.

18. A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE ONTARIO CENTER SPECIFIC PLAN, FILE NO. PSPA16-003, REVISING TEXT AND MAPS PERTAINING TO THE PIEMONTE OVERLAY, INCLUDING CHANGES TO THE DEVELOPMENT CONCEPT AND REGULATIONS, AND ALLOWED LAND USES WITHIN THE COMMERCIAL, ENTERTAINMENT/RETAIL COMMERCIAL, OFFICE, SPECIAL USE, AND RESIDENTIAL SUBAREAS, AFFECTING APPROXIMATELY 84 ACRES OF LAND, GENERALLY LOCATED SOUTH OF FOURTH STREET, WEST OF MILLIKEN AVENUE, NORTH OF CONCOURS STREET, AND EAST OF HAVEN AVENUE, WITHIN THE URBAN COMMERCIAL LAND USE DISTRICT AND PIEMONTE OVERLAY AREA OF THE ONTARIO CENTER SPECIFIC PLAN (APNS: 0210-531-16, 0210-531-15, 0210-531-14, 0210-531-13, 0210-531-12, 0210-531-11, 0210-531-10, 0210-531-09, 0210-531-08, 0210-531-07, 0210-531-06, 0210-204-26, 0210-204-23, 0210-204-22, 0210-204-21, 0210-204-20, 0210-204-19, 0210-204-16, 0210-204-15, 0210-204-14, 0210-204-13, 0210-204-12, 0210-204-11, & 0210-204-10)

That the City Council conduct a public hearing to consider adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approve an Amendment to The Ontario Center Specific Plan, File No. PSPA16-003, revising the text and maps pertaining to the Piemonte Overlay, including changes to the development concept and regulations, and allowed land uses.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM FOR FILE NO. PSPA16-003, AN AMENDMENT TO THE ONTARIO CENTER SPECIFIC PLAN, REVISING THE PROVISIONS OF THE PIEMONTE OVERLAY AREA, INCLUDING CHANGES TO THE DEVELOPMENT CONCEPT AND REGULATIONS, AND ALLOWED LAND USES WITHIN THE COMMERCIAL, ENTERTAINMENT/RETAIL COMMERCIAL, OFFICE, SPECIAL USE, AND RESIDENTIAL SUB-AREAS, AFFECTING PROPERTIES WITHIN AN IRREGULAR-SHAPED AREA COMPRISED OF APPROXIMATELY 84 ACRES OF LAND, GENERALLY LOCATED SOUTH OF FOURTH STREET, WEST OF MILLIKEN AVENUE, NORTH OF CONCOURS STREET, AND EAST OF HAVEN AVENUE - APNS: 0210-531-16, 0210-531-15, 0210-531-14, 0210-531-13, 0210-531-12, 0210-531-11, 0210-531-10, 0210-531-09, 0210-531-08, 0210-531-07, 0210-531-06, 0210-204-26, 0210-204-23, 0210-204-22, 0210-204-21, 0210-204-20, 0210-204-19, 0210-204-16, 0210-204-15, 0210-204-14, 0210-204-13, 0210-204-12, 0210-204-11, AND 0210-204-10.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSPA16-003, AN AMENDMENT TO THE ONTARIO CENTER SPECIFIC PLAN, REVISING TEXT AND MAPS PERTAINING TO THE PIEMONTE OVERLAY, INCLUDING CHANGES TO THE DEVELOPMENT CONCEPT AND REGULATIONS, AND ALLOWED LAND USES WITHIN THE COMMERCIAL, ENTERTAINMENT/RETAIL COMMERCIAL, OFFICE, SPECIAL USE, AND RESIDENTIAL SUBAREAS, AFFECTING APPROXIMATELY 84 ACRES OF LAND, GENERALLY LOCATED SOUTH OF FOURTH STREET, WEST OF MILLIKEN AVENUE, NORTH OF CONCOURS STREET, AND EAST OF HAVEN AVENUE, WITHIN THE URBAN COMMERCIAL LAND USE DISTRICT AND PIEMONTE OVERLAY AREA OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 0210-531-16, 0210-531-15, 0210-531-14, 0210-531-13, 0210-531-12, 0210-531-11, 0210-531-10, 0210-531-09, 0210-531-08, 0210-531-07, 0210-531-06, 0210-204-26, 0210-204-23, 0210-204-22, 0210-204-21, 0210-204-20, 0210-204-19, 0210-204-16, 0210-204-15, 0210-204-14, 0210-204-13, 0210-204-12, 0210-204-11 AND 0210-204-10.

19. A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE ONTARIO GATEWAY SPECIFIC PLAN (FILE NO. PSPA17-001) TO CHANGE TABLE 2.B: PERMITTED LAND USES BY PLANNING AREAS, TO ALLOW DRIVE-THRU QUICK SERVE RESTAURANTS AS A CONDITIONALLY PERMITTED USE WITHIN THE MIXED-USE PLANNING AREA LAND USE DESIGNATION, LOCATED AT THE SOUTHEAST CORNER OF HAVEN AVENUE AND GUAISTI ROAD

That the City Council hold a public hearing and consider adoption of a resolution approving an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010, and adopt a resolution approving an amendment to the Ontario Gateway Specific Plan (File No. PSPA17-001), pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval contained in the attached departmental reports.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING OF AN ADDENDUM TO THE ONTARIO PLAN (TOP) CERTIFIED ENVIRONMENTAL IMPACT REPORT (SCH # 2008101140), FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, FOR FILE NO. PSPA17-001.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSPA17-001, AN AMENDMENT TO THE ONTARIO GATEWAY SPECIFIC PLAN TO CHANGE TABLE 2.B: PERMITTED LAND USES BY PLANNING AREAS, TO ALLOW DRIVE-THRU QUICK SERVE RESTAURANTS AS A CONDITIONALLY PERMITTED USE WITHIN THE MIXED-USE PLANNING AREA LAND USE DESIGNATION, LOCATED AT THE SOUTHEAST CORNER OF HAVEN AVENUE AND GUASTI ROAD, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0210-212-57.

20. A PUBLIC HEARING TO CONSIDER A DEVELOPMENT CODE AMENDMENT, FILE NO. PDCA17-001, PROPOSING VARIOUS CLARIFICATIONS TO THE ONTARIO DEVELOPMENT CODE, INCLUDING MODIFICATIONS TO CERTAIN PROVISIONS OF DIVISION 1.02 (DEVELOPMENT CODE INTERPRETATION AND ENFORCEMENT), DIVISION 2.02 (APPLICATION, FILING AND PROCESSING), DIVISION 4.02 (DISCRETIONARY PERMITS AND ACTIONS), DIVISION 5.02 (LAND USE), DIVISION 5.03 (STANDARDS FOR CERTAIN LAND USES, ACTIVITIES AND FACILITIES), DIVISION 6.01 (DISTRICT STANDARDS AND GUIDELINES), 6.02 (WALLS, FENCES AND OBSTRUCTIONS), 6.03 (OFF-STREET PARKING AND LOADING), DIVISION 7.01 (HISTORIC PRESERVATION), AND DIVISION 9.01 (DEFINITIONS)

That the City Council introduce and waive further reading of an ordinance approving a Development Code Amendment, File No. PDCA17-001, proposing certain clarifications to Ontario Development Code Division 1.02 (Development Code Interpretation and Enforcement), Division 2.02 (Application, Filing and Processing), Division 4.02 (Discretionary Permits and Actions), Division 5.02 (Land Use), Division 5.03 (Standards for Certain Land Uses, Activities and Facilities), Division 6.01 (District Standards and Guidelines), 6.02 (Walls, Fences and Obstructions), 6.03 (Off-Street Parking and Loading), Division 7.01 (Historic Preservation), and Division 9.01 (Definitions).

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA17-001, A DEVELOPMENT CODE AMENDMENT FOR THE PURPOSE OF CLARIFYING CERTAIN PROVISIONS OF DIVISION 1.02 (DEVELOPMENT CODE INTERPRETATION AND ENFORCEMENT), DIVISION 2.02 (APPLICATION, FILING AND PROCESSING), DIVISION 4.02 (DISCRETIONARY PERMITS AND ACTIONS), DIVISION 5.02 (LAND USE), DIVISION 5.03 (STANDARDS FOR CERTAIN LAND USES, ACTIVITIES AND FACILITIES), DIVISION 6.01 (DISTRICT STANDARDS AND GUIDELINES), 6.02 (WALLS, FENCES AND OBSTRUCTIONS), 6.03 (OFF-STREET PARKING AND LOADING), DIVISION 7.01 (HISTORIC PRESERVATION), AND DIVISION 9.01 (DEFINITIONS), AND MAKING FINDINGS IN SUPPORT THEREOF.

21. A PUBLIC HEARING TO CONSIDER A PLANNED UNIT DEVELOPMENT, FILE NO. PUD17-001, TO ESTABLISH DEVELOPMENT STANDARDS AND GUIDELINES TO FACILITATE THE FUTURE DEVELOPMENT OF A HIGH DENSITY RESIDENTIAL APARTMENT PROJECT AT A DENSITY OF 25.4 DWELLING UNITS PER ACRE ON 2.95 ACRES OF LAND BORDERED BY HOLT BOULEVARD ON THE NORTH, FERN AVENUE ON THE EAST, EMPORIA STREET ON THE SOUTH, AND VINE AVENUE ON THE WEST, WITHIN THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT (APNS: 1049-051-01, 1049-051-02, 1049-051-03, 1049-052-03, 1049-052-04, 1049-052-05, 1049-052-06, 1049-052-07, 1049-052-08, 1049-052-09 AND 1049-052-10)

That the City Council adopt an Addendum to The Ontario Plan Environmental Impact Report and introduce and waive further reading of an ordinance approving a Planned Unit Development, File No. PUD17-001, establishing development standards and guidelines to facilitate the development of a high density residential apartment project.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ADDENDUM TO THE ONTARIO PLAN ENVIRONMENTAL IMPACT REPORT, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, FOR FILE NO. PUD17-001, A PLANNED UNIT DEVELOPMENT TO ESTABLISH DEVELOPMENT STANDARDS AND GUIDELINES TO FACILITATE THE FUTURE DEVELOPMENT OF A HIGH DENSITY RESIDENTIAL APARTMENT PROJECT AT A DENSITY OF 25.4 DWELLING UNITS PER ACRE ON 2.95 ACRES OF LAND BORDERED BY HOLT BOULEVARD ON THE NORTH, FERN AVENUE ON THE EAST, EMPORIA STREET ON THE SOUTH, AND VINE AVENUE ON THE WEST, WITHIN THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT— APNS: 1049-051-01, 1049-051-02, 1049-051-03, 1049-052-03, 1049-052-04, 1049-052-05, 1049-052-06, 1049-052-07, 1049-052-08, 1049-052-09 and 1049-052-10.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PUD17-001, A PLANNED UNIT DEVELOPMENT (ATTACHMENT 1) TO ESTABLISH DEVELOPMENT STANDARDS AND GUIDELINES TO FACILITATE THE FUTURE DEVELOPMENT OF A HIGH DENSITY RESIDENTIAL APARTMENT PROJECT AT A DENSITY OF 25.4 DWELLING UNITS PER ACRE ON 2.95 ACRES OF LAND BORDERED BY HOLT BOULEVARD ON THE NORTH, FERN AVENUE ON THE EAST, EMPORIA STREET ON THE SOUTH, AND VINE AVENUE ON THE WEST, WITHIN THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 1049-051-01, 1049-051-02, 1049-051-03, 1049-052-03, 1049-052-04, 1049-052-05, 1049-052-06, 1049-052-07, 1049-052-08, 1049-052-09 AND 1049-052-10.

STAFF MATTERS

City Manager Boling

COUNCIL MATTERS

Mayor Leon
Mayor pro Tem Dorst-Porada
Council Member Wapner
Council Member Bowman

ADJOURNMENT

CITY OF ONTARIO
CLOSED SESSION REPORT
City Council // Housing Authority // Other // (GC 54957.1)
May 16, 2017

ROLL CALL: Dorst-Porada __, Wapner __, Bowman __, Valencia __, Mayor / Chairman Leon __.

STAFF: City Manager / Executive Director __, City Attorney __

In attendance: Dorst-Porada __, Wapner __, Bowman __, Valencia __, Mayor / Chairman Leon __

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APN 1049-121-16; 961 East Main Street; City/Authority Negotiator: Al C. Boling or his designee; Negotiating parties: Benny Banuelos and Charlene O. Banuelos; Under negotiation: Price and terms of payment.

No Reportable Action	Continue	Approved
----------------------	----------	----------

/ /

/ /

/ /

Disposition: _____

Reported by: _____
City Attorney / City Manager / Executive Director

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION AGREEING TO THE TERMINATION OF THE HOMEOWNER PROTECTION PROGRAM JOINT POWERS AUTHORITY

RECOMMENDATION: That the City Council adopt a resolution agreeing to the termination of the Homeowner Protection Program Joint Powers Authority.

COUNCIL GOALS: Operate in a Businesslike Manner
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: None. No city funds or staff time are assigned to the functioning of the joint powers authority.

BACKGROUND: On April 17, 2012, the City Council approved Ontario's participation as a charter member of the Homeowner Protection Program Joint Powers Authority (JPA), an endeavor between Ontario, Fontana, and San Bernardino County to assist in preserving homeownership. At that time, the region was still grappling with the effects of the epic, nationwide economic downturn that caused unemployment to reach record highs, and set off a wave of home foreclosures.

Over the course of the past five years, economic conditions have significantly improved. The wave of foreclosures has largely stemmed, and the national, state, and regional unemployment rates have stabilized at rates at or near historic lows. Accordingly, the impetus for the JPA no longer remains.

In April, San Bernardino County informed the City that it would like to terminate the joint exercise of powers agreement. Per the terms of the agreement, the agreement may be terminated upon the mutual agreement of the parties through their respective bodies.

The attached resolution agrees to the termination of the agreement and to the execution of any legal documents required to effectuate that result. The Fontana City Council will be considering a similar item on a future agenda, and the San Bernardino County Board of Supervisors will do so June 27, 2017.

STAFF MEMBER PRESENTING: Al C. Boling, City Manager

Prepared by: David Sheasby
Department: Citywide Administration

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AGREEING TO THE TERMINATION OF THE HOMEOWNER PROTECTION PROGRAM JOINT POWERS AUTHORITY.

WHEREAS, on April 17, 2012, the City Council approved Ontario's participation as a charter member of the Homeowner Protection Program Joint Powers Authority (JPA), an endeavor between Ontario, Fontana, and San Bernardino County to assist in preserving homeownership; and

WHEREAS, at that time, the region was still grappling with the effects of the epic, nationwide economic downturn that caused unemployment to reach record highs, and set off a wave of home foreclosures; and

WHEREAS, over the course of the past five years, economic conditions have significantly improved, as the wave of foreclosures has largely stemmed and the national, state, and regional unemployment rates have stabilized at rates at or near historic lows; and

WHEREAS, the impetus for the JPA no longer remains; and

WHEREAS, in April 2017, San Bernardino County informed the City that it would like to terminate the joint exercise of powers agreement; and

WHEREAS, per the terms of the agreement, the agreement may be terminated upon the mutual agreement of the parties through their respective bodies; and

WHEREAS, the City Council now desires to agree to the termination of the JPA.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ontario, California, as follows:

SECTION 1. The foregoing recitals are true and correct and the City Council so finds and determines.

SECTION 2. The City Council hereby agrees to the termination of the joint exercise of powers agreement for the Homeowner Protection Program, and authorizes the execution of any legal documents required to effectuate that result.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
CONSENT CALENDAR

SUBJECT: A CONSTRUCTION CONTRACT FOR THE ATP CYCLE I SAFE ROUTES TO SCHOOL SIDEWALK IMPROVEMENTS AT VARIOUS LOCATIONS

RECOMMENDATION: That the City Council approve the plans and specifications, waive all minor irregularities and award a construction contract (on file in the Records Management Department) to Hardy & Harper, Inc. of Santa Ana, California for the ATP Cycle I Safe Routes to School Sidewalk Improvements at Various Locations in the bid amount of \$777,000 plus a fifteen (15%) percent contingency of \$116,550 for a total authorized expenditure of \$893,550; and authorize the City Manager to execute said contract and related documents, and file a notice of completion at the conclusion of all construction activities for the project.

COUNCIL GOALS: Pursue City's Goals and Objectives by Working with Other Governmental Agencies

Focus Resources in Ontario's Commercial and Residential Neighborhoods

Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: None. The FY 2014-15 Budget includes appropriations of \$1,006,000 from General Fund Grants that has been carried over to FY 2016-17. The City will be reimbursed 100% by the State of California for the construction of this project. The total recommended expenditure authorization of \$893,550 consists of the bid amount of \$777,000 plus a 15% contingency of \$116,550.

BACKGROUND: The scope of services for this project includes right-of-way acquisition, traffic control, clearing and grubbing, grading, protection and demolition of existing public and private improvements within the public right-of-way, modification to existing irrigation systems, curb & gutter, sidewalk, drive approaches, driveways, ADA ramps, asphalt concrete paving, adjustment of water meter boxes and signing and striping. Location exhibits are attached for reference (Exhibits 1 through 4). This project will provide elementary school children and other pedestrians with a continuous, accessible and safe walking path to and from school, community centers, parks and transit centers, so that no child or other pedestrian is walking on a street or shoulder where they are being exposed to traffic hazards.

STAFF MEMBER PRESENTING: Louis Abi-Younes, P.E., City Engineer

Prepared by: Miguel Sotomayor
Department: Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

4

In April 2017 the City solicited bids for the project, and # bids were received. The bid results are:

COMPANY	LOCATION	AMOUNT
Hardy & Harper, Inc.	Santa Ana, CA	\$777,000
EBS General Engineering, Inc.	Corona, CA	\$845,841
Leonida Builders, Inc.	Glendora, CA	\$866,538
G.M. Sager Construction Co., Inc.	Pomona, CA	\$872,167
Gentry General Engineering, Inc.	Rancho Cucamonga, CA	\$872,404
California Landscape & Design, Inc.	Upland, CA	\$981,535

Hardy & Harper of Santa Ana, California submitted the lowest-responsible bid; and is recommended at a project cost of \$777,000.

EXHIBIT 1

Bon View Elementary Sidewalk Improvements

Legend


School Boundaries

-  Bon View Elementary Boundary
-  Bon View Elementary (School Site)



Pedestrian Accidents

-  1 - Fatal
-  2 - Severe Injury
-  3 - Visible Injury
-  4 - Complaint of Pain



Infrastructure Improvements

-  Sidewalk Improvement Segments

School Distance Buffers

-  1/4 Mile Buffer - Bon View Elementary
-  1/2 Mile Buffer - Bon View Elementary

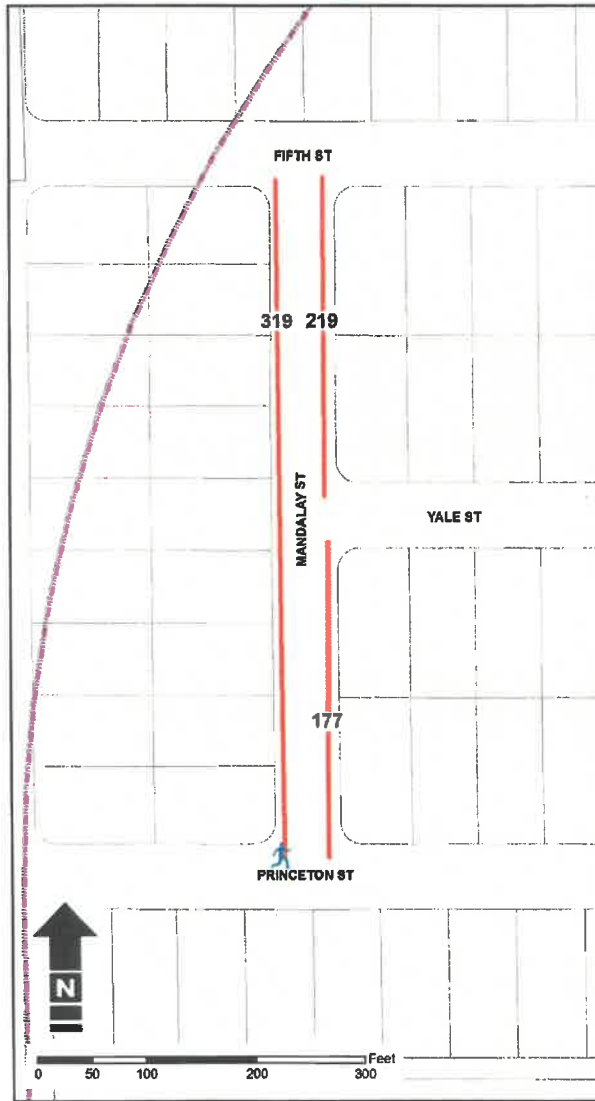
Secondary Map Symbols

-  Parcel Boundaries
-  Parks



May 21, 2014

Source: Transportation Injury Mapping System
Statewide Integrated Traffic Record System (SWITRS)



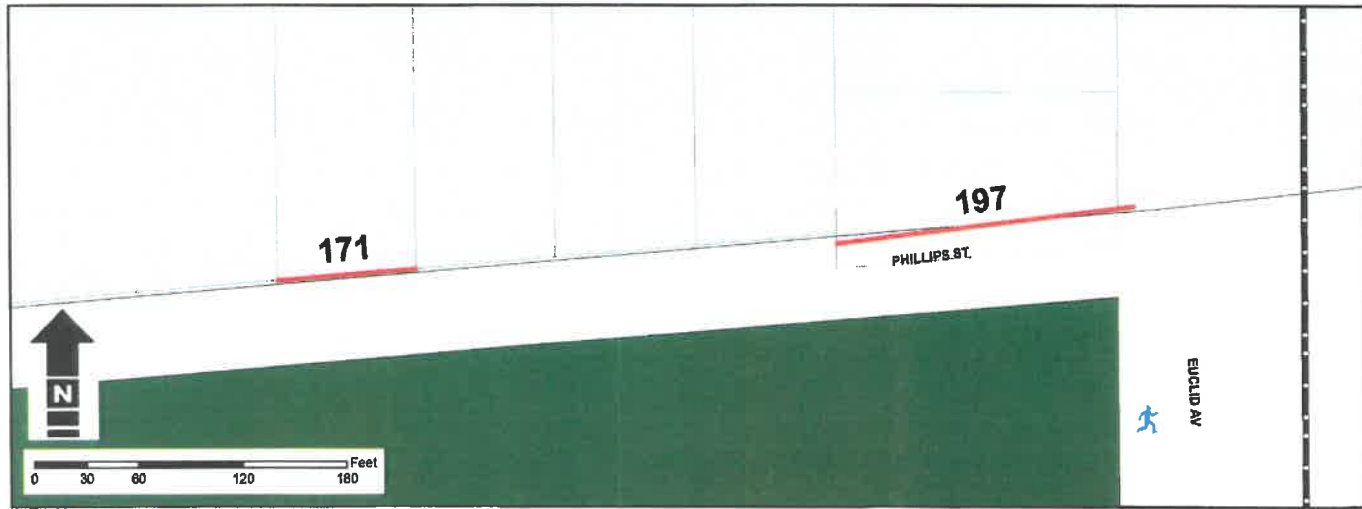
Corona Elementary Sidewalk Improvements

Legend

- School Boundaries**
- Corona Elementary Boundary
 - Corona Elementary (School Site)
- Pedestrian Accidents**
- 1 - Fatal
 - 2 - Severe Injury
 - 3 - Visible Injury
 - 4 - Complaint of Pain
- Infrastructure Improvements**
- Sidewalk Improvement Segments
- School Distance Buffers**
- 1/4 Mile Buffer - Corona Elementary
 - 1/2 Mile Buffer - Corona Elementary
- Secondary Map Symbols**
- Bus Route 83
 - Parcel Boundaries
 - Parks



Source: Transportation Injury Mapping System
Statewide Integrated Traffic Record System (SWITRS)



Euclid Elementary Sidewalk Improvements

Legend

School Boundaries

- Euclid Elementary Boundary
- Euclid Elementary (School Site)

Pedestrian Accidents

- 1 - Fatal
- 2 - Severe Injury
- 3 - Visible Injury
- 4 - Complaint of Pain

Infrastructure Improvements

- Sidewalk Improvement Segments

School Distance Buffers

- 1/4 Mile Buffer - Euclid Elementary
- 1/2 Mile Buffer - Euclid Elementary

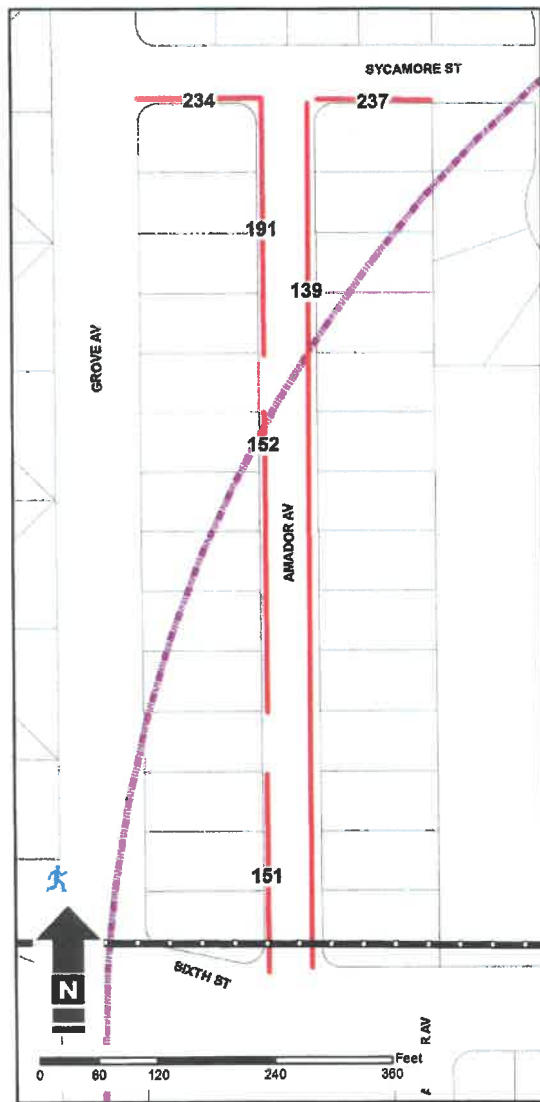
Secondary Map Symbols

- Bus Route 83
- Parcel Boundaries
- Parks
- Community Center



May 21, 2014

Source: Transportation Injury Mapping System
Statewide Integrated Traffic Record System (SWITRS)



Vineyard Elementary Sidewalk Improvements

Legend

- School Boundaries**
 - Vineyard Elementary Boundary
 - Vineyard Elementary (School Site)
- Pedestrian Accidents**
 - 1 - Fatal
 - 2 - Severe Injury
 - 3 - Visible Injury
 - 4 - Complaint of Pain
- Infrastructure Improvements**
 - Sidewalk Improvement Segments
- School Distance Buffers**
 - 1/4 Mile Buffer - Vineyard Elementary
 - 1/2 Mile Buffer - Vineyard Elementary
- Secondary Map Symbols**
 - Bus Route 83
 - Parcel Boundaries
 - Parks



Source: Transportation Injury Mapping System
Statewide Integrated Traffic Record System (SWITRS)

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 18913-3 LOCATED AT THE SOUTHEAST CORNER OF PARKPLACE AVENUE AND PARKVIEW STREET

RECOMMENDATION: That the City Council adopt a resolution approving an improvement agreement, improvement security and Final Tract Map No 18913-3 located at the southeast corner of Parkplace Avenue and Parkview Street within the Subarea-29 Specific Plan area.

COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

FISCAL IMPACT: None. All public infrastructure improvements required for this subdivision will be constructed by the developer at its sole cost.

BACKGROUND: Final Tract Map No. 18913-3 is the third phase of the approved six-phase Tentative Tract Map No. 18913. It is comprised of 2 numbered lots (which in future may be further subdivided to accommodate up to 97 single family units) and 4 lettered lots and has been submitted for approval by the developer, SL Ontario Development Company, LLC, a Delaware Limited Liability Company (Mr. Sage McCleve, Project Manager). The 26.21 gross acreage site is located on the southeast corner of Parkplace Avenue and Parkview Street, as shown on the attached Exhibit A.

Phased Tentative Tract Map No. 18913-3 was approved by the Planning Commission on August 27, 2013 and is consistent with the adopted Subarea 29 Specific Plan.

Improvements will include AC pavement, curb, gutter, landscaped parkways, neighborhood edges, fiber optic conduits, sidewalk, fire hydrants, sewer, water and recycled water mains, storm drain and street lights. The improvements in parkway landscaping will be consistent with current City approved drought

STAFF MEMBER PRESENTING: Louis Abi-younes, P.E., City Engineer

Prepared by: Manoj Hariya, P.E.
Department: Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

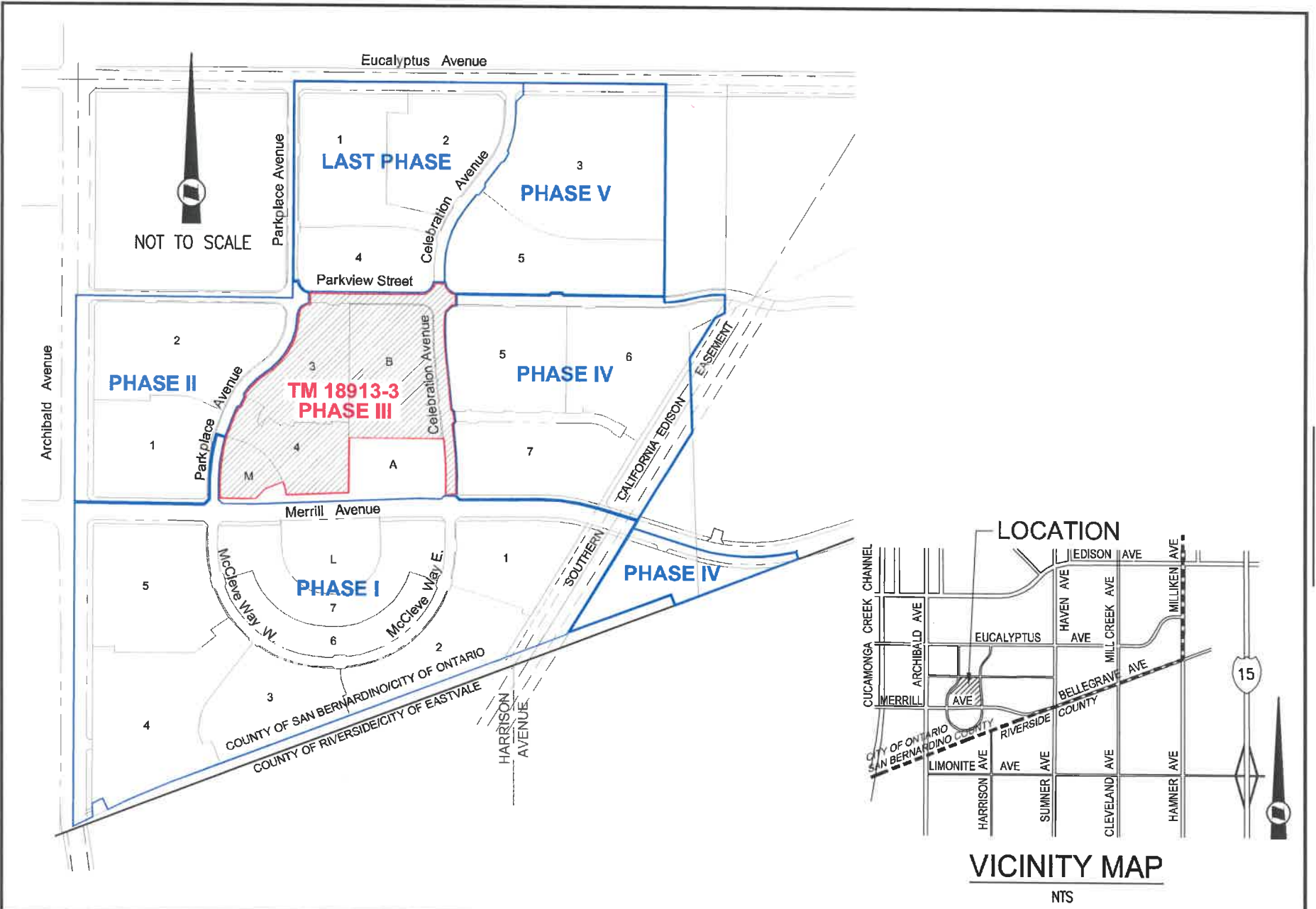
Continued to: _____

Denied: _____

5

measures. The developer has entered into an improvement agreement with the City and has posted adequate security to ensure construction of the required public improvements.

This map meets all conditions of the Subdivision Map Act and the Ontario Municipal Code and has been reviewed and approved by the City Engineer.



LDKING L.D. KING, INC.
 10390 COMMERCE CENTER DRIVE, SUITE 250
 RANCHO CUCAMONGA, CA 91730 (909) 945-0526

EXHIBIT A
TM 18913-3
PHASE III

SHEET 1 of 1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 18913-3, LOCATED AT THE SOUTHEAST CORNER OF PARKPLACE AVENUE AND PARKVIEW STREET.

WHEREAS, Final Tract Map No. 18913-3 is the third phase of the six-phase Tentative Tract Map No. 18913; and

WHEREAS, Tentative Tract Map No. 18913 was submitted for approval by the developer, SL Ontario Development Company, LLC, a Delaware Limited Liability Company, consisting of 7 numbered lots and 14 lettered lots, being a subdivision of Tract Map 17821 as recorded in book 333 of maps, pages 64 through 77, official records, in the County of San Bernardino, State of California, was approved by the Planning Commission of the City of Ontario on August 27, 2013; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Final Tract Map No. 18913-3, said subdivider has offered the improvement agreement together with good and sufficient improvement security, in conformance with the City Attorney's approved format, for approval and execution by the City; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ontario, California, as follow:

1. That said Improvement Agreement be, and the same is, approved and the City manager is authorized to execute same on behalf of said City, and the City Clerk is authorized to attest thereto; and
2. That said Improvement Security is accepted as good and sufficient, subject to approval as to form and content thereof by the City Attorney; and
3. That Final Tract Map No. 18913-3, be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
CONSENT CALENDAR

SUBJECT: FISCAL YEAR 2016-17 THIRD BUDGET UPDATE REPORT

RECOMMENDATION: That the City Council approve the budget adjustments and recommendations as listed in the Fiscal Year 2016-17 Third Budget Update Report.

COUNCIL GOALS: Operate in a Businesslike Manner

FISCAL IMPACT: The recommended actions will affect several fund budgets as outlined in the FY 2016-17 Third Budget Update Report and supporting schedules.

BACKGROUND: This third budget update report for Fiscal Year 2016-17 reflects the Administrative Services Agency's continued efforts to provide timely, accurate, and understandable financial information to assist the City Council with decision making and achieve their core goals. All funds have been reviewed in preparing this report. The emphasis of this report is on the General Fund, which funds the majority of government services including public safety, recreation, library, museum, parks, building, and planning. This report also discusses prior year results, budget trends, and the economic outlook that may impact the City's resources.

The primary purposes of this report are to:

- Revise the City's budget to reflect the City Council's actions taken since the beginning of the current fiscal year;
- Recommend personnel and organizational changes to enhance program operations and efficiency;
- Recommend budget changes to align the budget with projected year-end results;
- Recommend budget adjustments that are consistent with City Council goals and objectives; and
- Comment on significant budget and economic trends which may impact next fiscal year's budget development.

STAFF MEMBER PRESENTING: Grant D. Yee, Administrative Services/Finance Director

Prepared by: Doreen M. Nunes
Department: Fiscal Services

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

6

Third Budget Update Recommendations

The Third Budget Update recommendations are routine in nature and comprised predominately by City Council actions taken since the beginning of the fiscal year, adjustments in the revenue budget to reflect estimates based on current trends, and additional appropriations for new or ongoing programs/projects. For the General Fund, these actions will bring the General Fund estimated available ending fund balance to \$34,125,584; this amount achieves the 18% goal set by City Council.

Major items proposed for the Third Budget Update in the General Fund are: \$1.1 million for additional fire overtime (offset by reimbursement from the California Office of Emergency Services/Cal-OES); \$406,700 for law enforcement and fire safety costs for equipment and vehicles at the Ontario International Airport/ONT (funding provided by a reimbursement agreement with Ontario International Airport Authority/OIAA); \$400,000 to fund the Plaza Serena and East Granada Court storm drain project; \$300,000 for advertising and marketing services; \$250,000 for personnel related services; an additional \$210,600 in the police department budget for uniforms and materials related to recruitment and training; business license and building permit revenue increases of \$200,000 each to reflect current revenue gains; and \$76,000 to fund the replacement of 139 trees on Euclid Avenue.

Noteworthy budget adjustments in Other Funds include: an additional \$1.5 million for the construction of a new fire station in Ontario Ranch (offset by developer fees); an increase of \$1.1 million for sewer treatment services as a result of increased Inland Empire Utilities Agency (IEUA) fees (offset by a corresponding increase to sewer utility revenues); an increase of \$800,000 for landfill disposal services due to contract rate increases (offset by a corresponding increase to solid waste utility revenues); \$600,000 for a tactical response vehicle with a mobile ramp system for the police department (funded by a 2016 Urban Area Security Initiative grant); and an additional appropriation of \$325,000 to fund rising retiree medical costs.

Interim budget updates also present recommendations for personnel and organizational changes necessary to enhance program operations and efficiency. Current recommendations include additional staffing for the law enforcement airport operations, which will result in an increase of eight positions and an overall annual increase of \$1.1 million to the General Fund (offset by reimbursable revenue from OIAA).

Economic Outlook

The local economy is continuing to show signs of improvement, with continued growth in retail sales as well as employment, combined with moderate gains in the housing market. Sales tax revenue for the fourth quarter 2016 grew 9.6% compared to the same quarter a year ago, with office equipment and light industry continuing to be the highest producing sectors. Although the City has experienced strong gains in sales tax revenues, we anticipate a decline or flat growth for the calendar year 2017 due to a loss of a major sales tax producer in the City and the slowing of vehicle sales. Although the Consumer Confidence Index declined in April 2017 to 120.3, after the gains experienced in the previous two months, it still remains at strong levels.

Home values are improving as demonstrated by the strong growth of 8.3% compared to the prior year in the median sale price of single-family homes in the Inland Empire for March 2017. Home sales also experience robust gains of 8.5%. This increase is primarily the result of home buyers being pushed out of the Los Angeles and Orange County housing market due to the higher home prices reflected in those regions.

Gross Domestic Product (GDP), the broadest measure of economic output, increased only minimally at 0.7% for the first quarter of 2017 as a result of the widening of the US trade deficit. This is a decline compared to the gain of 2.1% experienced in the fourth quarter of 2016. In addition, the national labor

market continues to create enough jobs to keep up with the population and labor force growth; these job gains are reflected in a steady unemployment rate for the State of California and the Inland Empire region.

CalPERS

The California State Public Employees Retirement System (CalPERS) is considerably underfunded, primarily due to the lower than projected earning rates combined with significant investment losses incurred during the Great Recession. All of this has contributed to dramatic increases to the City's CalPERS contribution rates. With the recent adoption of amortization and smoothing policy changes by the CalPERS Board to address the severity of the underfunding, significant employer contribution rate increases have begun in this fiscal year. CalPERS' proposed rates will increase by approximately 50% by Fiscal Year 2019-20. In addition, the CalPERS Board of Administration approved in December 2016 lowering the discount rate assumption, the long-term rate of return, from 7.5 percent to 7.0 percent over the next three years. This will increase employer contribution costs by approximately \$4.9 million to the City's General Fund beginning in Fiscal Year 2018-19; this upcoming increase is on top of the already planned increases.

Conclusion

While the City is experiencing improvement during this economic recovery, challenges still remain. The economy is projected to grow slowly over the next couple of years due to a continued stagnant wage growth, the potential negative impact to the economy resulting from the unstable global economy, and the Federal Reserve's current actions to taper back its bond purchases (quantitative easing), which has kept borrowing costs low. In addition, Ontario needs to be cognizant of potential decline or flat growth in sales tax revenues in 2017 due to the relocation of a major sales tax generator out of the City and the slowing of auto sales. This is only partially offset by new business attraction, and the City will continue its economic development strategies to bring new businesses and jobs to Ontario.

The Adopted Operating Budget for FY 2016-17, as modified through this Third Budget Update, reflects the City Council's continued commitment to foster steady, controlled growth and to provide the highest level of service to the community within the City's fiscal constraints. With the City Council's leadership and their prudent fiscal policies, the City's long-term fiscal health will further solidify its standing as the economic leader in the Inland Empire, and a formidable player in California and the nation.

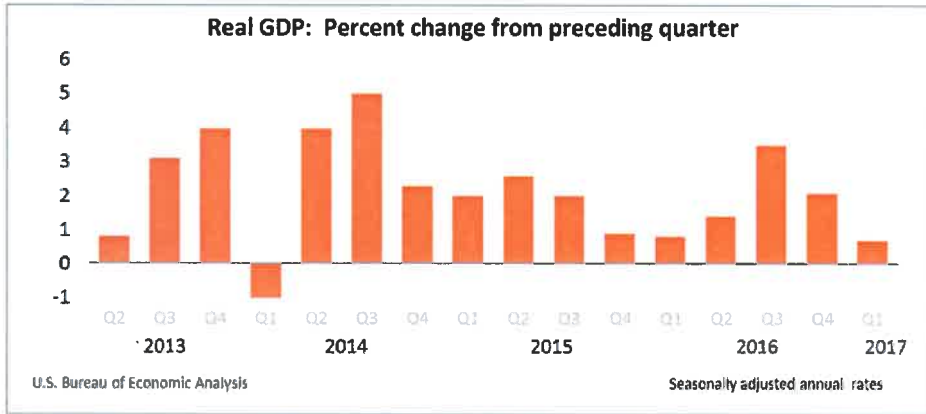
FY 2016-17 THIRD BUDGET UPDATE

MAY 16, 2017

ADMINISTRATIVE SERVICES / FISCAL SERVICES

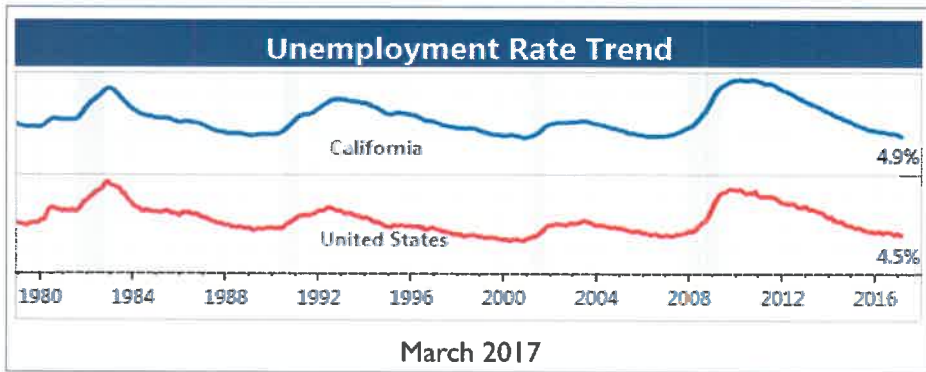


ECONOMIC Outlook



Consumer Confidence Index – April 2017
▼ 4.6pts

Purchasing Manufacturing Index – April 2017
▼ 2.4pts



State of California-Employment Development Department

March-17 State/Region/ County	Median Sold Price of Existing Single-Family Homes		Sales	
	Mar-17	Mar-16	Price YTY% Chg	YTY% Chg
Inland Empire	\$335,660	\$309,890	8.3%	8.5%
Los Angeles Metro	\$474,550	\$448,420	5.8%	6.7%
Southern California				
Los Angeles	\$465,810	\$441,700	5.5%	8.4%
Orange	\$760,000	\$720,000	5.5%	7.3%
Riverside	\$375,000	\$350,000	7.1%	12.9%
San Bernardino	\$263,100	\$237,350	10.8%	1.1%
San Diego	\$571,000	\$550,000	3.8%	8.2%
Ventura	\$672,220	\$620,000	8.4%	-15.8%

California Association of Realtors

FY 2016-17

GENERAL FUND

Third Budget
Update

Total Revenue Current Budget	\$217,028,143
<u>Revenue Adjustments</u>	
Development Related	\$ 400,000
License Fees	70,000
Miscellaneous & Reimbursables	<u>1,060,000</u>
Revised Revenue Budget	<u>\$218,558,143</u>
Total Expenditure Current Budget	\$232,421,380
<u>Expenditure Adjustments</u>	
Public Safety	\$ 1,770,005
Economic Development	300,000
City Support Services	250,000
Community & Public Services	149,425
Development	<u>475,000</u>
Revised Expenditure Budget	<u>\$235,365,810</u>

FY 2016-17 CITY BUDGET BY FUND TYPE

Total \$674.8
(in millions)

Third Budget Update Other Fund Highlights



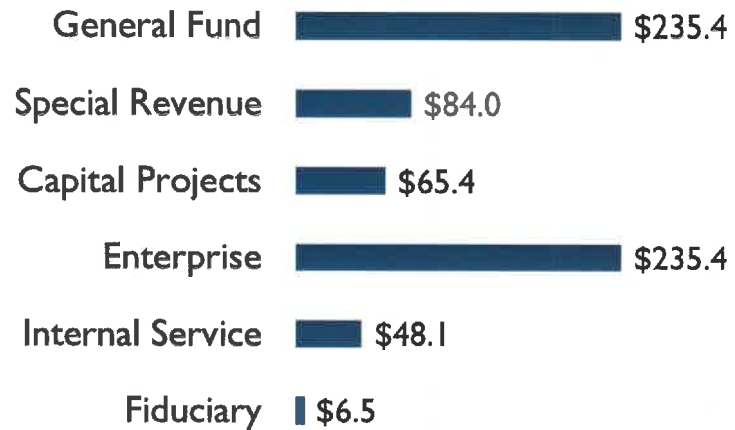
Safety Grants
\$1,094,800



Public Facilities
\$1,500,000



Municipal Utilities
\$1,900,000



0 100 200 300

Third Budget Update Recommended Personnel Changes

ADDITIONS

- Police Corporal (1)
- Police Detective (1)
- Police Sergeant (1)
- Community Service Officer (5)

(Ontario Airport Related)

City of Ontario
Summary of General Fund Recommended Revenue Adjustments
Fiscal Year 2016-17
Third Budget Update

Revenue Source	Original Budget	Current Budget	Recommended Third Budget Update Adjustments	Current Budget After Adjustments	Actuals As of 4/25/2017	Percent of Budget Received
Sales Tax	\$ 74,000,000	\$ 74,000,000	\$ -	\$ 74,000,000	\$ 54,750,223	74.0%
Business License Tax	6,450,000	6,450,000	200,000	6,650,000	6,940,145	104.4%
Occupancy Tax	12,500,000	12,500,000	-	12,500,000	9,528,138	76.2%
Parking Tax	2,800,000	2,800,000	-	2,800,000	1,972,145	70.4%
Franchises	3,250,000	3,250,000	-	3,250,000	2,535,864	78.0%
Property Tax	51,000,000	51,000,000	-	51,000,000	24,361,992	47.8%
Development Related	6,785,000	7,995,291	200,000	8,195,291	8,725,870	106.5%
Motor Vehicle License Fees	-	-	70,000	70,000	76,100	108.7%
Recreation Programs	901,000	901,000	-	901,000	812,990	90.2%
Interest & Rentals	1,825,140	1,825,140	-	1,825,140	124,842	6.8%
Miscellaneous Revenues	7,971,169	17,245,841	-	17,245,841	3,751,749	21.8%
Total Recurring Revenues	<u>\$ 167,482,309</u>	<u>\$ 177,967,272</u>	<u>\$ 470,000</u>	<u>\$ 178,437,272</u>	<u>\$ 113,580,058</u>	63.7%
Reimbursables	<u>2,648,021</u>	<u>3,868,546</u>	<u>1,060,000</u>	<u>4,928,546</u>	<u>3,586,447</u>	72.8%
Total General Fund Revenues	<u><u>\$ 170,130,330</u></u>	<u><u>\$ 181,835,818</u></u>	<u><u>\$ 1,530,000</u></u>	<u><u>\$ 183,365,818</u></u>	<u><u>\$ 117,166,505</u></u>	63.9%

City of Ontario
Summary of General Fund Recommended Expenditure Adjustments
Fiscal Year 2016-17
Third Budget Update

	Expenditures
Adopted Budget	\$ 199,258,107
Current Budget	\$ 211,968,422
Recommended Adjustments:	
Overtime - Fire (offset by Cal-OES reimbursements)	1,060,000
Advertising and marketing services	300,000
Personnel related services	250,000
Uniforms and materials - Police	210,600
Tree replacement services on Euclid Avenue (139 trees)	76,000
Great Park Master Plan proposal services	75,000
Town Square Park holiday decorating services	73,425
Airport related handheld radios: Fire (9)	56,700
Airport related vehicles: Police (6) for new positions	350,000
Recommended Personnel Changes-Airport Related	92,705
Total Recommended Adjustments	\$ 2,544,430
Recommended Budget	\$ 214,512,852

City of Ontario
Summary of General Fund Recommended Transfer Adjustments
Fiscal Year 2016-17
Third Budget Update

	Operating Transfers-In	Operating Transfers-Out
Adopted Budget	\$ 35,038,670	\$ 6,029,933
Current Budget	\$ 35,192,325	\$ 20,452,958
Recommended Adjustments:		
Transfer-out (To Fund 017) Plaza Serena/E. Granada Court Storm Drain Project	\$ -	\$ 400,000
Total Recommended Adjustments	\$ -	\$ 400,000
Recommended Budget	\$ 35,192,325	\$ 20,852,958

City of Ontario
General Fund Balance with Recommended Adjustments
Fiscal Year 2016-17
Third Budget Update

General Fund	Actual 2015-16 Unaudited	Adopted 2016-17 Budget	Prior Budget Update Approved Adjustments	Current 2016-17 Budget	Third Budget Update Recommended Adjustments	Recommended Budget 2016-17
Total Revenues	\$ 196,786,574	\$ 170,130,330	\$ 11,705,488	\$ 181,835,818	\$ 1,530,000	\$ 183,365,818
Total Expenditures	<u>(187,763,354)</u>	<u>(199,258,107)</u>	<u>(12,710,315)</u>	<u>(211,968,422)</u>	<u>(2,544,430)</u>	<u>(214,512,852)</u>
Excess (Deficiency) of Revenues Over (Under) Expenditures	\$ 9,023,220	\$ (29,127,777)	\$ (1,004,827)	\$ (30,132,604)	\$ (1,014,430)	\$ (31,147,034)
Other Sources (Uses):						
Operating Transfer In	\$ 52,543,612	\$ 35,038,670	\$ 153,655	\$ 35,192,325	\$ -	\$ 35,192,325
Operating Transfer Out	<u>(35,535,569)</u>	<u>(6,029,933)</u>	<u>(14,423,025)</u>	<u>(20,452,958)</u>	<u>(400,000)</u>	<u>(20,852,958)</u>
Total Other Sources (Uses)	<u>\$ 17,008,043</u>	<u>\$ 29,008,737</u>	<u>\$ (14,269,370)</u>	<u>\$ 14,739,367</u>	<u>\$ (400,000)</u>	<u>\$ 14,339,367</u>
Excess (Deficiency) of Revenues and Other Financing Sources Over (Under) Expenditures and Other Financing Uses	\$ 26,031,263	\$ (119,040)	\$ (15,274,197)	\$ (15,393,237)	\$ (1,414,430)	\$ (16,807,667)
Fund Balance, Beginning of Year	<u>58,807,530</u>	<u>84,838,793</u>	<u>-</u>	<u>84,838,793</u>	<u>-</u>	<u>84,838,793</u>
Fund Balance, End of Year	<u>\$ 84,838,793</u>	<u>\$ 84,719,753</u>	<u>\$ (15,274,197)</u>	<u>\$ 69,445,556</u>	<u>\$ (1,414,430)</u>	<u>\$ 68,031,126</u>
FUND BALANCE						
Non-Spendable:						
Inventory	\$ 148,673	\$ 148,673	\$ -	\$ 148,673	\$ -	\$ 148,673
Advanced to Other Funds (RDA Loan Repayment)	3,500,000	3,500,000	-	3,500,000	-	3,500,000
Advanced to Other Funds (OIAA Advance)	30,000,000	30,000,000	-	30,000,000	-	30,000,000
Long-Term Receivable	40,000	40,000	-	40,000	-	40,000
Prepays	<u>216,869</u>	<u>216,869</u>	<u>-</u>	<u>216,869</u>	<u>-</u>	<u>216,869</u>
Total Non-Spendable	\$ 33,905,542	\$ 33,905,542	\$ -	\$ 33,905,542	\$ -	\$ 33,905,542
Assigned:						
Continuing Appropriations	3,785,233	3,785,233	(3,785,233)	\$ -	-	-
18% Stabilization Plan	<u>47,148,018</u>	<u>47,028,978</u>	<u>(11,488,964)</u>	<u>35,540,014</u>	<u>(1,414,430)</u>	<u>34,125,584</u>
Total Assigned	\$ 50,933,251	\$ 50,814,211	\$ (15,274,197)	\$ 35,540,014	\$ (1,414,430)	\$ 34,125,584
Total Fund Balance (Non-Spendable, Assigned)	<u>84,838,793</u>	<u>84,719,753</u>	<u>(15,274,197)</u>	<u>69,445,556</u>	<u>(1,414,430)</u>	<u>68,031,126</u>
Total Available for Contingencies and Emergencies	<u>\$ 50,933,251</u>	<u>\$ 50,814,211</u>	<u>\$ (15,274,197)</u>	<u>\$ 35,540,014</u>	<u>\$ (1,414,430)</u>	<u>\$ 34,125,584</u>

City of Ontario
Unreserved Fund Balance with Recommended Adjustments for All Funds
Fiscal Year 2016-17
Third Budget Update

Funds/Sources	Total Unreserved Fund Balance July 1, 2016	Current Budget Control					Estimated Total Unreserved Fund Balance June 30, 2017	Recommended Third Budget Update Adjustments Increase(Decrease) to Fund Balance Net Adjustments	Adjusted Unreserved Fund Balance June 30, 2017
		Revenues	Operating Transfers-In	Operating Transfers-Out	Total Available	Expenditures			
General Fund (incl. encumbrances)									
001 General Fund	\$ 50,933,251	\$ 181,835,818	\$ 35,192,325	\$ 20,452,958	\$ 247,508,436	\$ 211,968,422	\$ 35,540,014	\$ (1,414,430)	\$ 34,125,584
Total General Fund	\$ 50,933,251	\$ 181,835,818	\$ 35,192,325	\$ 20,452,958	\$ 247,508,436	\$ 211,968,422	\$ 35,540,014	\$ (1,414,430)	\$ 34,125,584
Special Revenue Funds									
002 Quiet Home Program	\$ -	\$ 1,052,902	\$ -	\$ -	\$ 1,052,902	\$ 1,052,902	\$ -	\$ -	\$ -
003 Gas Tax	4,366,346	4,051,465	900,000	2,503,722	6,814,089	5,712,895	1,101,194	-	1,101,194
004 Measure I	6,496,669	2,918,261	-	-	9,414,930	7,851,150	1,563,780	-	1,563,780
005 Measure I -Valley Major Projects	-	39,877,606	-	-	-	39,877,606	-	-	-
007 Park Impact/Quimby	(9,849,920)	-	-	-	(9,849,920)	-	(9,849,920)	-	(9,849,920)
008 C.D.B.G.	-	3,089,394	-	-	3,089,394	3,089,394	-	-	-
009 HOME Grants	-	2,061,314	-	-	2,061,314	2,061,314	-	-	-
010 Asset Seizure	4,834,890	-	-	-	4,834,890	1,635,483	3,199,407	(494,800)	2,704,607
011 Neighborhood Stabilization	-	-	-	-	-	-	-	-	-
013 A.D. Administration	993,695	17,479	-	-	1,011,174	274,088	737,086	-	737,086
014 Mobile Source Air	1,035,678	208,305	-	12,704	1,231,279	713,776	517,503	(42,550)	474,953
015 General Fund Grants	-	10,331,407	8,500	-	10,339,907	10,331,407	-	-	-
018 Building Safety	24,777	910,000	-	54,611	880,166	1,139,744	(259,578)	-	(259,578)
019 Parkway Maintenance	938,332	597,633	301,153	222,333	1,614,785	738,575	876,210	-	876,210
021 Storm Drain Fee District	68,846	597	-	-	69,443	-	69,443	-	69,443
060 OMC CFD #21-Parkside Services	43,990	41,258	-	13,500	71,748	27,500	44,248	-	44,248
061 NMC CFD #31-Lennar Services	66,251	200,212	-	193,100	73,363	6,900	66,463	-	66,463
062 NMC CFD #23-Park Place Services	27,063	375,000	-	370,000	32,063	5,000	27,063	-	27,063
063 NMC CFD #24-Park Place Facilities	20,915	871,790	-	-	892,705	7,000	885,705	-	885,705
064 NMC CFD #27-New Haven Services	9,089	140,080	-	135,000	14,169	5,000	9,169	-	9,169
065 NMC CFD #28-New Haven Services	-	190,000	-	-	190,000	7,000	183,000	-	183,000
069 NMC CFD #20-Walmart Services	44,660	26,101	-	4,800	65,961	21,000	44,961	-	44,961
048 Ontario Housing Authority	2,730,857	518,426	-	-	3,143,839	752,406	2,391,433	-	2,391,433
070 Street Light Maintenance	2,048,262	496,130	37,280	105,444	2,570,672	354,436	2,216,236	-	2,216,236
071 CFD #10-Airport Tower Services	-	11,000	-	11,000	-	-	-	-	-
072 NMC CFD #9-Edenglen Services	3,368	547,100	-	534,700	15,768	12,400	3,368	-	3,368
076 Facilities Maintenance	-	-	1,100,000	-	1,100,000	1,100,000	-	-	-
077 Storm Drain Maintenance	965,352	1,243,533	-	-	2,208,885	1,829,890	378,995	(65,000)	313,995
114 Historic Preservation	200,810	1,747	-	-	202,557	-	202,557	-	202,557
119 NMC Public Services	4,312,845	35,110	-	-	4,347,955	-	4,347,955	-	4,347,955
Total Special Revenue Funds	\$ 19,382,775	\$ 69,813,850	\$ 2,346,933	\$ 4,160,914	\$ 47,494,038	\$ 78,606,866	\$ 8,756,278	\$ (602,350)	\$ 8,153,928
Capital Project Funds									
016 Ground Access	\$ 7,552,993	\$ 4,131,497	\$ -	\$ -	\$ 11,684,490	\$ 4,062,052	\$ 7,622,438	\$ -	\$ 7,622,438
017 Capital Projects	28,072,389	8,132,176	2,159,563	-	38,364,128	25,996,396	12,367,732	(585,245)	11,782,487
101 Law Enforcement Impact	(3,929,711)	9,396	-	-	(3,920,315)	-	(3,920,315)	-	(3,920,315)
106 Solid Waste Impact	2,293,212	18,912	-	-	2,312,124	100,000	2,212,124	-	2,212,124

**City of Ontario
Unreserved Fund Balance with Recommended Adjustments for All Funds
Fiscal Year 2016-17
Third Budget Update**

Funds/Sources	Total Unreserved Fund Balance July 1, 2016	Current Budget Control					Estimated Total Unreserved Fund Balance June 30, 2017	Recommended Third Budget Update Adjustments Increase(Decrease) to Fund Balance Net Adjustments	Adjusted Unreserved Fund Balance June 30, 2017
		Revenues	Operating Transfers-In	Operating Transfers-Out	Total Available	Expenditures			
107 General Facility Impact	2,129,434	17,397	-	-	2,146,831	-	2,146,831	-	2,146,831
108 Library Impact	1,391,461	10,777	-	-	1,402,238	-	1,402,238	-	1,402,238
109 Public Meeting Impact	2,289,006	18,160	-	-	2,307,166	49,648	2,257,518	-	2,257,518
110 Aquatics Impact	217,744	1,200	-	-	218,944	-	218,944	-	218,944
112 Species Habitat Impact	1,659,700	12,102	-	-	1,671,802	-	1,671,802	-	1,671,802
120 Affordability In-Lieu	5,344,884	37,781	-	-	5,382,665	-	5,382,665	-	5,382,665
170 OMC - Regional Streets	7,316,489	88,414	-	-	7,404,903	6,213,920	1,190,983	-	1,190,983
171 OMC - Local Adjacent Streets	9,909,858	34,184	-	-	9,944,042	5,624,295	4,319,747	(87,024)	4,232,723
172 OMC - Regional Storm Drains	1,208,527	69,447	-	-	1,277,974	-	1,277,974	-	1,277,974
173 OMC - Local Adjacent Storm Drain	22,757,424	146,324	214,525	-	23,118,273	8,765,324	14,352,949	(56,835)	14,296,114
174 OMC - Regional Water	11,166,997	94,047	-	-	11,261,044	-	11,261,044	-	11,261,044
175 OMC - Local Adjacent Water	1,144,173	23,541	-	-	1,167,714	-	1,167,714	(194,880)	972,834
176 OMC - Regional Sewer	2,208,500	14,986	-	-	2,223,486	-	2,223,486	-	2,223,486
177 OMC - Local Adjacent Sewer	3,662,457	22,245	-	-	3,684,702	296,848	3,387,854	-	3,387,854
178 OMC - Fire Impact	-	-	-	-	-	2,081,468	(2,081,468)	-	(2,081,468)
180 OMC - Regional Streets	1,357,143	10,393	-	-	1,367,536	2,434,314	(1,066,778)	-	(1,066,778)
181 NMC - Local Adjacent Streets	1,622,699	19,084	-	-	1,641,783	-	1,641,783	-	1,641,783
182 NMC - Regional Storm Drains	385,552	8,679	-	-	394,231	-	394,231	-	394,231
183 NMC - Local Adjacent Storm Drain	3,495,515	21,491	-	-	3,517,006	-	3,517,006	-	3,517,006
184 NMC - Regional Water	-	3,197	-	-	3,197	-	3,197	-	3,197
185 NMC - Local Adjacent Water	1,653,710	8,388	-	-	1,662,098	-	1,662,098	-	1,662,098
186 NMC - Regional Sewer	184,570	1,559	-	-	186,129	-	186,129	-	186,129
187 NMC - Local Adjacent Sewer	222,419	2,282	-	-	224,701	-	224,701	-	224,701
188 NMC - Local Regional Fiber	-	258	-	-	258	-	258	-	258
189 NMC - Local Adjacent Fiber	341,305	1,765	-	-	343,070	-	343,070	-	343,070
190 NMC - Fire Impact	8,054,432	637	-	-	8,055,069	7,249,055	806,014	(1,500,000)	(693,986)
501 CFD #9-Edenglen	-	-	-	-	-	-	-	-	-
502 CFD #10-OAT	150	-	-	-	150	-	150	-	150
503 CFD #11-Armada	27,371	-	-	-	27,371	-	27,371	-	27,371
504 CFD #21-Ontario Parkside	74,846	-	-	-	74,846	-	74,846	-	74,846
505 CFD #13-Commerce Center	58,441	-	-	-	58,441	-	58,441	-	58,441
508 CFD #20-Walmart	-	-	-	-	-	-	-	-	-
509 CFD #23 & #24-Park Place Services	78,131	-	-	-	78,131	-	78,131	-	78,131
510 NMC CFD #27-New Haven Services	57,222	-	-	-	57,222	-	57,222	-	57,222
511 Richland Countryside CFD	29,683	-	-	-	29,683	-	29,683	-	29,683
512 NMC CFD #19-Forestar Services	5,822	-	-	-	5,822	-	5,822	-	5,822
513 NMC CFD #1-Lennar Services	-	-	-	-	-	-	-	-	-
514 NMC CFD #2-Archibald/Schaefer Services	2,463	-	-	-	2,463	-	2,463	-	2,463
515 NMC CFD #37-Park & Turner NE Services	29,908	-	-	-	29,908	-	29,908	-	29,908
Total Capital Project Funds	\$ 124,076,919	\$ 12,960,319	\$ 2,374,088	\$ -	\$ 139,411,326	\$ 62,873,320	\$ 76,538,006	\$ (2,423,984)	\$ 74,114,022

City of Ontario
Unreserved Fund Balance with Recommended Adjustments for All Funds
Fiscal Year 2016-17
Third Budget Update

Funds/Sources	Total Unreserved Fund Balance July 1, 2016	Current Budget Control					Estimated Total Unreserved Fund Balance June 30, 2017	Recommended Third Budget Update Adjustments Increase(Decrease) to Fund Balance Net Adjustments	Adjusted Unreserved Fund Balance June 30, 2017	
		Revenues	Operating Transfers-In	Operating Transfers-Out	Total Available	Expenditures				
Enterprise Funds										
024 Water Operating	55,280,575	*	\$ 53,932,235	\$ -	\$ 29,740,596	\$ 79,472,214	\$ 42,425,680	\$ 37,046,534	\$ -	\$ 37,046,534
025 Water Capital	55,029,373	*	11,147,542	18,000,000	4,003,053	80,173,862	64,818,726	15,355,136	-	15,355,136
026 Sewer Operating	25,835,977	*	23,751,780	-	9,759,400	39,828,357	16,832,274	22,996,083	-	22,996,083
027 Sewer Capital	18,572,536	*	164,174	4,000,000	884,686	21,852,024	5,415,281	16,436,743	-	16,436,743
029 Solid Waste	32,878,724	*	32,646,442	-	7,965,021	57,560,145	33,056,251	24,503,894	-	24,503,894
031 Solid Waste Facilities	643,989	*	5,602	-	-	649,591	63,838	585,753	-	585,753
035 I.T. Fiber	4,132		130,000	11,743,517	-	11,877,649	18,480,834	(6,603,185)	-	(6,603,185)
Total Enterprise Funds	\$ 188,245,306		\$ 121,777,775	\$ 33,743,517	\$ 52,352,756	\$ 291,413,842	\$ 181,092,884	\$ 110,320,958	\$ -	\$ 110,320,958
Internal Service Funds										
032 Equipment Services	40,092,705		\$ 11,223,425	\$ -	\$ -	\$ 51,316,130	\$ 23,667,988	\$ 27,648,142	\$ -	\$ 27,648,142
033 Self Insurance	12,856,731		9,414,726	-	-	22,271,457	7,378,168	14,893,289	-	14,893,289
034 Information Technology	22,186,325		8,420,830	90,000	2,083,517	28,613,638	14,724,501	13,889,137	-	13,889,137
099 Other Post Employment Benefits (OPEB)	126,834,259		9,696,482	-	-	136,530,741	4,000,000	132,530,741	(325,000)	132,205,741
Total Internal Service Funds	\$ 201,970,020		\$ 38,755,463	\$ 90,000	\$ 2,083,517	\$ 238,731,966	\$ 49,770,657	\$ 188,961,309	\$ (325,000)	\$ 188,636,309
Fiduciary Funds										
098 General Fund Trust	6,259,828		\$ -	\$ 7,650,000	\$ 2,346,718	\$ 11,563,110	\$ -	\$ 11,563,110	\$ (152,315)	\$ 11,410,795
Total Trust Funds	\$ 6,259,828		\$ -	\$ 7,650,000	\$ 2,346,718	\$ 11,563,110	\$ -	\$ 11,563,110	\$ (152,315)	\$ 11,410,795
	\$ 590,868,099		\$ 425,143,225	\$ 81,396,863	\$ 81,396,863	\$ 976,122,718	\$ 584,312,149	\$ 431,679,675	\$ (4,918,079)	\$ 426,761,596

* Fund Balance amount is the Fund's actual working capital.

**City of Ontario
Recommended Adjustments by Fund
Fiscal Year 2016-17
Third Budget Update**

SCHEDULE VI

Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfer-In	Operating Transfer-Out	Fund Balance Impact
Fund 001 - General Fund					
<i>Current Year Adjustments to Fund Balance</i>					
Overtime - Fire (offset by Cal-OES reimbursements)	1,060,000	1,060,000			-
Revise budget estimate: Business License		200,000			200,000
Revise budget estimate: Building Permits		200,000			200,000
Revise budget estimate: Motor Vehicle License Fee		70,000			70,000
Advertising and marketing services	300,000				(300,000)
Personnel related services	250,000				(250,000)
Uniforms and materials - Police	210,600				(210,600)
Tree replacement services on Euclid Avenue (139 trees)	76,000				(76,000)
Great Park Master Plan proposal services	75,000				(75,000)
Town Square Park holiday decorating services	73,425				(73,425)
Airport related handheld radios: Fire (9)	56,700				(56,700)
Airport related vehicles: Police (6) for new positions	350,000				(350,000)
Transfer-out (To Fund 017) Plaza Serena/E. Granada Court Storm Drain Project				400,000	(400,000)
Recommended Personnel Changes-Airport Related	92,705				(92,705)
Total General Fund Adjustments	2,544,430	1,530,000	-	400,000	(1,414,430)
Fund 010 - Asset Seizure					
Tactical Armored Vehicle - Police	494,800				(494,800)
	494,800	-	-	-	(494,800)
Fund 014 - Mobile Source Air					
Downtown bus stop repair	42,550				(42,550)
	42,550	-	-	-	(42,550)
Fund 015 - General Fund Grants					
FY2016 Urban Area Security Initiative Grant - Tactical Response Vehicle (CC Apprvd 2/21/2017)	600,000	600,000			-
	600,000	600,000	-	-	-
Fund 017 - Capital Projects					
Plaza Serena/E. Granada Court Storm Drain Project (Transfer-in From Fund 001)	400,000		400,000		-
Citizens Business Arena improvements and equipment (Transfer-in From Fund 098)	152,315		152,315		-
Property Acquisition at East Main Street	100,000				(100,000)
Melrose Public Street Improvements Project	71,221	(414,024)			(485,245)
	723,536	(414,024)	552,315	-	(585,245)
Fund 026 - Sewer Operating					
Sewer Treatment Services/Revise budget	1,100,000	1,100,000			-
	1,100,000	1,100,000	-	-	-
Fund 029 - Solid Waste					
Landfill Disposal/Revise budget	800,000	800,000			-
FY2016-17 Used Oil Payment Program - OPP7 (CC Apprvd 6/21/2016)	46,671	46,671			-
	846,671	846,671	-	-	-

**City of Ontario
Recommended Adjustments by Fund
Fiscal Year 2016-17
Third Budget Update**

SCHEDULE VI

Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfer-In	Operating Transfer-Out	Fund Balance Impact
Fund 077 - Storm Drain Maintenance					
J Street Storm Drain Project	65,000				(65,000)
	<u>65,000</u>	-	-	-	<u>(65,000)</u>
Fund 098 - General Fund Trust					
Transfer Out (To Fund 017) Citizens Business Arena improvements and equipment				152,315	(152,315)
	-	-	-	<u>152,315</u>	<u>(152,315)</u>
Fund 099 - Other Post Employment Benefits					
Retired Employee Group Benefits/Revise budget	325,000				(325,000)
	<u>325,000</u>	-	-	-	<u>(325,000)</u>
Fund 171 - OMC-Local Adjacent Streets					
Melrose Public Street Improvements Project: Holt Boulevard (Pleasant to Melrose)	87,024				(87,024)
	<u>87,024</u>	-	-	-	<u>(87,024)</u>
Fund 173 - OMC-Local Adjacent Storm Drain					
6th Street Storm Drain Project/Revise budget (CC Apprvd 4/18/2017)	56,835				(56,835)
	<u>56,835</u>	-	-	-	<u>(56,835)</u>
Fund 175 - OMC-Local Adjacent Water					
Melrose Public Street Improvements Project (Emporia and Melrose)	194,880				(194,880)
	<u>194,880</u>	-	-	-	<u>(194,880)</u>
Fund 190 - NMC Fire Impact					
Fire Station No. 9 Project/Revise budget	1,500,000				(1,500,000)
	<u>1,500,000</u>	-	-	-	<u>(1,500,000)</u>
Total Other Fund Adjustments	<u>6,036,296</u>	<u>2,132,647</u>	<u>552,315</u>	<u>152,315</u>	<u>(3,503,649)</u>

SCHEDULE VII

**City of Ontario
Recommended Personnel and Organizational Changes
Fiscal Year 2016-17
Third Budget Update**

<u>Agency/Department</u>	<u>Position</u>	<u>Action</u>	<u>Salary Range</u>
Police Department (Ontario Airport)	Police Corporal (1)	Addition	\$ 5,994 - \$ 7,286
Police Department (Ontario Airport)	Police Detective (1)	Addition	\$ 6,623 - \$ 8,051
Police Department (Ontario Airport)	Police Sergeant (1)	Addition	\$ 8,161 - \$ 9,920
Police Department (Ontario Airport)	Community Service Officer (5)	Addition	\$ 3,615 - \$ 4,395

<u>Impact by Fund</u>		<u>Current</u>	<u>Annual</u>
Fund 001	General Fund (Airport Related)	92,705	1,112,460
Total		\$ 92,705	\$ 1,112,460

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
CONSENT CALENDAR

SUBJECT: MAINTENANCE SERVICE AGREEMENT FOR WEED ABATEMENT SERVICES

RECOMMENDATION: That the City Council authorize the City Manager to execute a five-year Maintenance Service Agreement (on file with the Records Department) for contract No. PM1617-6 with SoCal Land Maintenance, Inc. located in Anaheim, California, for an annual estimated cost of \$104,873 plus a 5% contingency of \$5,244; and authorize addition of future services; and authorize the option to extend the agreement for up to two additional years consistent with the City Council approved budgets.

COUNCIL GOALS: Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

Ensure the Development of a Well Planned, Balanced and Self Sustaining Community in the New Model Colony

FISCAL IMPACT: The estimated annual base cost of the proposed Maintenance Service Agreement is \$104,873 plus \$5,244 of contingency for urgency services for a total contract of \$110,117 for each of the first five years for a total of \$550,585. Appropriations for maintenance cost for the weed abatement services will be included in the Fiscal Year 2017/2018 proposed operating budget.

At the City's discretion, two additional one-year extensions may be exercised and the optional years include price increases of 2% for the option years. Future contracting actions will be commensurate with the City Council authorized work programs and budgets. Contracting for a the multi-year period will allow the City to: limit the potential for yearly increases to the bid amounts; avoid the costs of re-bidding the contract annually, provide service continuity; and project future costs.

BACKGROUND: In March 2017, the City solicited bids for weed abatement services citywide. Four were received that met the bid criteria and standards necessary to perform this work. A summary of the proposal results reflecting base cost are as follows:

STAFF MEMBER PRESENTING: Mark Chase, Community and Public Services Director

Prepared by: Robert Perez
Department: Parks and Maintenance

City Manager Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

7

<u>Vendor</u>	<u>Location</u>	<u>Amount</u>
SoCal Land	Anaheim, CA	\$104,873
Merchants Landscape	Rancho Cucamonga, CA	\$106,800
S.C. Yamamoto	La Habra, CA	\$113,400
DW Landscape	Upland, CA	\$256,128

SoCal Land Maintenance, Inc. located in Anaheim, California, submitted a proposal that met all the required specifications with base cost, five year total of \$524,365. Based proposal, credentials, pricing and favorable reference checks, staff recommends award of a Maintenance Services Agreement to SoCal Land Maintenance, Inc.

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
CONSENT CALENDAR

SUBJECT: CONSTRUCTION CONTRACT FOR STREET CRACK SEALING SERVICES

RECOMMENDATION: That the City Council authorize the City Manager to execute a three-year Construction Contract (on file with the Records Management Department) for contract No. SM1617-4 with Safe USA, Inc., located in Ontario, California, for an annual estimated cost of \$92,000; and authorize addition of future services; and the option to extend the agreement for up to two additional years consistent with the City Council approved budgets.

COUNCIL GOALS: Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Ensure the Development of a Well Planned, Balanced and Self Sustaining Community in the New Model Colony

FISCAL IMPACT: The estimated annual base cost of the proposed Construction Contract is \$92,000 for each of the first three years for a total of \$276,000. Appropriations for service cost for the crack sealing services will be included in the Fiscal Year 2017/2018 proposed operating budget.

At the City's discretion, two additional one-year extensions may be exercised, and the optional years include price increases of 9% and 4% for the fourth and fifth years. Future contracting actions will be commensurate with the City Council authorized work programs and budgets. Contracting for a multi-year period will allow the City to: limit the potential for yearly increases to the bid amounts; avoid the costs of re-bidding the contract annually, provide service continuity; and project future costs.

BACKGROUND: In April 2017, the City solicited bids for crack sealing services citywide. One bid was received that met all the bid criteria and standards. A summary of the bid reflecting base cost is as follows:

<u>Vendor</u>	<u>Location</u>	<u>Amount</u>
Safe USA, Inc.	Ontario, CA	\$92,000

STAFF MEMBER PRESENTING: Mark Chase, Community and Public Services Director

Prepared by: Robert Perez
Department: Parks and Maintenance

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

8

Safe USA, Inc. located in Ontario, California, submitted a bid that met all the required specifications with base cost, three year total of \$276,000. Based on evaluation of the bid, credentials, pricing and favorable reference checks, staff recommends award of a Construction Contract to Safe USA, Inc.

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
CONSENT CALENDAR

SUBJECT: MAINTENANCE SERVICE AGREEMENT FOR CITYWIDE STREET SWEEPING SERVICES

RECOMMENDATION: That the City Council authorize the City Manager to execute a five-year Maintenance Service Agreement (on file with the Records Department) for contract No. SM1617-2 with CleanStreet, Inc., located in Gardena, California, for an annual estimated cost of \$1,144,010 plus a 5% contingency of \$57,205; and authorize addition of future services; and authorize the option to extend the agreement for up to two additional years consistent with the City Council approved budgets.

COUNCIL GOALS: Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Ensure the Development of a Well Planned, Balanced and Self Sustaining Community in the New Model Colony

FISCAL IMPACT: The estimated annual base cost of the proposed Maintenance Service Agreement is \$1,144,010 plus \$57,201 of contingency for urgency services for a total contract of \$1,201,211 for each of the first five years for a total of \$6,006,055. Appropriations for maintenance cost for street sweeping services will be included in the Fiscal Year 2017/2018 proposed operating budget.

At the City's discretion, two additional one-year extensions may be exercised and the optional years include price increases of 6.5% and 2% for the sixth and seventh years. Future contracting actions will be commensurate with the City Council authorized work programs and budgets. Contracting for a the multi-year period will allow the City to: limit the potential for yearly increases to the bid amounts; avoid the costs of re-bidding the contract annually, provide service continuity; and project future costs.

BACKGROUND: In March 2017, the City solicited bids for street sweeping services citywide. Four proposals were received that met the bid criteria and standards necessary to perform this work. A summary of the proposal results reflecting base cost are as follows:

STAFF MEMBER PRESENTING: Mark Chase, Community and Public Services Director

Prepared by: Robert Perez
Department: Parks and Maintenance

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

9

<u>Vendor</u>	<u>Location</u>	<u>Amount</u>
CleanStreet, Inc.	Gardena, CA	\$1,144,010
R. F. Dickson	Downey, CA	\$1,305,269
Pacific Sweeping	San Marcos, CA	\$1,315,800
Athens Services	City of Industry, CA	\$1,812,450

CleanStreet, Inc. located in Gardena, California, submitted a proposal that met all the required specifications with base cost, five year total of \$5,720,050. Based proposal, credentials, pricing and favorable reference checks, staff recommends award of a Maintenance Services Agreement to CleanStreet, Inc.

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
CONSENT CALENDAR

SUBJECT: MAINTENANCE SERVICE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR THE CITY LANDSCAPE ASSESSMENT MAINTENANCE DISTRICTS

RECOMMENDATION: That the City Council authorize the City Manager to execute a five-year Maintenance Service Agreement (on file with the Records Department) for contract No. PM1617-5 with Merchants Landscape, Inc., located in Rancho Cucamonga, California, for an annual estimated cost of \$370,368 plus a contingency of \$16,350; and authorize addition of future services; and authorize the option to extend the agreement for up to two additional years consistent with the City Council approved budgets.

COUNCIL GOALS: Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Ensure the Development of a Well Planned, Balanced and Self Sustaining Community in the New Model Colony

FISCAL IMPACT: The estimated annual base cost of the proposed Maintenance Service Agreement is \$370,368 plus \$16,350, of contingency for urgency services for a total contract of \$386,718 for the first five years for a total of \$1,933,590. Appropriations for maintenance cost for the landscape maintenance services will be included in the Fiscal Year 2017/2018 proposed operating budget.

At the City's discretion, two additional one-year extensions may be exercised and the optional years include price increases of 6% for each option year. Future contracting actions will be commensurate with the City Council authorized work programs and budgets. Contracting for a the multi-year period will allow the City to: limit the potential for yearly increases to the bid amounts; avoid the costs of re-bidding the contract annually, provide service continuity; and project future costs.

BACKGROUND: In March 2017, the City solicited bids for landscape maintenance services for the City's Landscape Assessment Maintenance Districts. Four proposals were received that met the bid

STAFF MEMBER PRESENTING: Mark Chase, Community and Public Services Director

Prepared by: Robert Perez
Department: Parks and Maintenance

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

10

criteria and standards necessary to perform this work. A summary of the proposal results reflecting base cost are as follows:

<u>Vendor</u>	<u>Location</u>	<u>Amount</u>
Merchants Landscape, Inc.	Rancho Cucamonga, CA	\$370,368
S.C. Yamamoto	La Habra, CA	\$384,000
Brightview	Upland, CA	\$549,996
Mariposa Horticultural	Irwindale, CA	\$595,140

Merchants Landscape, Inc. located in Rancho Cucamonga California, submitted a proposal that met all the required specifications with base cost, five year total of \$1,851,840. Based proposal, credentials, pricing and favorable reference checks, staff recommends award of a Maintenance Services Agreement to Merchants Landscape, Inc.

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
CONSENT CALENDAR

SUBJECT: PROFESSIONAL SERVICES AGREEMENT WITH G&K SERVICES FOR UNIFORM AND DUST CONTROL ITEM RENTAL AND CLEANING

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute a Professional Services Agreement (on file in the Records Management Department) with G&K Services of Ontario, California to provide uniform and dust control item rental and cleaning services for approximately \$78,000 annually for three years with the option to extend the agreement at the City's discretion for up to two consecutive one-year periods consistent with City Council approved budgets.

COUNCIL GOALS: Operate in a Businesslike Manner

FISCAL IMPACT: The City's Fiscal Year 2016-17 expenses for the rental, cleaning and replacement of uniforms, coveralls, towels, door mats, and dust control items for various City departments are estimated to be \$78,000. The proposed agreement includes pricing that results in approximately a 10% cost savings from current pricing.

BACKGROUND: The City currently contracts for uniform and dust control item rental and cleaning services for the Municipal Utilities Company, Housing and Municipal Services Agency, Community and Public Services Agency, Police Department, and Fire Department. These services assist in maintaining a safe and professional appearance for the City's personnel and facilities. These services also provide clean, quality material necessary for the effective maintenance of the City's equipment and facilities.

On April 5, 2017, the City solicited proposals for Uniform and Dust Control Items Rental and Cleaning Services and received two responses from the firms listed below.

<u>Firm</u>	<u>Location</u>
Aramark Uniform Services	Riverside, CA
G&K Services	Ontario, CA*

*Local vendors receive a 1.75% preference per Ontario Municipal Code Section 2-6.22 as updated by Ordinance No. 3054.

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Anthony Parada
Department: MU/Administration

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

11

A selection committee comprised of staff from Municipal Utilities Company, Housing and Municipal Services Agency, Community and Public Services Agency, Police Department, and the Fire Department evaluated the responses to ensure a high level of service and standards for City personnel. The selection committee recommends award to G&K Services based on the quality and responsiveness of the proposal, qualifications and expertise, and overall pricing.

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
CONSENT CALENDAR

SUBJECT: AMENDMENT TO THE EXISTING AGREEMENT WITH THE CITY OF FONTANA REGARDING TRANSFER OF RIGHT OF FIRST PURCHASE FOR RECHARGED RECYCLED WATER

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute an amendment to the existing agreement with the City of Fontana, subject to non-substantive changes, regarding the transfer of right of first purchase for recharged recycled water consistent with City Council approved budgets.

COUNCIL GOALS: Pursue City's Goals and Objectives by Working with Other Governmental Agencies

Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The current Adopted Fiscal Year 2016-17 Budget and the Proposed Fiscal Year 2017-18 budget will include appropriations from the Water Operating Fund for the purchase of recharged recycled water. Pursuant to the existing agreement, Fontana transfers to the City of Ontario up to three thousand (3,000) acre-feet (AF) per fiscal year of Fontana's share of recycled water recharged into the groundwater basin. The cost to Ontario is currently 86% of the Metropolitan Water District of Southern California (MWD) Untreated Full Service Tier I rate (\$594 per AF in 2016). Upon mutual agreement by both Ontario and Fontana, this amendment will allow for purchase prices to reflect the current fair market value conditions when transfers occur. There is no impact to the General Fund.

BACKGROUND: The City of Fontana and the City of Ontario are both parties to the Chino Basin Regional Sewage Service Contract (Regional Contract), and currently have an agreement addressing assignment, transfer and compensation regarding recharged recycled water. The agreement is consistent with Sections 15 and 16 of the Regional Contract which provides each contracting agency with the right to purchase recycled water up to the quantity of wastewater delivered to the treatment plants by that agency and provides each contracting agency the authority to transfer such right.

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Tom O'Neill
Department: MU/Administration

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

12

The proposed amendment is intended to reestablish a fair market value for the water given the significant changes in related water rates and structures since the original agreement was executed in 2008. The cost of recycled water purchased from the Inland Empire Utilities Agency (IEUA) has increased significantly over the past several years. In addition, MWD has modified its rate structure that was used as the benchmark for the purchase price under this agreement. Payments by Ontario are made to IEUA for the current recycled water rate and to Fontana for the difference between 86% of the current MWD rate and the recycled water rate. The net effect is that Ontario acquires water in the groundwater basin at 86% of the cost to purchase water from MWD.

This amendment will continue to provide local beneficial use of this valuable resource and provide financial benefits to both parties. The initial term of this Agreement expires in January 2031 and may be renewed for an additional period of ten (10) years. At the conclusion of the initial 10-year renewal term, if Fontana chooses to offer the water on the open market, this amendment provides Ontario with the right of first purchase to match all other offers.

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
CONSENT CALENDAR

SUBJECT: AGREEMENT WITH THE COUNTY OF SAN BERNARDINO FOR THE OPERATION OF A HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITY

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute an Agreement (on file with the Records Management Department) with the County of San Bernardino (County) for the Operation of a Household Hazardous Waste (HHW) Collection Facility.

COUNCIL GOALS: Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: The Proposed Fiscal Year 2017-18 Budget includes appropriations in the Solid Waste Fund for these services, inclusive of \$25,000 of annual grant funding through the Used Oil Payment Program. The recommended agreement amount of \$276,590 for Fiscal Year 2017-18 is a 3% increase over the prior year. The agreement is for five years and will increase 3% annually for each of the remaining four years. There is no impact to the General Fund.

BACKGROUND: The State of California Public Resources Code requires cities and counties to prepare a Household Hazardous Waste Element which identifies a program for the safe collection, recycling, treatment and disposal of hazardous wastes which are generated by households in the City. As part of the Household Hazardous Waste Element, the City provides its residents a Household Hazardous Waste Collection Facility, which is located at 1430 South Cucamonga Avenue. The facility is open Fridays and Saturdays between the hours of 9:00 a.m. and 2:00 p.m. The facility accepts paint, motor oils, batteries, pesticides, paint, electronic waste and other commonly generated household hazardous wastes.

The County provides personnel to operate the facility along with: a re-use area; 24-hour emergency response capability to respond to the facility in order to mitigate any emergency that might arise at the facility as a result of operations; an annual report to the City that includes the amount, types of waste collected, and final disposition of waste collected; and, waste storage containers and a secure storage

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Bob Figoni
Department: MU/Solid Waste

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

13

shed meeting Department of Transportation specifications. The County assumes responsibility for maintaining the necessary site permits and responsibility for the on-site management, transportation, recycling and disposal of the materials and waste collected at the site. The County either removes the accumulated wastes or contracts with a licensed hazardous waste hauler for as needed removal, recycling or disposal of wastes at approved facilities, at no additional cost to the City.

The County has provided this service for the City of Ontario since 1996. Added benefits of contracting with the County include giving residents the option of using any other County-run HHW facility, and staff networking opportunities with other County-run cities to keep abreast of changing State requirements and regulations. The current agreement expires on June 30, 2017. Either party may terminate the agreement for any reason at any time upon 90 days prior written notice to the other party.

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING REGARDING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT AND RETENTION AGREEMENT BETWEEN THE CITY OF ONTARIO AND WAXIE'S ENTERPRISES, INC. PURSUANT TO GOVERNMENT CODE SECTION 53083; CONSIDERATION OF RESOLUTIONS ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT, APPROVING THE RETENTION AGREEMENT, AND MAKING RELATED FINDINGS

RECOMMENDATION: That the City Council take the following actions:

- (A) Hold a public hearing;
- (B) Adopt a resolution accepting the Economic Development Subsidy Report prepared pursuant to Government Code Section 53083 regarding a Retention Agreement (on file with the Records Management Department) by and between the City of Ontario and Waxie's Enterprises, Inc. an Arizona corporation DBA Waxie Sanitary Supply ("Waxie");
- (C) Adopt a resolution approving the Retention Agreement for no less than fifteen years, authorizing the City Manager to make any required non-substitutive edits and execute the Retention Agreement, and making related findings; and
- (D) Direct City staff to file a categorical exemption based upon the City Council's finding that the impacts for this existing facility is not a project and subject to environmental review and that there is no possibility that the activity in question may have a significant effect on the environment.

**COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner**

FISCAL IMPACT: Pursuant to the terms of the proposed Retention Agreement, the operating covenant payment between the City and Waxie is calculated based on Waxie's sales tax revenue in an

STAFF MEMBER PRESENTING: John P. Andrews, Economic Development Director

Prepared by: Nicholas Gonzalez
Department: Economic Development

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

14

amount equal to the sum of twenty-five percent (25%) of Waxie's sales tax revenues attributable to the location in excess of the base sales tax amount (i.e. \$804,000 annually) for each computation quarter during the eligibility period. The total covenant payment by the City to Waxie shall not exceed five hundred thousand dollars (\$500,000).

Entering into the Retention Agreement ensures that local sales tax revenue generated by Waxie will continue to remain in the City.

BACKGROUND: Waxie's Enterprises, Inc. DBA Waxie Sanitary Supply ("Waxie"), currently operates a distribution and showroom facility out of an approximately 120,000 square foot facility in the City. As one of the City's top sales tax producers, the City is committed to preserving the continued growth and prosperity, which is consistent with City Council goals to invest in the growth and evolution of the City's economy. Through the sales tax revenue received, the City is able to fund necessary public services and facilities, including but not limited to, public safety services and facilities, public improvement and recreation opportunities that otherwise may not be available to the community for many years.

Through the City's proactive economic development and business retention initiatives, the City first heard that Waxie was looking to expand their operations and leave the City due to exponential growth in the area. In light of Waxie's importance to the community, including job opportunities, staff recommends a Retention Agreement to incentivize Waxie to remain in the City, continue and expand their operations. If approved, the Retention Agreement to Waxie by the City will be an amount equal to 25% of sales tax revenues in excess of the base sales tax amount, with a not to exceed amount of \$500,000, during the period ending June 30, 2032.

The continued operation of Waxie within the City will result in the retention of existing jobs, allow for the potential increase in job opportunities at this location as the business expands, foster a business and civic environment that may attract additional businesses and investment and create additional job opportunities in the City and further increase the jobs/housing balance in the City.

Senate Bill 533 went into effect on January 1, 2016. This bill prohibits a local agency from entering into an agreement that would result in the payment of local tax revenues to an entity if the agreement will result in a reduction of Bradly Burns local tax revenues to another local agency and the entity is maintaining a presence in the other local jurisdiction. As Waxie's Enterprises, Inc. DBA Waxie Sanitary Supply currently has their location in the City of Ontario and allocates sales tax revenues to the City, the prohibitions in SB 533 are not applicable to this proposed Retention Agreement.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT PREPARED PURSUANT TO GOVERNMENT CODE SECTION 53083 REGARDING THE RETENTION AGREEMENT BETWEEN THE CITY OF ONTARIO AND WAXIE'S ENTERPRISES, INC.

WHEREAS, the City of Ontario ("City") and Waxie's Enterprises, Inc. DBA Waxie Sanitary Supply ("Waxie") have negotiated a Retention Agreement ("Agreement") for the retention of a distribution and showroom facility within the City; and

WHEREAS, pursuant to that Agreement Waxie is committed to continue operating a distribution and showroom facility in the City for an additional fifteen year period; and

WHEREAS, Waxie is also covenanted to, among other things, designate the City as the point of sale for certain transactions; and

WHEREAS, the City has agreed to purchase those covenants through quarterly payments equal to twenty-five percent (25%) of the sales tax, above a base sales tax amount, generated by transactions allocated to the distribution and showroom facility; and

WHEREAS, based on information provided by City staff, and other such written and oral evidence as presented to the City, the City finds and determines that the allocation of funds to Waxie pursuant to the Agreement is reasonably related to a legitimate governmental purpose in that the retention of the distribution and showroom facility will provide numerous public benefits including:

- Generating substantial revenue for the City through additional Local Sales Tax Revenue which may be used by the City for the funding of necessary public services and facilities, including but not limited to, public safety services and facilities, public improvements and recreational opportunities that otherwise may not be available to the community for many years; and
- Waxie's commitment to maintaining the distribution and showroom facility in the City of Ontario will ensure the retention and creation of jobs and provide opportunity for additional job growth throughout the term of this Agreement; and
- Entering into this Agreement and retaining the distribution and showroom facility may attract additional businesses and investment in the community due to increased services and economic activity in the area; and
- Retaining this business within the City will create jobs, maintain economic diversity in the community and stimulate the economic recovery of the Inland Empire by generating new opportunities for economic growth within the region; and

- Retaining Waxie's operations within the City will generate substantial revenue for the City, allow for the retention of jobs, revitalize an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years; and

WHEREAS, in accordance with Government Code Section 53083, the City provided certain information in written form to the public and on its website, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference, and held a noticed public hearing on May 16, 2017 to consider all written and oral comments on the Economic Development Subsidy Report; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ontario as follows:

SECTION 1. Incorporation of Recitals. The foregoing recitals are true and correct, and are incorporated herein and made an operative part of this Resolution.

SECTION 2. Findings. The City Council additionally finds and determines that (a) there are identifiable public purposes fulfilled by the Agreement, as set forth in the Recitals, that outweigh the benefit to private persons; and (b) the findings set forth in this Resolution are based upon substantial written and oral evidence presented to the City Council.

SECTION 3. CEQA. The City Council hereby finds that pursuant to the California Environmental Quality Act ("CEQA") (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), approval of the Agreement and acceptance of the Economic Development Subsidy Report is not a "project" for purposes of CEQA and therefore is not subject to CEQA review. The Agreement and acceptance of the Economic Development Subsidy Report is not a project pursuant to State CEQA Guidelines section 15378(b)(4), which states that government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant environmental impact are not subject to CEQA. Further, the Agreement and acceptance of the Economic Development Subsidy Report is not a project under State CEQA Guidelines section 15061(b)(3), which states that CEQA does not apply where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

In addition, the City Council will direct staff to file a categorical exemption with the County of San Bernardino for this location upon adoption of this Resolution.

SECTION 4. Acceptance of Economic Development Subsidy Report. The City Council finds and determines that this Economic Development Subsidy Report is in compliance with applicable law and specifically Government Code Section 53083.

SECTION 5. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 6. Effective Date. This Resolution shall become effective immediately upon its adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A
ECONOMIC DEVELOPMENT SUBSIDY REPORT

[Attached behind this cover page]

**ECONOMIC DEVELOPMENT SUBSIDY REPORT
PURSUANT TO GOVERNMENT CODE SECTION 53083**

**FOR AN OPERATING COVENANT AGREEMENT
BY AND BETWEEN
CITY OF ONTARIO**

AND

WAXIE'S ENTERPRISES, INC. DBA WAXIE SANITARY SUPPLY

Pursuant to Government Code Section 53083, the City Council of the City of Ontario must hold a noticed public hearing and, prior to the public hearing, provide all of the following information in written form and available to the public and through the City's website, regarding a proposed economic development subsidy to be provided by the City pursuant to an Operating Covenant Agreement by and between the City of Ontario and Waxie's Enterprises, Inc. DBA Waxie Sanitary Supply ("Agreement"). Notice was published in the local newspaper for a public hearing to be held on May 16, 2017.

The purpose of this report is to provide the information required pursuant to Government Code Section 53083 in regards to the Agreement. This report shall remain available to the public and posted on the City's website until the end date of the economic development subsidy, as further described in number 2 below.

- 1. The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy.**

The Agreement is with Waxie's Enterprises, Inc. DBA Waxie Sanitary Supply, an Arizona corporation. Waxie's Enterprises, Inc. DBA Waxie Sanitary Supply is the sole beneficiary of the economic development subsidy.

Waxie's Enterprises, Inc.
DBA Waxie Sanitary Supply
905 N. Wineville Avenue
Ontario, CA 91764

- 2. The start and end dates and schedule, if applicable, for the economic development subsidy.**

If the Agreement is approved by the City Council, the start date of the economic development subsidy for the Retention Agreement will be for the period commencing July 1, 2017 and ending June 30, 2032, unless extended pursuant to the terms of the Agreement.

The economic development subsidy will be paid quarterly (every 3 months), within 120 days of the end of each Computation Quarter. Computation Quarters run from January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31.

3. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.

Pursuant to the terms of the proposed Retention Agreement, the operating covenant payment between the City and Waxie is calculated based on Waxie's sales tax revenue in an amount equal to the sum of twenty-five percent (25%) of Waxie's sales tax revenues attributable to the location in excess of the base sales tax amount (i.e. \$804,000) for each computation quarter during the eligibility period. The total covenant payment by the City to Waxie shall not exceed Five Hundred Thousand Dollars (\$500,000).

4. A statement of the public purposes for the economic development subsidy.

Waxie's Enterprises, Inc. DBA Waxie Sanitary Supply ("Waxie"), currently operates a distribution and showroom facility out of an approximately 120,000 square foot facility in the City. As one of the City's top sales tax producers, the City is committed to preserving the continued growth and prosperity, which is consistent with City Council goals to invest in the growth and evolution of the City's economy. Through the sales tax revenue received, the City is able to fund necessary public services and facilities, including but not limited to, public safety services and facilities, public improvement and recreation opportunities that otherwise may not be available to the community for many years. Through this Agreement, Waxie will be committed to retaining and operating their distribution and showroom facility in the City for transacting sales.

The public purpose of the economic development subsidy includes, but is not limited to, maintaining and creating jobs and stimulating the economic recovery of the Inland Empire. Waxie has agreed to retain the distribution and showroom facility within the City for a period of not less than 15 years. The City has determined that the retention of the distribution and showroom facility within the City will continue to generate substantial revenue for the City, retain jobs, revitalize an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years. Additionally, by having a company like Waxie remain in the City, the City will be adding diversity to and generating new opportunities for economic growth.

Further, the commitment to stay in Ontario serves the additional public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom, thereby assisting the City in its goal of furthering the development of the community.

5. The projected tax revenue to the local agency as a result of the economic development subsidy.

The City anticipates that the retention of the distribution and showroom facility within the City will result in an approximate increase of sales tax revenue by \$500,000 per year, minus the covenant payments to be paid to Waxie, as set forth in number 2 above.

There will also be an increase in other taxes including business license tax and real property taxes, in an approximate amount of \$25,000.

6. The estimated number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions.

The retention of the distribution and showroom facility within the City is anticipated to result in the retention of approximately 200 jobs and the potential creation of new jobs over the term of the Agreement, as follows:

- 5 full-time jobs
- 5 part-time jobs

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE RETENTION AGREEMENT BETWEEN THE CITY OF ONTARIO AND WAXIE'S ENTERPRISES, INC. AND MAKING RELATED FINDINGS.

WHEREAS, Waxie's Enterprises, Inc. DBA Waxie Sanitary Supply ("Waxie"), an Arizona Corporation, currently has an existing distribution and showroom facility in the City of Ontario ("City") may consider relocating its existing distribution and showroom facility out of the City; and

WHEREAS, to ensure that Waxie remains in the City and continues to expand its business, Waxie and the City have negotiated a Retention Agreement ("Agreement") which provides incentives to ensure Waxie maintains the existing distribution and showroom facility within the City and expands its operations within the City as appropriate; and

WHEREAS, the City has determined that the retention of the Waxie distribution and showroom facility within the City will generate substantial revenue for the City, allow for the retention of and the creation of new jobs, revitalize an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years; and

WHEREAS, entering into this Agreement and ensuring the retention of the distribution and showroom facility may attract additional businesses and investment to the community due to increased services and economic activity in the area; and

WHEREAS, on May 16, 2017, the City Council of the City of Ontario conducted a public hearing to consider the Agreement and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ontario as follows:

SECTION 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. Findings. The City Council hereby finds that:

(a) Entering into this Agreement will serve the following public purposes:

(1) Waxie will be committed to retaining the distribution and showroom facility in the City of Ontario.

(2) Retaining this business within the City will create jobs, maintain economic diversity in the community and stimulate the economic recovery of the Inland Empire by generating new opportunities for economic growth within the region.

(3) Retaining Waxie's distribution and showroom facility within the City will generate substantial revenue for the City, allow for the retention of jobs, revitalize an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years.

(4) Entering into this Agreement and ensuring the retention of the distribution and showroom facility may attract additional businesses and investment in the community due to increased services and economic activity in the area.

(b) Based upon these and other public benefits the public purposes of the Agreement outweigh any private benefit to private persons or entities.

(c) Contingent Obligations. The City finds that each City obligation is contingent upon separate consideration by Waxie including but not limited to quarterly sales tax generation.

SECTION 3. CEQA Compliance. The City Council hereby finds that pursuant to the California Environmental Quality Act ("CEQA") (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), approval of the Agreement is not a "project" for purposes of CEQA and therefore is not subject to CEQA review. The Agreement is not a project pursuant to State CEQA Guidelines section 15378(b)(4), which states that government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant environmental impact are not subject to CEQA. Further, the Agreement is not a project under State CEQA Guidelines section 15061(b)(3), which states that CEQA does not apply where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

In addition, the City Council will direct staff to file a categorical exemption with the County of San Bernardino for this location upon adoption of this Resolution.

SECTION 4. Approve Agreement. The City Council hereby approves the Retention Agreement in the form attached to this Resolution as Exhibit A. The City Council hereby authorizes the City Manager, with the concurrence of the City Attorney, to execute said Agreement. City Manager is hereby authorized to take any additional steps necessary to facilitate the intent of this action.

SECTION 5. Implementation. The City Manager or his or her designee is hereby authorized and directed to, on behalf of the City, execute any and all documents in accordance with this Resolution and applicable law.

SECTION 6. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect

without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 7. Certification. The City Clerk shall certify to the adoption of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A
RETENTION AGREEMENT

[Attached behind this cover page]

**RETENTION AGREEMENT
(Waxie)**

Between

**THE CITY OF ONTARIO,
a California municipal corporation**

and

**WAXIE'S ENTERPRISES, INC.
an Arizona corporation
dba Waxie Sanitary Supply**

[Dated as of _____ 2017 for reference purposes only]

This RETENTION AGREEMENT (Waxie) (“**Agreement**”) is entered into by and between THE CITY OF ONTARIO, a California municipal corporation (“**City**) and WAXIE’S ENTERPRISES, INC., an Arizona corporation (“**Waxie**”), as of [TO BE DETERMINED], for reference only. The City and Waxie are sometimes each, individually, referred to in this Agreement as a “**Party**” and, collectively, as the “**Parties.**” The City and Waxie enter into this Agreement with reference to the following facts (“**Recitals**”):

RECITALS

WHEREAS, Waxie owns that certain real property in the City of Ontario, County of San Bernardino, commonly known as [INSERT STREET ADDRESS] (“**Property**”); and

WHEREAS, Waxie, dba Waxie Sanitary Supply, currently operates a distribution and showroom facility out of an approximately 120,000 square foot facility at the Property (“**Business**”); and

WHEREAS, the conduct of the Business in the City has resulted in the creation of new job opportunities for City and area residents and assisted the City in establishing and maintaining a jobs/housing balance within the City, thereby creating social, economic and environmental benefits;

WHEREAS, Waxie is looking at its long term growth projections and its long term corporate expansion plans. City desires that Waxie not look outside the City for any future growth opportunities as that could result in a significant loss of jobs within the community; and

WHEREAS, City and Waxie are interested in entering this Retention Agreement to provide certain incentives to ensure the retention of and potential future expansion of the Business in Ontario on the Property; and

WHEREAS, the continued operation of the Business within the City will result in the retention of existing jobs, allow for the potential increase in job opportunities at the Business, foster a business and civic environment that may attract additional businesses and investment and create additional job opportunities in the City and further increase the jobs/housing balance in the City.

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES SET FORTH IN THIS AGREEMENT, THE CITY AND WAXIE AGREE, AS FOLLOWS:

1. Incorporation of Recitals. The Recitals of fact set forth above are true and correct and are incorporated into this Agreement in their entirety by this reference.

2. Effective Date of this Agreement.

2.1 This Agreement is dated [TO BE DETERMINED] for reference purposes only. This Agreement will not become binding on the Parties unless and until the first date on which all of the following occur, if at all (“**Effective Date**”):

2.1.1 Waxie has delivered a copy of this Agreement and the Official Action to the City, each signed by the appropriately authorized representatives of Waxie; and

2.1.2 This Agreement is approved by the City Council of the City at a public meeting of the City following all legally required noticing and public hearings and such approval is evidenced by a resolution adopted by the City Council of the City; and

2.1.3 This Agreement is signed by the authorized representative(s) of the City .

2.2 If all conditions precedent to the Effective Date are not satisfied on or before June 1, 2017, then no part of this Agreement shall become binding on or enforceable against any Party and any prior signatures or approvals of this Agreement by either the City or Waxie shall be void and of no force or effect.

2.3 Parties to Retention Agreement.

2.3.1 The City. The address of the City is 303 East B Street, Ontario, California 91764, Attention: Al C. Boling; telephone 909-395-2396; facsimile: 909-395-2189; with copies to John Brown, City Attorney, 2855 East Guasti Road, Suite 400, Ontario, CA 91761, Telephone: (909) 989-8584.

2.3.1.1 The City represents and warrants to Waxie that, to the City's actual current knowledge:

2.3.1.2 The City is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the laws of the State of California;

2.3.1.3 The City has taken all actions required by law to approve the execution of this Retention Agreement;

2.3.1.4 The City's entry into this Retention Agreement and/or the performance of the City's obligations under this Retention Agreement does not violate any contract, agreement or other legal obligation of the City;

2.3.1.5 The City's entry into this Retention Agreement and/or the performance of the City's obligations under this Retention Agreement does not constitute a violation of any state or federal statute or judicial decision to which the City is subject;

2.3.1.6 There are no pending lawsuits or other actions or proceedings which would prevent or impair the timely performance of the City's obligations under this Retention Agreement;

2.3.1.7 The City has the legal right, power and authority to enter into this Retention Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Retention Agreement has been duly authorized and no other action by the City is requisite to the valid and binding execution, delivery and performance of this Retention Agreement, except as otherwise expressly set forth herein; and

2.3.1.8 The individual executing this Retention Agreement is authorized to execute this Retention Agreement on behalf of the City.

2.3.1.9 The representations and warranties set forth above are material consideration to Waxie and the City acknowledges that Waxie is relying upon the representations set forth above in undertaking Waxie's obligations set forth in this Retention Agreement.

2.3.1.10 As used in this Retention Agreement, the term "City's actual current knowledge" shall mean, and shall be limited to, the actual current knowledge of the City Manager as of the Effective Date, without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

2.3.1.11 All of the terms, covenants and conditions of this Retention Agreement shall be binding on and shall inure to the benefit of the City and its nominees, successors and assigns.

2.3.2 Waxie. The address of Waxie for purposes of this Retention Agreement is _____; telephone [***INSERT TELEPHONE NUMBER***]; facsimile [***INSERT FACSIMILE NUMBER***].

2.3.2.1 Waxie represents and warrants to the City that, to its actual current knowledge:

2.3.2.2 Waxie is a duly formed California corporation, qualified and in good standing to do business under the laws of the State of California;

2.3.2.3 The individual(s) executing this Retention Agreement is/are authorized to execute this Retention Agreement on behalf of Waxie;

2.3.2.4 Waxie has taken all actions required by law to approve the execution of this Retention Agreement;

2.3.2.5 Waxie's entry into this Retention Agreement and/or the performance of its obligations under this Retention Agreement does not violate any contract, agreement or other legal obligation of Waxie;

2.3.2.6 Waxie's entry into this Retention Agreement and/or the performance of its obligations under this Retention Agreement does not constitute a violation of any state or federal statute or judicial decision to which Waxie is subject;

2.3.2.7 There are no pending lawsuits or other actions or proceedings which would prevent or impair the timely performance of Waxie's obligations under this Retention Agreement;

2.3.2.8 Waxie has the legal right, power and authority to enter into this Retention Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Retention Agreement have been duly authorized and

no other action by Waxie is requisite to the valid and binding execution, delivery and performance of this Retention Agreement, except as otherwise expressly set forth herein; and

2.3.2.9 Waxie and its managerial personnel possess sufficient experience and qualifications necessary to conduct Waxie's Sales Activities (hereinafter defined) as required by this Retention Agreement.

2.3.2.10 The representations and warranties set forth herein are material consideration to the City and Waxie acknowledges that the City is relying upon the representations set forth above in undertaking the City's obligations set forth above.

2.3.2.11 As used in this Retention Agreement, the term "actual current knowledge of Waxie" shall mean, and shall be limited to, the actual current knowledge of _____, as of the Effective Date, without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

2.3.2.12 All of the terms, covenants and conditions of this Retention Agreement shall be binding on and shall inure to the benefit of Waxie and its permitted nominees, successors and assigns. Wherever the term "Waxie" is used herein, such term shall include any permitted nominee, assignee or successor of Waxie.

2.3.2.13 The qualifications and identity of Waxie are of particular concern to the City, and it is because of such qualifications and identity that the City has entered into this Retention Agreement with Waxie. No voluntary or involuntary successor-in-interest of Waxie shall acquire any rights or powers under this Retention Agreement except as expressly set forth herein.

3. Definitions. All initially capitalized terms used in this Agreement shall have the meanings set forth below or, if not set forth below, where such terms first appear in this Agreement.

3.1 "Base Sales Tax Amount" means Eight Hundred Four Thousand Dollars (\$804,000).

3.2 "BOE" means and refers to the State of California Board of Equalization and any successor agency.

3.3 "Business" means and refers to Waxie's continued operation of a facility on the Property for the specific purpose of conducting its retail distribution and showroom business.

3.4 "Business Activities" means and refers all activities (on the Property, via the internet or otherwise) of Waxie's officers, directors, employees, agents or consultants that result in the sale or lease of any tangible personal property and that are subject to the payment of local sales and use taxes pursuant to the Sales Tax Law.

3.5 “**CEQA**” means and refers to the California Environmental Quality Act, California Public Resources Code Sections 21000, *and et seq.*

3.6 “**City**” means and refers to the City of Ontario, a California municipal corporation.

3.7 “**City Attorney**” means and refers to the City Attorney of the City of Ontario, California.

3.8 “**City Council**” means and refers to the City Council of the City of Ontario, California.

3.9 “**City Manager**” means and refers to the City Manager of the City of Ontario, California.

3.10 “**Computation Quarter**” means each calendar quarter beginning on January 1, April 1, July 1, or October 1, as applicable, and ending on the succeeding March 31, June 30, September 30, or December 31, as applicable. The first Computation Quarter within the Eligibility Period shall commence on July 1, 2017 and is referred to herein as “Computation Quarter 1,” with each succeeding Computation Quarter being consecutively numbered.

3.11 “**Covenant Payment**” means those contingent payments to be made by the City to the Waxie pursuant to Section 5.1 of this Agreement for the purchase of the Covenants and Waxie’s timely and faithful performance thereunder up to the total payment amount of Five Hundred Thousand Dollars (\$500,000).

3.12 “**Covenant Period**” means and refers to the term the Covenants set forth in Section 4 are in effect and shall commence on the Effective Date and continue until the Fifteenth Anniversary of the Effective Date unless otherwise terminated pursuant to this Agreement.

3.13 “**Covenants**” means those seven (7) covenants described in Section 4 herein.

3.14 “**Effective Date**” shall have the meaning ascribed to the term in Section 2.1 of this Agreement.

3.15 “**Eligibility Period**” means the period commencing as of the first (1st) day of Computation Quarter 1 and continuing until last day of the Computation Quarter in which this Retention Agreement is terminated pursuant to the specific provisions of this Retention Agreement.

3.16 “**Enforced Delay**” means and refers to delays or defaults in performance due to war; acts of terrorism; insurrection; any form of labor dispute; lockouts; riots; floods; earthquakes; fires; acts of God or of third parties; third party litigation; acts of a public enemy; referenda; acts of governmental authorities (except that the failure of the City to act as required under this Agreement shall not excuse its performance); moratoria; epidemics; quarantine restrictions, freight embargoes; and any other cause outside of the reasonable control of the Party whose performance is delayed.

3.17 “**Liquidated Damages**” means, for purposes of Section 7.5, as follows:

3.17.1 If the breach occurs during Computation Quarters 1 through 20, an amount equal to Sixty-six percent (66%) of the Covenant Payments paid to Waxie at any time prior to the Computation Quarter in which the breach occurs.

3.17.2 If the breach occurs during Computation Quarters 21 through 40, an amount equal to Forty percent (40%) of the Covenant Payments paid to Waxie at any time prior to the Computation Quarter in which the breach occurs.

3.18 “**Local Sales Tax Revenues**” means the net Sales Tax received by the City from the BOE pursuant to the application of the Sales Tax Law (as such statutes may hereafter be amended, substituted, replaced, re-numbered, moved or modified by any successor law) attributable to Business Activities in a particular Business Operating Year. Local Sales Tax Revenues shall not include: (i) Penalty Assessments; (ii) any Sales Tax levied by, collected for or allocated to the State of California, the County of San Bernardino, or a district or any entity (including an allocation to a statewide or countywide pool) other than City; (iii) any administrative fee charged by the BOE; (iv) any Sales Tax subject to any sharing, rebate, offset or other charge imposed pursuant to any applicable provision of federal, state or local (except City’s) law, rule or regulation; (v) any Sales Tax attributable to any transaction not consummated within the Eligibility Period; or (vi) any Sales Tax (or other funds measured by Sales Tax) required by the State of California to be paid over to another public entity (including the State) or set aside and/or pledged to a specific use other than for deposit into or payment from the City’s general fund.

3.19 “**Official Action**” means and refers to the official action of Waxie authorizing its entry into and performance of this Agreement, in substantially the form attached to this Agreement as Exhibit A, executed by Waxie’s authorized representative(s) .

3.20 “**Penalty Assessments**” means and refers to penalties, assessments, collection costs and other costs, fees or charges resulting from late or underpaid payments of Sales Tax and which are levied, assessed or otherwise collected from Waxie.

3.21 “**Prohibited Financial Assistance**” means and refers to any direct or indirect payment, subsidy, rebate or other similar or dissimilar monetary or nonmonetary benefit, including, without implied limitation, payment of land subsidies, relocation expenses, financial incentives, public financing, property or sales tax relief or rebates, relief from public improvement obligations, and payment for public improvements to or for the benefit of Waxie by any public or private person or entity.

3.22 “**Sales Office**” means and refers to means that certain corporate headquarters and administrative office and related functions operated on the Property by Waxie which shall serve as the point of sale from which Waxie shall conduct or conclude internet, telephonic, or direct sales attributable to the Property.

3.23 “**Sales Tax**” means all sales and use taxes levied under the authority of the Sales Tax Law attributable to Business Activities.

3.24 “**Sales Tax Law**” means: (i) California Revenue and Taxation Code Section 7200 et seq., and any successor law thereto; (ii) any legislation allowing the City or other public agency with jurisdiction in the City to levy any form of local Sales Tax on the operations of Waxie; and

(iii) regulations of the BOE and other binding rulings and interpretations relating to (i) and (ii) hereof.

3.25 “Sales Tax Revenues” means the net Sales Tax actually received by the City from the BOE pursuant to the application of the Sales Tax Law (as such statutes may hereafter be amended, substituted, replaced, re-numbered, moved or modified by any successor law) attributable to the Sales Office in a particular Computation Quarter. Sales Tax Revenues shall not include: (i) Penalty Assessments; (ii) any Sales Tax levied by, collected for or allocated to the State of California, the County of San Bernardino, or a district or any entity (including an allocation to a statewide or countywide pool) other than City; (iii) any administrative fee charged by the BOE; (iv) any Sales Tax subject to any sharing, rebate, offset or other charge imposed pursuant to any applicable provision of federal, state or local (except City’s) law, rule or regulation; (v) any Sales Tax attributable to any transaction not consummated within the Eligibility Period; or (vi) any Sales Tax (or other funds measured by Sales Tax) required by the State of California to be paid over to another public entity (including the State) or set aside and/or pledged to a specific use other than for deposit into or payment from the City’s general fund.

4. Covenants Running with the Land.

4.1 Operating and Use Covenant. Waxie covenants and agrees that for the Covenant Period Waxie shall operate, or cause to be operated upon the Property, the Business in a commercially reasonable business manner, consistent with all applicable provisions of federal, state and local laws and regulations. Waxie covenants to the City to cause the Business to be open for business to the general public and to continuously operate the Business on the Property throughout the entirety of the Covenant Period. For purposes of this Section 4.1, “continuously operate” means the Business shall not cease to operate for a period of ninety (90) consecutive calendar days. Waxie shall exercise commercially reasonable efforts to maximize the amount of Sales Tax Revenue, provided, however, Waxie shall be under no obligation or requirement to change, modify, revise or amend its business practices or procedures existing as of the Effective Date that take place in other jurisdictions. Waxie’s obligations pursuant to the immediately preceding sentence include, without limitation, the obligation to obtain all federal, state and local licenses and permits required for the operation of the business and to advertise, market and promote the business in a commercially reasonable fashion. For the Covenant Period, Waxie may use the Property only for the purposes of the operation of the Business and conducting Waxie’s Sales Activities in accordance with this Retention Agreement. City agrees and acknowledges that Waxie may lease a portion of the Property to another entity until such time that Waxie is prepared to expand its business operations and that the lease and/or operation of a business by a third party shall not be inconsistent with or prohibited by this Agreement provided that Waxie maintains its existing presence on the Property.

4.2 Covenant to Designate City as Point of Sale. Waxie covenants and agrees that during the Covenant Period Waxie shall maintain such licenses and permits as may be required by any governmental agency to conduct Waxie’s Sales Activities related to the Business and shall consummate at the Business all taxable sales transactions resulting from Waxie’s Sales Activities and identify the City as such in all reports to the California State Board of Equalization (“BOE”) in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Revenue and Taxation Code 7200, *et seq.*), as it may be amended or substituted. The foregoing notwithstanding, Waxie shall be under no obligation or requirement to change, modify, revise or amend its business

practices or procedures existing as of the Effective Date that take place in other jurisdictions. The City acknowledges that Waxie currently and may in the future operate additional sale and distribution centers in the State of California and Waxie's activities from such other sale and distribution centers are not intended to be included in the scope of this Retention Agreement. Waxie shall maintain the appropriate master sales permits applicable to and required for the operation of the Business. Waxie shall consummate all taxable sales transactions for Waxie's Sales Activities at the Business, consistent with all applicable statutory and BOE regulatory requirements applicable to Waxie's Sales Activities and the designation of the City as the "point of sale" for all Waxie's taxable sales occurring as a result of Waxie's Sales Activities.

4.3 Waxie's Additional Obligations Regarding Repairs and Alterations to Sales Office. Waxie covenants and agrees that, for the term of the Operating and Use Covenant as described in Section 4.1, the Waxie shall maintain, or cause to be maintained, the Sales Office in good condition, ordinary wear and tear excepted, and free from the accumulation of trash or other debris and agrees to promptly remove, or cause the removal of, all graffiti upon the Sales Office. Waxie shall also maintain or cause to be maintained the landscaping upon the Property in a good condition.

4.4 Covenant Against Solicitation and Acceptance of Economic Incentives During the Term of the Operating Use Covenant. Waxie covenants and agrees that, for the Covenant Period, Waxie will not directly or indirectly solicit or accept any Financial Assistance from any other public or private person or entity, if such Financial Assistance is given for the purpose of causing or would result in Waxie's breach of any of the Covenants of this Agreement. For purposes of this Section 4.4 the term "Financial Assistance" means any direct or indirect payment, subsidy, rebate, or other similar or dissimilar monetary or non-monetary benefit, including, without implied limitation, payment of land subsidies, relocation expenses, public financings, property or sales tax relief, rebates, exemptions or credits, relief from public improvement obligations, and payment for public improvements to or for the benefit of Waxie and relating solely to the Property and/or the Business.

4.5 Use of Property. Waxie covenants and agrees that the Property shall be put to no use other than those uses specified in the City's General Plan, the Specific Plan, zoning ordinances, and this Retention Agreement as the same may be amended from time to time. Nothing in this Section 4.5 shall limit, expand, modify or otherwise affect any right of Waxie or Waxie to continue any legal nonconforming use upon the Property following changes in the City's General Plan or zoning ordinances.

4.6 Jobs Covenant and Operational Covenant. Waxie covenants and agrees that Waxie will retain the existing workforce on the Property subject to future market forces and possibly create the potential for additional job growth on the Property.

4.7 Covenant Not to Discriminate. Waxie covenants to the City that it will not discriminate against any employee or applicant for employment because of sex, marital status, race, color, religion, creed, national origin, or ancestry, and that it will comply with all applicable local, state and federal fair employment laws and regulations. Waxie further covenant and agree that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, ancestry or national origin in the sale,

lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Waxie itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use of occupancy of tenants, lessees, subtenants, sublessee or vendees of the Property. Failure of Waxie to comply with the covenant of this Section 4.7 shall be deemed to be a material breach of this Agreement by Waxie and the City shall be entitled to pursue any remedy or damages available under this Agreement, at law, or in equity for such breach.

5. Covenant Payments.

5.1 Statement of Intent. The consideration to be paid to Waxie in exchange for the Covenants and Waxie's performance of its obligations set forth in this Retention Agreement, and subject to satisfaction of all conditions precedent thereto, shall consist of City's payment of an amount equal to Twenty-five percent (25%) of the Sales Tax Revenues attributable to the Property in excess of the Base Sales Tax Amount for each Computation Quarter during the Eligibility Period up to the total Covenant Payment amount of Five Hundred Thousand Dollars (\$500,000).

5.2 Contingent Obligation. The City's obligations under this Section 5 are contingent on a Computation Quarter-to-Quarter basis and, for each Computation Quarter, City's obligations to make any payments hereunder are expressly contingent upon Waxie having, for the entirety of such Computation Quarter, completely fulfilled its material obligations under this Retention Agreement, including, without limitation, the Covenants. Should such condition precedent not be satisfied for each Computation Quarter, then City shall have no obligation under this Section 5.2 to make any Covenant Payments to Waxie in such Computation Quarter.

5.3 Computation Quarter Covenant Payments. Within thirty (30) days following the end of each Computation Quarter, Waxie shall submit to City certified copies of its quarterly reports to the California State Board of Equalization ("BOE") which sets forth the amount of sales taxes paid to the BOE during the Computation Quarter arising from Waxie's Sales Activities conducted at the Sales Office. Within one hundred twenty (120) days following the end of each Computation Quarter, City shall pay to Waxie any Computation Quarter Covenant Payment due for such Computation Quarter.

5.4 No Carry Forward or Back. The determination of the Covenant Payment(s) shall be determined and calculated on a Computation Quarter to Computation Quarter basis. Except as provided in Section 5.5, no Sales Tax Revenue which is generated in a Computation Quarter other than the Computation Quarter for which the Covenant Payment is being determined shall be used or considered in the calculation of any Covenant Payment which may be due for that Computation Quarter.

5.5 BOE Determination of Improperly Allocated Local Sales Tax Revenues. If, at any time during or after the Eligibility Period of this Retention Agreement, the BOE determines that all or any portion of the Sales Tax Revenues received by the City were improperly allocated and/or paid to the City, and if the BOE requires repayment of, offsets against future sales tax payments, or otherwise recaptures from the City those improperly allocated and/or paid Sales Tax Revenues, then Waxie shall, within thirty (30) calendar days after written demand from the City, repay all Covenant Payments (or applicable portions thereof) theretofore paid to Waxie which are

attributable to such repaid, offset or recaptured Sales Tax Revenues. If Waxie fails to make such repayment within thirty (30) calendar days after the City's written demand, then Waxie shall be in breach of this Retention Agreement and such obligation shall accrue interest from the date of the City's original written demand at the then-maximum legal rate imposed by the California Code of Civil Procedure on prejudgment monetary obligations, compounded monthly, until paid. Additionally, the City may deduct any amount required to be repaid by Waxie under this Section 5.5 from any future Covenant Payments otherwise payable to Waxie under this Retention Agreement. This Section 5.5 shall survive the expiration or termination of this Retention Agreement.

5.6 Not a Pledge of Sales Tax. Waxie acknowledges that the City is not making a pledge of Sales Tax Revenues, or any other particular source of funds; the definition of Sales Tax Revenues, as used herein, is used merely as a measure of the amount payment due hereunder and as means of computing the City's payment in consideration for the Covenants. It is acknowledged by Waxie that he City's obligation to make payments is specifically contingent upon receipt by the City of the Sales Tax Revenues derived from operation of the Sales Office.

6. Nonliability of the City or City Officials and Employees. No council member, official, contractor, consultant, attorney or employee of the City shall be personally liable to Waxie, any voluntary or involuntary successors or assignees, or any lender or other party holding an interest in the Property, in the event of any default or breach by the City, or for any amount which may become due to Waxie or to a successors or assignees, or on any obligations arising under this Agreement.

7. Defaults

7.1 Waxie Default. City shall provide Waxie with written notice of Waxie's failure ("Waxie Default") to strictly abide by any material provision of this Retention Agreement, including, without limitation, the Covenants. Waxie shall have thirty (30) days from the date of such notice to either cure such Waxie Default, or, if such Waxie Default cannot be reasonably cured during such thirty (30) day period, to commence to cure within said thirty (30) day period and diligently prosecute such cure to completion thereafter.

7.2 City Default. Waxie shall provide City with written notice of City's failure ("City Default") to strictly abide by any material provision of this Retention Agreement. City shall have thirty (30) days from the date of such notice to either cure such City Default, or, if such City Default cannot be reasonably cured during such thirty (30) day period, to commence to cure within said thirty (30) day period and diligently prosecute such cure to completion thereafter.

7.3 General Remedies for Default. Waxie or City (as applicable) shall have the right to seek all available legal and equitable remedies, including, without implied limitation, general and consequential damages, unless otherwise expressly provided to the contrary herein. Unless prohibited by law or otherwise provided by a specific term of this Retention Agreement, the rights and remedies of the City and the Waxie under this Retention Agreement are nonexclusive and all remedies hereunder may be exercised individually or cumulatively, and the City may simultaneously pursue inconsistent and/or alternative remedies. Either Party may, upon the Default

of the other Party and in addition to pursuing all remedies otherwise available to it, terminate this Retention Agreement and all of its obligations hereunder without cost, expense or liability to itself.

7.4 The City's Rights to Terminate its Obligations under Section 5.1 The City's obligations under Section 5.1 shall automatically terminate without cost, expense, or liability to City, upon the occurrence of any one or more of the following: (i) Waxie Default; or (ii) upon the final determination by a court of competent jurisdiction that any one or more of the Covenants are void, voidable, invalid, or even unenforceable for any reason whatsoever, including, without limitation, legal infirmity. Termination of the City's obligations under Section 5.1 in accordance with subsection (i) of this Section 7.4 shall not operate to forgive, modify, discharge or excuse Waxie's obligations arising under this Retention Agreement.

7.5 Liquidated Damages.

7.5.1 Waxie Default With Respect to Obligations Under Sections 4.1 and 4.2.

The Parties acknowledge that the consideration to the City for its entry into this Retention Agreement and the performance of its obligations hereunder include the City's receipt of Sales Tax Revenues, employment and other payroll taxes, property taxes, and other direct and indirect financial and non-financial benefits arising from the operation Waxie's Sales Activities and the location of the Sales Office in the City in accordance with Section 4 of this Retention Agreement. Waxie agrees that the City will suffer damages if Waxie commits any Waxie Default with respect to any of its obligations arising under Sections 4.1 and 4.2. The Parties agree that the exact determination of such damages would be impracticable and extremely difficult to quantify. Accordingly, the Parties have determined that Liquidated Damages (as determined pursuant to Section 3.1.7) represents a reasonable estimate of the damages which would be suffered by the City if Waxie commits any Waxie Default with respect to any of its obligations set forth in Sections 4.1 and 4.2. Accordingly, as its sole and exclusive monetary remedy for an Waxie Default with respect to any of its covenants and obligations set forth in Sections 4.1 and 4.2, the City shall be entitled to (1) terminate this Retention Agreement and the entirety of its obligations hereunder, including any accrued and unpaid Covenant Payments, and (2) receive from Waxie the applicable amount of Liquidated Damages as provided by Section 3.1.7.

7.5.2 ACKNOWLEDGEMENT OF REASONABLENESS OF LIQUIDATED DAMAGES. UPON AN WAXIE DEFAULT WITH RESPECT TO ANY OF ITS OBLIGATIONS SET FORTH IN SECTIONS 4.1 AND 4.2, FOLLOWING NOTICE AND OPPORTUNITY TO CURE, THE CITY AND WAXIE ACKNOWLEDGE AND AGREE THAT IT WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN THE AMOUNT OF DAMAGES THAT WOULD BE SUFFERED BY THE CITY WITH RESPECT TO SUCH DEFAULT. HAVING MADE DILIGENT BUT UNSUCCESSFUL ATTEMPTS TO ASCERTAIN THE ACTUAL DAMAGES THE CITY WOULD SUFFER, THE PARTIES AGREE THAT THE LIQUIDATED DAMAGES AMOUNT AS DETERMINED IN ACCORDANCE WITH SECTION 3.1.7 REPRESENTS A REASONABLE ESTIMATION OF THOSE DAMAGES. THEREFORE, UPON AN WAXIE DEFAULT WITH RESPECT TO ANY OF ITS OBLIGATIONS SET FORTH IN SECTIONS 4.1 AND 4.2, AS ITS SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT, THE CITY SHALL BE ENTITLED TO (1) RECEIPT OF THE LIQUIDATED DAMAGES AMOUNT CALCULATED IN ACCORDANCE WITH SUBSECTION 3.1.7, WHICH WAXIE SHALL PAY WITHIN TEN (10) DAYS

FOLLOWING WRITTEN DEMAND FROM THE CITY, AND (2) TERMINATE THIS AGREEMENT AND THE ENTIRETY OF ITS OBLIGATIONS HEREUNDER, INCLUDING ANY ACCRUED BUT YET UNPAID COVENANT PAYMENTS.

Initials of Authorized
City Representative

Initials of Authorized
Waxie Representative

8. GENERAL TERMS

8.1 Tax Consequences. Waxie acknowledges that it may experience tax consequences as a result of its receipt of the payments provided for in this Retention Agreement and agrees that it shall bear any and all responsibility, liability, costs, and expenses connected in any way therewith.

8.2 Rights Not Granted Under Retention Agreement This Retention Agreement is not, and shall not be construed to be a Development Agreement under Government Code Section 65864 *et seq.* This Retention Agreement is not, and shall not be construed to be, an approval or an agreement to issue permits or a granting of any right or entitlement by the City concerning the Sales Office, Waxie's Sales Activities or any other project, development, or construction by the Waxie in the City. This Retention Agreement does not, and shall not be construed to, exempt Waxie from the application and/or exercise of the City's or City's power of eminent domain or its police power, including, but not limited to, the regulation of land uses and the taking of any actions necessary to protect the health, safety, and welfare of its citizenry.

8.3 Consent. Whenever consent or approval of any party is required under this Retention Agreement, that party shall not unreasonably withhold, delay or condition such consent or approval unless otherwise allowed by a specific provision of this Retention Agreement.

8.4 Notices and Demands. All notices or other communications required or permitted between the City and Waxie under this Retention Agreement shall be in writing, and may be (i) personally delivered, (ii) sent by United States registered or certified mail, postage prepaid, return receipt requested, (iii) sent by telecopier, or (iv) sent by nationally recognized overnight courier service (e.g., Federal Express), addressed to the Parties at the addresses provided in Article 1, subject to the right of either party to designate a different address for itself by notice similarly given. Any notice so given by registered or certified United States mail shall be deemed to have been given on the second business day after the same is deposited in the United States mail. Any notice not so given by registered or certified mail, such as notices delivered by telecopier or courier service (e.g., Federal Express), shall be deemed given upon receipt of the same by the party to whom the notice is given.

8.5 Nonliability of the City or City Officials and Employees No board member, official, contractor, consultant, attorney or employee of the City or City shall be personally liable to Waxie, any voluntary or involuntary successors or assignees, or any lender or other party holding an interest in the Property, in the event of any default or breach by the City, or for any amount which may become due to the Waxie or to its successors or assignees, or on any obligations arising under this Retention Agreement.

8.6 Conflict of Interests. No board member, official, contractor, consultant, attorney or employee of the City or City shall have any personal interest, direct or indirect, in this Retention Agreement nor shall any such board member, official or employee participate in any decision relating to this Retention Agreement which affects his/her personal interests or the interests of any corporation, partnership or association in which he/she is directly or indirectly interested.

8.7 Pledge or Hypothecation of Covenant Payments. Waxie may assign any Covenant Payment(s) due in accordance with the terms of this Retention Agreement (but not any other right or obligation of this Retention Agreement) upon thirty (30) days' prior written notice to City as collateral for any loan or financing obtained by the Waxie in connection with the Property; provided that nothing in this Section 8.7 shall be deemed to limit the operation of Section 8.16. Without limiting the general applicability of the foregoing, Waxie acknowledges that Waxie's lender and any transferee of Waxie's lender shall be subject to the transfer restrictions of Section 8.16.

8.8 Entire Agreement; Good Faith Negotiations. This Retention Agreement contains all of the terms and conditions agreed upon by the Parties and supersedes any previous agreements between the Parties concerning the subject matter of this Retention Agreement. No other understanding, oral or otherwise, regarding the subject matter of this Retention Agreement shall be deemed to exist or to bind any of the parties hereto. All prior written or oral offers, counteroffers, memoranda of understanding, proposals and the like are superseded by this Retention Agreement.

The Parties acknowledge that this Retention Agreement is the product of mutual arms-length negotiations and that each party has been, or has had the opportunity to have been, represented by legal counsel in the negotiation and drafting of this Retention Agreement. Accordingly, the rule of judicial construction which provides that ambiguities in a document are to be construed against the drafter of that document shall have no application to the interpretation or enforcement of this Retention Agreement. In any action or proceeding to interpret and/or enforce this Retention Agreement, the trier of fact may refer to extrinsic evidence not in conflict with any specific provision of this Retention Agreement to ascertain and give effect to the intent of the Parties hereto.

8.9 Time Deadlines Critical; Extensions and Delays; No Excuse Due to Economic Changes. Time is of the essence in the performance of the City's and Waxie's obligations under this Retention Agreement. In addition to specific provisions of this Retention Agreement providing for extensions of time, times for performance hereunder shall be extended where delays or defaults are due to war; insurrection; any form of labor dispute; lockouts; riots; floods; earthquakes; fires; acts of God or of third parties; third party litigation; acts of a public enemy; referenda; acts of governmental authorities (except that the failure of the City to act as required hereunder shall not excuse its performance); moratoria; epidemics; quarantine restrictions; and freight embargoes (collectively, "Enforced Delays") provided, however, that the Party claiming the extension notify the other Party of the nature of the matter causing the default; and, provided further, that the extension of time shall be only for the period of the Enforced Delays. However, deadlines for performance may not be extended as provided above due to any inability of the Waxie to obtain or maintain acceptable financing for the operation of the Sales Office.

ANYTHING IN THIS RETENTION AGREEMENT TO THE CONTRARY NOTWITHSTANDING, WAXIE EXPRESSLY ASSUMES THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES AND/OR MARKET DEMAND/CONDITIONS AND WAIVES, TO THE GREATEST LEGAL EXTENT, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, FRUSTRATION OF PURPOSE, CHANGED ECONOMIC CIRCUMSTANCES OR SIMILAR THEORIES.

WAXIE EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF WAXIE SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN THE MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS RETENTION AGREEMENT. WAXIE EXPRESSLY ASSUMES THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF WAXIE'S EXECUTION OF THIS RETENTION AGREEMENT.

WAXIE'S INITIALS _____

8.10 Attorneys' Fees. In the event of the bringing of an arbitration, action or suit by a Party hereto against another Party hereunder by reason of any breach of any of the covenants or agreements or any intentional inaccuracies in any of the representations and warranties on the part of the other Party arising out of this Retention Agreement or any other dispute between the Parties concerning this Retention Agreement or the Property, then, in that event, the prevailing party in such action or dispute, whether by final judgment or arbitration award, shall be entitled to have and recover of and from the other Party all costs and expenses of suit or claim, including actual attorneys' fees. Any judgment, order or award entered in any final judgment or award shall contain a specific provision providing for the recovery of all costs and expenses of suit or claim, including actual attorneys' fees (collectively, the "Costs") incurred in enforcing, perfecting and executing such judgment or award. For the purposes of this Section 8.10, "Costs" shall include, without implied limitation, attorneys' and experts' fees, costs and expenses incurred in the following: (i) post judgment motions and appeals, (ii) contempt proceedings, (iii) garnishment, levy and debtor and third party examination, (iv) discovery; and (v) bankruptcy litigation. This Section 4.10 shall survive any termination of this Retention Agreement.

8.11 Amendments to This Retention Agreement. Any amendments to this Retention Agreement must be in writing and signed by the appropriate authorities of both the City and Waxie. The City Manager is authorized on behalf of the City to approve and execute minor amendments to this Retention Agreement, including, but not limited to, the granting of extensions of time to Waxie, not to exceed ninety (90) days in the aggregate.

8.12 Jurisdiction and Venue. Any legal action or proceeding concerning this Retention Agreement shall be filed and prosecuted in the appropriate California state court in the County of San Bernardino, California. Both Parties hereto irrevocably consents to the personal jurisdiction of that court. The City and Waxie each hereby expressly waive the benefit of any provision of federal

or state law or judicial decision providing for the filing, removal, or change of venue to any other court or jurisdiction, including, without implied limitation, federal district court, due to any diversity of citizenship between the City and Waxie, due to the fact that the City is a party to such action or proceeding or due to the fact that a federal question or federal right is involved or alleged to be involved. Without limiting the generality of the foregoing, the City and Waxie specifically waive any rights provided to it pursuant to California Code of Civil Procedure Section 394. Waxie acknowledges that the provisions of this Section 8.12 are material consideration to the City for its entry into this Retention Agreement, in that the City will avoid the potential cost, expense and inconvenience of litigating in a distant forum.

8.13 Interpretation. The City and Waxie acknowledge that this Retention Agreement is the product of mutual arms-length negotiation and drafting and that both Parties have been represented by legal counsel in the negotiation and drafting of this Retention Agreement. Accordingly, the rule of construction which provides that ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this Retention Agreement. In any action or proceeding to interpret or enforce this Retention Agreement, the finder of fact may refer to any extrinsic evidence not in direct conflict with any specific provision of this Retention Agreement to determine and give effect to the intention of the Parties.

8.14 Counterpart Originals; Integration. This Retention Agreement may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument. This Retention Agreement and any exhibits represent the entire understanding of the Parties and supersedes all negotiations, letters of intent, memoranda of understanding or previous agreements between the parties with respect to all or any part of the subject matter hereof.

8.15 No Waiver. Failure to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

8.16 Successors and Assigns. The terms, covenants and conditions of this Retention Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns. Except as provided in this Section 8.16, Waxie shall neither transfer nor convey Waxie's interest in the Property or the Sales Office without the express written consent of the City, which shall not be unreasonably withheld, conditioned or delayed. In determining whether to approve of such a sale, transfer, conveyance or assignment of the Waxie's interest in the Property, the City shall evaluate: (i) the financial ability of the proposed transferee to own and operate the Sales Office, or portion so transferred, and to meet the Waxie's obligations under this Retention Agreement; (ii) the fitness and experience of the proposed transferee and its managerial personnel to own and operate the Sales Office or portion so transferred thereof; and (iii) the ability of the proposed transferee to maintain a level of quality and service comparable to that maintained by the Waxie for the Sales Office. Upon the permitted sale, transfer or conveyance by Waxie of its interest therein, such Waxie shall thereupon be relieved of its obligations under this Retention Agreement from and after the date of sale, transfer or conveyance except with respect to any defaults in the

performance of its obligations hereunder or thereunder which occurred prior to such sale, transfer or conveyance, and the transferee shall thereafter be solely responsible for the performance of all of the duties and obligations of Waxie under this Retention Agreement.

8.17 No Third Party Beneficiaries. The performance of the respective obligations of the City and Waxie under this Retention Agreement are not intended to benefit any party other than the City or Waxie, except as expressly provided otherwise herein. No person or entity not a signatory to this Retention Agreement shall have any rights or causes of action against any party to this Retention Agreement as a result of that party's performance or non-performance under this Retention Agreement, except as expressly provided otherwise herein.

8.18 No Effect on Eminent Domain Authority. Nothing in this Retention Agreement shall be deemed to limit, modify, or abridge or affect in any manner whatsoever the City's or City's eminent domain powers with respect to the Property, the Sales Office, or any other property owned by Sales Office.

8.19 Warranty Against Payment of Consideration for Retention Agreement. Waxie warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Retention Agreement. Third parties, for the purposes of this Section 8.19, shall not include persons to whom fees are paid for professional services if rendered by attorneys, financial consultants, accountants, engineers, architects and the like when such fees are considered necessary by Waxie.

8.20 Severability. The City and Waxie declare that the provisions of this Retention Agreement are severable. If it is determined by a court of competent jurisdiction that any term, condition or provision hereof is void, voidable, or unenforceable for any reason whatsoever, then such term, condition or provision shall be severed from this Retention Agreement and the remainder of the Retention Agreement enforced in accordance with its terms.

8.21 Further Acts and Releases. The City and Waxie each agree to take such additional acts and execute such other documents as may be reasonable and necessary in the performance of their obligations hereunder.

8.22 Estoppels. At the request of Waxie or any holder of a mortgage or deed of trust secured by all or any portion of the Property, the City shall promptly execute and deliver to Waxie or such holder a written statement of the City as to any of the following matters as to which Waxie or such holder may inquire: (i) that no default or breach exists, or would exist with the passage of time, or giving of notice, or both, by Waxie pursuant to this Retention Agreement, if such be the case; (ii) the total amount of Covenant Payments made by the City to Waxie pursuant to this Retention Agreement prior to the date of such written statement; (iii) the amount of any Covenant Payments earned by or due and owing to Waxie pursuant to this Retention Agreement as of the date of such written statement; (iv) the Covenant Payments for a particular Computation Quarter; (v) if the City has determined that Waxie is in default or breach hereunder, the nature of such default and the action or actions required to be taken by Waxie to cure such default or breach; and (vi) any other matter affecting the rights or obligations of Waxie hereunder as to which Waxie or such holder may reasonably inquire. The form of any estoppel letter shall be prepared by Waxie or such holder at its sole cost and expense and shall be reasonably acceptable in form and content to the City and

Waxie. The City may make any of the representations described above based on the actual current knowledge of the then-current City Manager.

8.23 Indemnity. Waxie shall defend (using counsel of City's choosing), indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against any and all third party claims, losses, proceedings, damages, causes of action, liability, cost and expense (including reasonable attorney's fees) arising from, in connection with or related to this Agreement or the functions or operations of the Sales Office (other than to the extent arising as a result of the City's active negligence or willful misconduct). The City shall fully cooperate in the defense of any such actions and upon written request of Waxie shall provide to Waxie such documents and records in possession of the City that are relevant to such actions and not otherwise protected by law. Notwithstanding the foregoing, should any third party bring any such action or proceeding Waxie shall have the right to terminate this Agreement, and as of such date of termination, all unaccrued liabilities of the parties under this Agreement shall cease except for Waxie's obligation of indemnity owed to the City as provided in this Section 8.23. For purposes of clarification, should Waxie exercise its termination right as provided in this Section 8.23, the same shall not be considered a Default and the City shall have no claims against Waxie for liquidated damages.

8.24 State of California Legislation Impact on Covenant Payment. Waxie acknowledges that the California legislature has in the past adopted certain legislation which diverted to the State of California a portion of the Sales Tax Revenues which were otherwise payable to the City. Waxie acknowledges that it is possible that the legislature may enact similar legislation in the future which would cause a corresponding reduction of and/or delay in the payment of the Sales Tax Revenues and that such reduction will cause Waxie a corresponding reduction and/or delay in the payment of the Covenant Payments due to Waxie during such time as such legislation is in effect. Furthermore, Waxie acknowledges that it is possible that the legislation described above, or some variant thereof, may be enacted and effective during one or more subsequent times during the Eligibility Period and may materially and negatively impact the amount of Sales Tax Revenues and, accordingly, Covenant Payments. The City does not make any representation, warranty or commitment concerning the future actions of the California legislature with respect to the allocation of Sales Tax Revenues to the City. Waxie agrees that it is undertaking its obligations under this Retention Agreement after having considered, and is expressly assuming the risk of, the possibility of the enactment of such legislation.

The foregoing paragraph notwithstanding, City acknowledges that the California legislature may provide for the payment to City of other revenues for the purpose of offsetting any losses in Sales Tax Revenues resulting from the enactment of legislation of the type described in the immediately preceding paragraph. City agrees that, should the California legislature provide for such offsetting revenues, then for purposes of this Retention Agreement and the computation of any Covenant Payments which may become due to Waxie hereunder, City will consider any such offsetting revenues which are (i) indexed to Sales Tax and offset the loss of Sales Tax Revenues to the City on a dollar for dollar basis, (ii) actually received by the City, and (iii) not subject to any restrictions on use beyond those which are otherwise generally applicable to sales tax revenues received by California municipalities, to be Sales Tax Revenues within the meaning of this Retention Agreement.

[Signatures on Following Pages]

**SIGNATURE PAGE
TO
RETENTION AGREEMENT
(WAXIE)**

The City and Waxie sign this Agreement by and through the signatures of their authorized representatives set forth below:

CITY:

THE CITY OF ONTARIO,
a California municipal corporation

By: _____
City Manager

WAXIE:

WAXIE'S ENTERPRISES,
INCORPORATED,
an Arizona corporation

By: _____
Its: _____

By: _____
Its: _____

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP

By: _____
City Attorney

**EXHIBIT A
TO
RETENTION AGREEMENT
(WAXIE)**

Form of Official Action

[Attached Behind This Page]

EXHIBIT A

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER THE ISSUANCE OF LEASE REVENUE BONDS FOR THE PURPOSE OF REFINANCING EXISTING OUTSTANDING BONDS

RECOMMENDATION: That the City Council of the City of Ontario, the Board of Directors of the Ontario Public Financing Authority, and the Board of Directors of the Ontario Redevelopment Financing Authority hold a public hearing to consider adoption of resolutions and approve related bond documents pertaining to the issuance of approximately \$35 million of lease revenue bonds to refinance the outstanding 2001 Lease Revenue Bonds and 2007 Lease Revenue Bonds.

COUNCIL GOALS: Operate in a Businesslike Manner

FISCAL IMPACT: The resolutions authorizing the issuance of bonds limits the principal amount of the bonds to approximately \$35 million. Based on the current tax-exempt interest rates, the proposed financing plan may result in savings of approximately \$6.2 million in total debt service payments and approximately \$4 million in net present value, depending on the interest rate.

BACKGROUND: To reduce future General Fund financing costs, it is recommended that the City take advantage of the current low interest rate environment and issue tax-exempt lease revenue bonds through the Ontario Public Financing Authority. The City of Ontario and the Ontario Housing Authority formed the Ontario Public Financing Authority in June 2013 for the purpose of issuing municipal bonds under the Marks-Roos Local Bond Pooling Act of 1985.

The lease revenue bonds represent the lowest cost of financing because of the strong financial condition of the City's General Fund. The City plans to submit the proposed finance plan to Standard and Poor's, an independent credit rating agency, for a credit rating presentation. As a result of the City's conservative fiscal management policies and strong financial condition, it is anticipated that the City will maintain an "AA-" rating for the proposed lease revenue bonds.

STAFF MEMBER PRESENTING: Grant D. Yee, Administrative Services/Finance Director

Prepared by: Amy Chang
Department: Management Services

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

15

The bond financing team for this bond issuance is consistent with the City Council approved list of bond financing consultants for legal services and investment banking services.

The attached resolutions reference several bond documents and other matters related to the financing plan. These documents are listed below and are on file in the Records Management Department.

- Ground Lease
- Lease Agreement
- Indenture
- Escrow Agreement (2001 Bonds)
- Escrow Agreement (2007 Bonds)
- Bond Purchase Agreement
- Continuing Disclosure Certificate
- Preliminary Official Statement
- Assignment Agreement
- 2001 Lease Termination
- 2007 Lease Termination
- 2007 Indenture Termination

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF A GROUND LEASE, LEASE AGREEMENT, INDENTURE, ESCROW AGREEMENT (2001 BONDS), ESCROW AGREEMENT (2007 BONDS), BOND PURCHASE CONTRACT AND CONTINUING DISCLOSURE CERTIFICATE IN CONNECTION WITH THE ISSUANCE OF ONTARIO PUBLIC FINANCING AUTHORITY 2017 LEASE REVENUE REFUNDING BONDS, APPROVING THE ISSUANCE OF SUCH BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$35,000,000, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT IN CONNECTION WITH THE OFFERING AND SALE OF SUCH BONDS AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS.

WHEREAS, the City of Ontario, California (the "City"), is a general law city organized and existing under the laws of the State of California; and

WHEREAS, the City previously caused the Ontario Redevelopment Financing Authority (the "ORFA") to issue its 2001 Lease Revenue Bonds (Capital Projects) (the "2001 Bonds"), the proceeds of which financed the acquisition and/or construction of various "public capital improvements" of the City within the meaning of the Marks-Roos Local Bond Pooling Act of 1985, commencing with Section 6584 of the California Government Code (the "Act"), all of which are located within the boundaries of the City (the "2001 Project"); and

WHEREAS, the City previously caused the ORFA to issue its 2007 Lease Revenue Bonds (Capital Projects) (the "2007 Bonds"), the proceeds of which financed the acquisition and/or construction of various "public capital improvements" of the City within the meaning of the Act, all of which are located within the boundaries of the City (the "2007 Project"); and

WHEREAS, the Ontario Public Financing Authority (the "Authority") and the City have determined that it would be in the best interests of the City and residents of the City to authorize the preparation, sale and delivery of the "Ontario Public Financing Authority 2017 Lease Revenue Refunding Bonds" (the "Bonds") for the purposes of refinancing the 2001 Project and the 2007 Project; and

WHEREAS, in order to facilitate the issuance of the Bonds, the City and the Authority desire to enter into a Ground Lease between the City and the Authority (the "Ground Lease") pursuant to which the City will lease certain real property (which real property shall consist of the Ontario Convention Center located at 2000 East Convention Center Way, Ontario, California 91764 and such other assets described in the Ground Lease (collectively, the "Leased Assets")) to the Authority, and a Lease Agreement between the City and the Authority (the "Lease Agreement"), pursuant to which the City will lease the Leased Assets back from the Authority, and pay certain Base Rental Payments (as such term is defined in the Lease Agreement),

which are pledged to the owners of the Bonds by the Authority pursuant to an Indenture by and among The Bank of New York Mellon Trust Company, N.A. (the "Trustee"), the City and the Authority (the "Indenture"); and

WHEREAS, to effect the refunding of the 2001 Bonds and the 2007 Bonds, respectively, the City and the Trustee, as escrow agent, desire to enter into an Escrow Agreement (2001 Bonds) and an Escrow Agreement (2007 Bonds); and

WHEREAS, the City and the Authority have determined that it would be in the best interests of the City and the Authority to provide the funds necessary to refinance the 2001 Project and the 2007 Project through the offering and sale of the Bonds; and

WHEREAS, the City and the Authority desire to undertake a negotiated sale of the Bonds to Stern Brothers & Co., as representative of the underwriters of the Bonds (the "Representative") pursuant to a purchase contract by and among the City, the Authority and the Representative (the "Bond Purchase Contract"); and

WHEREAS, the Bonds will be issued pursuant to the Act; and

WHEREAS, Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 ("Rule 15c2-12") requires that, in order to be able to purchase or sell the Bonds, the underwriters thereof must have reasonably determined that the City has undertaken in a written agreement or contract for the benefit of the holders of the Bonds to provide disclosure of certain financial information and certain events on an ongoing basis; and

WHEREAS, in order to cause such requirement to be satisfied, the City desires to execute and deliver a Continuing Disclosure Certificate (the "Continuing Disclosure Certificate"); and

WHEREAS, a form of the Preliminary Official Statement (the "Preliminary Official Statement") has been prepared; and

WHEREAS, the City is a member of the Authority and the 2001 Project and the 2007 Project are located within the boundaries of the City; and

WHEREAS, the City has, prior to the consideration of this Resolution, held a public hearing on the refinancing of the 2001 Project and the 2007 Project from the proceeds of the issuance of the Bonds in accordance with Section 6586.5 of the Act, which hearing was held at 303 East B Street, Ontario, California 91764 on the date of this Resolution; and

WHEREAS, in accordance with Section 6586.5 of the Act, notice of such hearing was published once at least five days prior to the hearing in the Inland Valley Daily Bulletin, a newspaper of general circulation in the City; and

WHEREAS, the City Council has been presented with the form of each document that is referred to herein relating to the refinancing contemplated hereby, and the City Council has examined and approved each document and desires to authorize and direct the execution of such documents and the consummation of such refinancing; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of such refinancing authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such refinancing for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. Each of the above recitals is true and correct. Following a duly noticed public hearing, the City Council hereby approves the refinancings that are described in this Resolution and further finds and determines that there are significant public benefits to the citizens of the City through the approval of the issuance of the Bonds pursuant to the Act and otherwise hereunder within the meaning of Section 6586(a) through (d), inclusive, of the Act, in that the issuance of the Bonds and related transactions will result in demonstrable savings in effective interest rate to the City.

SECTION 2. The forms of the Ground Lease and the Lease Agreement on file with the City Clerk are hereby approved, and the Mayor, the City Manager, the Administrative Services/Finance Director and the City Clerk (the "Authorized Officers"), are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Ground Lease and the Lease Agreement in substantially said forms, with such changes, insertions and omissions therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the term of the Ground Lease and the Lease Agreement shall terminate no later than October 1, 2044 (provided that such term may be extended as provided therein) and that the true interest cost applicable to the interest components of the Base Rental Payments shall not exceed 6.00% per annum.

SECTION 3. The form of Indenture on file with the City Clerk is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Indenture in substantially said form, with such changes, insertions and omissions therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 4. The form of Bond Purchase Contract on file with the City Clerk is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Bond Purchase Contract in substantially said form, with such changes, insertions and omissions therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the Underwriters' discount shall not exceed 0.75% of the principal amount of the Bonds.

SECTION 5. The forms of the Escrow Agreement (2001 Bonds) and Escrow Agreement (2007 Bonds) on file with the City Clerk are hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Escrow Agreement (2001 Bonds) and Escrow Agreement (2007 Bonds) in substantially said form, with such changes, insertions and omissions therein as the Authorized Officer executing the same may require or approve.

SECTION 6. The form of Preliminary Official Statement on file with the City Clerk, with such changes, insertions and omissions therein as may be approved by an Authorized Officer, is hereby approved, and the use of the Preliminary Official Statement in connection with the offering and sale of the Bonds is hereby authorized and approved. The Authorized Officers are each hereby authorized to certify on behalf of the City that the Preliminary Official Statement is deemed final as of its date within the meaning of Rule 15c2-12 (except for the omission of certain final pricing, rating and related information as permitted by Rule 15c2-12). The Authorized Officers are each hereby authorized and directed to furnish, or cause to be furnished, to prospective bidders for the Bonds a reasonable number of copies of the Preliminary Official Statement.

SECTION 7. The preparation and delivery of an Official Statement, and its use in connection with the offering and sale of the Bonds, is hereby authorized and approved. The Official Statement shall be in substantially the form of the Preliminary Official Statement with such changes, insertions and omissions as may be approved by an Authorized Officer, such approval to be conclusively evidenced by the execution and delivery thereof. The Authorized Officers are each hereby authorized and directed, for and in the name of and on behalf of the City, to execute the final Official Statement and any amendment or supplement thereto for and in the name and on behalf of the City.

SECTION 8. The form of Continuing Disclosure Certificate on file with the City Clerk is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Continuing Disclosure Certificate in substantially said form, with such changes, insertions and omissions therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced to the execution and delivery thereof.

SECTION 9. The Authorized Officers are each hereby authorized to evaluate whether the purchase of municipal bond insurance and/or a debt service reserve policy for the Bonds will result in a net savings with respect to the Bonds and, if so, to arrange for the purchase of such municipal bond insurance and/or debt service reserve policy. The Authorized Officers are each hereby authorized to solicit bids from municipal bond insurers, to select an insurer to provide municipal bond insurance with respect to the Bonds and/or a debt service reserve policy, if applicable, and to execute and negotiate any agreements that are necessary in connection with the procurement of such municipal bond insurance and/or debt service reserve policy, provided that such municipal bond insurance policy and/or insurance debt service reserve policy provides debt service savings or other benefits to the proposed transaction, as determined by the Authorized Officers. The City's execution of an insurance commitment shall be

conclusive evidence of such determination. Each of the above-referenced officers is hereby authorized to direct Bond Counsel and/or the City Attorney to make any necessary revisions to the legal documents to effectuate the procurement of municipal bond insurance and/or a debt service reserve fund policy.

SECTION 10. The officers, employees and agents of the City are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable in order to consummate the transactions herein authorized and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, including but not limited to the execution of documents terminating the recorded leases and related agreements in connection with the 2001 Bonds and the 2007 Bonds. All actions heretofore taken by the officers, employees and agents of the City with respect to the transactions that are described in this Resolution are hereby approved, confirmed and ratified.

SECTION 11. This Resolution shall take effect from and after its date of adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. OPFA-_____

A RESOLUTION OF THE ONTARIO PUBLIC FINANCING AUTHORITY AUTHORIZING THE EXECUTION AND DELIVERY BY THE AUTHORITY OF A GROUND LEASE, LEASE AGREEMENT, INDENTURE, BOND PURCHASE CONTRACT AND ASSIGNMENT AGREEMENT IN CONNECTION WITH THE ISSUANCE OF ONTARIO PUBLIC FINANCING AUTHORITY 2017 LEASE REVENUE REFUNDING BONDS, AUTHORIZING THE ISSUANCE OF SUCH BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$35,000,000, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT IN CONNECTION WITH THE OFFERING AND SALE OF SUCH BONDS AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS.

WHEREAS, the Ontario Redevelopment Financing Authority (the "ORFA") previously issued its 2001 Lease Revenue Bonds (Capital Projects) (the "2001 Bonds"), the proceeds of which financed the acquisition and/or construction of various "public capital improvements" of the City of Ontario (the "City") within the meaning of the Marks-Roos Local Bond Pooling Act of 1985, commencing with Section 6584 of the California Government Code (the "Act"), all of which are located within the boundaries of the City (the "2001 Project"); and

WHEREAS, the ORFA previously issued its 2007 Lease Revenue Bonds (Capital Projects) (the "2007 Bonds"), the proceeds of which financed the acquisition and/or construction of various "public capital improvements" of the City within the meaning of the Act, all of which are located within the boundaries of the City (the "2007 Project"); and

WHEREAS, the Ontario Public Financing Authority (the "Authority") and the City have determined that it would be in the best interests of the City and residents of the City to authorize the preparation, sale and delivery of the "Ontario Public Financing Authority 2017 Lease Revenue Refunding Bonds" (the "Bonds") for the purposes of refinancing the 2001 Project and the 2007 Project; and

WHEREAS, in order to facilitate the issuance of the Bonds, the City and the Authority desire to enter into a Ground Lease between the City and the Authority (the "Ground Lease") pursuant to which the City will lease certain real property (which real property shall consist of the Ontario Convention Center located at 2000 East Convention Center Way, Ontario, California 91764 (the "Leased Assets")) to the Authority, and a Lease Agreement between the City and the Authority (the "Lease Agreement"), pursuant to which the City will sublease the Leased Assets back from the Authority, and pay certain Base Rental Payments (as such term is defined in the Lease Agreement), which are pledged to the owners of the Bonds by the Authority pursuant to an Indenture by and among The Bank of New York Mellon Trust Company, N.A. (the "Trustee"), the City and the Authority (the "Indenture"); and

WHEREAS, the Authority and the Trustee desire to enter into an Assignment Agreement in order to provide, among other things, that all rights to receive the Base Rental Payments have been assigned without recourse by the Authority to the Trustee; and

WHEREAS, the City and the Authority have determined that it would be in the best interests of the City and the Authority to provide the funds necessary to refinance the 2001 Project and the 2007 Project through the offering and sale of the Bonds; and

WHEREAS, the City and the Authority desire to undertake a negotiated sale of the Bonds to Stern Brothers & Co., as representative of the underwriters of the Bonds (the "Representative") pursuant to a purchase contract by and among the City, the Authority and the Representative (the "Bond Purchase Contract"); and

WHEREAS, the Bonds will be issued pursuant to the Act; and

WHEREAS, a form of the Preliminary Official Statement (the "Preliminary Official Statement") has been prepared; and

WHEREAS, the City is a member of the Authority and the 2001 Project and the 2007 Project are located within the boundaries of the City; and

WHEREAS, the City has, prior to the consideration of this Resolution, held a public hearing on the refinancing of the 2001 Project and the 2007 Project from the proceeds of the issuance of the Bonds in accordance with Section 6586.5 of the Act, which hearing was held at 303 East B Street, Ontario, California 91764 on the date of this Resolution, and adopted its resolution approving the refinancing and making a finding of significant public benefit in accordance with the Act; and

WHEREAS, in accordance with Section 6586.5 of the Act, notice of such hearing was published once at least five days prior to the hearing in the Inland Valley Daily Bulletin, a newspaper of general circulation in the City; and

WHEREAS, the Board of Directors of the Authority (the "Board of Directors") has been presented with the form of each document that is referred to herein, and the Board of Directors has examined and approved each document and desires to authorize and direct the execution of such documents and the consummation of such financing and refinancing; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of such refinancing authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Authority is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such refinancing for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE ONTARIO PUBLIC FINANCING AUTHORITY DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. Each of the above recitals is true and correct and the Board of Directors so finds. The Board of Directors has determined and hereby finds that the Authority's assistance in refinancing the 2001 Project and the 2007 Project through the issuance of the Bonds will result in significant public benefits of the type described in Section 6586 (a) through (d), inclusive, of the Act, and that the components of the 2001 Project and the 2007 Project to be refinanced from proceeds of the Bonds were approved pursuant to all applicable requirements of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) and applicable guidelines, or that such components were exempt therefrom.

SECTION 2. The forms of the Lease Agreement and the Ground Lease on file with the Secretary of the Authority are hereby approved, and the Chair, Vice Chair, Executive Director, Treasurer and Secretary (the "Authorized Officers"), are each hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Lease Agreement and the Ground Lease, respectively, in substantially said forms, with such changes, insertions and omissions therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the term of the Lease Agreement and the Ground Lease shall terminate no later than October 1, 2044 (provided that such term may be extended as provided therein) and the true interest cost applicable to the interest components of the Base Rental Payments shall not exceed 6.00% per annum.

SECTION 3. The form of Indenture on file with the Secretary of the Authority is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Indenture in substantially said form, with such changes, insertions and omissions therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 4. The form of Bond Purchase Contract on file with the Secretary of the Authority is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Bond Purchase Contract in substantially said form, with such changes, insertions and omissions therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the Underwriters' discount shall not exceed 0.75% of the principal amount of the Bonds.

SECTION 5. The form of Assignment Agreement on file with the Secretary of the Authority is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Assignment Agreement in substantially said form, with such changes,

insertions and omissions therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 6. The form of Preliminary Official Statement on file with the Secretary of the Authority, with such changes, insertions and omissions therein as may be approved by an Authorized Officer, is hereby approved, and the use of the Preliminary Official Statement in connection with the offering and sale of the Bonds is hereby authorized and approved. The Authorized Officers are each hereby authorized to certify on behalf of the Authority that the Preliminary Official Statement is deemed final as of its date within the meaning of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 (except for the omission of certain final pricing, rating and related information as permitted by Rule 15c2-12). The Authorized Officers are each hereby authorized and directed to furnish, or cause to be furnished, to prospective bidders for the Bonds a reasonable number of copies of the Preliminary Official Statement.

SECTION 7. The preparation and delivery of an Official Statement, and its use in connection with the offering and sale of the Bonds, is hereby authorized and approved. The Official Statement shall be in substantially the form of the Preliminary Official Statement with such changes, insertions and omissions as may be approved by an Authorized Officer, such approval to be conclusively evidenced by the execution and delivery thereof. The Authorized Officers are each hereby authorized and directed, for and in the name of and on behalf of the Authority, to execute the final Official Statement and any amendment or supplement thereto for and in the name and on behalf of the Authority.

SECTION 8. The Authorized Officers are each hereby authorized to evaluate whether the purchase of municipal bond insurance and/or a debt service reserve policy for the Bonds will result in a net savings with respect to the Bonds and, if so, to arrange for the purchase of such municipal bond insurance and/or debt service reserve policy. The Authorized Officers are each hereby authorized to solicit bids from municipal bond insurers, to select an insurer to provide municipal bond insurance with respect to the Bonds and/or a debt service reserve policy, if applicable, and to execute and negotiate any agreements that are necessary in connection with the procurement of such municipal bond insurance and/or debt service reserve policy, provided that such municipal bond insurance policy and/or insurance debt service reserve policy provides debt service savings or other benefits to the proposed transaction, as determined by the Authorized Officers. The Authority's execution of an insurance commitment shall be conclusive evidence of such determination. Each of the above-referenced officers is hereby authorized to direct Bond Counsel and/or the Authority's General Counsel to make any necessary revisions to the legal documents to effectuate the procurement of municipal bond insurance and/or a debt service reserve fund policy.

SECTION 9. The officers, employees and agents of the Authority are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable in order to consummate the transactions herein authorized and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution. All actions heretofore taken by the officers, employees and

agents of the Authority with respect to the transactions that are described in this Resolution are hereby approved, confirmed and ratified.

SECTION 10. This Resolution shall take effect from and after its date of adoption.

The Secretary of the Ontario Public Financing Authority shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, CHAIRMAN

ATTEST:

SHEILA MAUTZ, SECRETARY

APPROVED AS TO LEGAL FORM:

AUTHORITY COUNSEL

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, Secretary of the Ontario Public Financing Authority, DO HEREBY CERTIFY that foregoing Resolution No. OPFA- was duly passed and adopted by the Board of Directors of the Ontario Public Financing Authority at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

SHEILA MAUTZ, SECRETARY

(SEAL)

The foregoing is the original of Resolution No. OPFA- duly passed and adopted by the Board of Directors of the Ontario Public Financing Authority at their regular meeting held May 16, 2017.

SHEILA MAUTZ, SECRETARY

(SEAL)

RESOLUTION NO. ORFA- _____

A RESOLUTION OF THE ONTARIO REDEVELOPMENT FINANCING AUTHORITY AUTHORIZING THE EXECUTION AND DELIVERY OF LEASE TERMINATION DOCUMENTS IN CONNECTION WITH THE REFUNDING OF THE 2001 LEASE REVENUE BONDS (CAPITAL PROJECTS) AND 2007 LEASE REVENUE BONDS (CAPITAL PROJECTS) AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS.

WHEREAS, the Ontario Redevelopment Financing Authority (the "ORFA") previously issued its 2001 Lease Revenue Bonds (Capital Projects) (the "2001 Bonds"), the proceeds of which financed the acquisition and/or construction of various "public capital improvements" of the City of Ontario (the "City") within the meaning of the Marks-Roos Local Bond Pooling Act of 1985, commencing with Section 6584 of the California Government Code (the "Act"), all of which are located within the boundaries of the City (the "2001 Project"); and

WHEREAS, the ORFA previously issued its 2007 Lease Revenue Bonds (Capital Projects) (the "2007 Bonds"), the proceeds of which financed the acquisition and/or construction of various "public capital improvements" of the City within the meaning of the Act, all of which are located within the boundaries of the City (the "2007 Project"); and

WHEREAS, in connection with the issuance of the 2001 Bonds and the 2007 Bonds, certain documents were recorded in the Official Records of the County of San Bernardino (collectively, the "2001 and 2007 Lease Documents"); and

WHEREAS, the Ontario Public Financing Authority and the City have determined that it would be in the best interests of the City and residents of the City to authorize the preparation, sale and delivery of the "Ontario Public Financing Authority 2017 Lease Revenue Refunding Bonds" (the "Bonds") for the purposes of refinancing the 2001 Project and the 2007 Project; and

WHEREAS, the refinancing of the 2001 Project and the 2007 Project will be accomplished through the refunding of the 2001 Bonds and the 2007 Bonds from proceeds of the Bonds and other moneys; and

WHEREAS, the refunding of the 2001 Bonds and the 2007 Bonds will cause the liens evidenced by the 2001 and 2007 Lease Documents to be released; and

WHEREAS, the ORFA desires to execute and record certain documents to effect the release of the 2001 and 2007 Lease Documents; and

WHEREAS, the Board of Directors of the ORFA (the "Board of Directors") has been presented with the form of each document that is referred to herein, and the Board of Directors has examined and approved each document and desires to authorize

and direct the execution of such documents and the consummation of the matters that are described herein; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of such refinancing authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the ORFA is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such refinancing for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE ONTARIO REDEVELOPMENT FINANCING AUTHORITY DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. Each of the above recitals is true and correct and the Board of Directors so finds.

SECTION 2. The forms of the Termination of Lease Agreement relating to the 2001 Bonds and the Termination of First Amendment to Lease Agreement and Termination of First Supplemental Indenture of Trust (collectively, the "Termination Documents"), each relating to the 2007 Bonds, on file with the Secretary of the ORFA are hereby approved, and the Chair, Vice Chair, Executive Director, Treasurer and Secretary (the "Authorized Officers"), are each hereby authorized and directed, for and in the name and on behalf of the ORFA, to execute and deliver such Termination Documents, in substantially said forms, with such changes, insertions and omissions therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 3. The officers, employees and agents of the ORFA are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable in order to consummate the transactions herein authorized and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution. All actions heretofore taken by the officers, employees and agents of the ORFA with respect to the transactions that are described in this Resolution are hereby approved, confirmed and ratified.

SECTION 4. This Resolution shall take effect from and after its date of adoption.

The Secretary of the Ontario Redevelopment Financing Authority shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, CHAIRMAN

ATTEST:

SHEILA MAUTZ, SECRETARY

APPROVED AS TO LEGAL FORM:

AUTHORITY COUNSEL

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, Secretary of the Ontario Redevelopment Financing Authority, DO HEREBY CERTIFY that foregoing Resolution No. ORFA- was duly passed and adopted by the Board of Directors of the Ontario Redevelopment Financing Authority at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

SHEILA MAUTZ, SECRETARY

(SEAL)

The foregoing is the original of Resolution No. ORFA- duly passed and adopted by the Board of Directors of the Ontario Redevelopment Financing Authority at their regular meeting held May 16, 2017.

SHEILA MAUTZ, SECRETARY

(SEAL)

CITY OF ONTARIO

Agenda Report

May 16, 2017

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES); INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES; AND ADOPTION OF A RESOLUTION TO INCUR BONDED INDEBTEDNESS

RECOMMENDATION: That City Council:

- (A) Adopt a resolution establishing Community Facilities District No. 38 (Park & Turner NE Facilities), authorizing the levy of special taxes within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution deeming it necessary to incur bonded indebtedness within Community Facilities District No. 38 (Park & Turner NE Facilities);
- (C) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities);
- (D) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
- (E) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities); and
- (F) Adopt a resolution authorizing the execution and delivery of an acquisition and funding agreement with Lennar Homes of California, Inc., a California corporation.

COUNCIL GOALS: Focus Resources in Ontario's Commercial and Residential Neighborhoods Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

STAFF MEMBER PRESENTING: Grant D. Yee, Administrative Services/Finance Director

Prepared by: Bob Chandler
Department: Management Services

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

16

Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

FISCAL IMPACT: The use of Mello-Roos financing for facilities in the residential development of the Park & Turner NE Facilities project is estimated to generate approximately \$8.8 million which will be used to help fund a portion of the public infrastructure improvements that will serve the project. Since Mello-Roos bonds are not a direct obligation of the City, and are paid from special taxes levied on each taxable parcel in the district, there is no general fund impact from the issuance of Mello-Roos bonds.

BACKGROUND: The Mello-Roos Community Facilities Act of 1982 provides local government, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to fund governmental services and to finance various kinds of public infrastructure facilities. With the adoption of Resolution 2016-012 on February 2, 2016, the City Council authorized the levy of special taxes to fund various city services for the district. Under the Mello-Roos Act, the initial steps in the formation of a community facilities district to finance public improvements are adopting resolutions declaring the intention to establish a community facilities district, authorize the levy of special taxes, and to issue bonds. Accordingly, on April 4, 2017, the City Council approved Resolution No. 2017-021, a Resolution of Intention to establish City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities) and authorize the levy of special taxes, and Resolution No. 2017-022, declaring the City Council's intention to issue bonds for the district. The Resolution of Intention set the public hearing date for the regularly scheduled City Council meeting of May 16, 2017 to consider formation matters.

In the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony ("First Amended and Restated Construction Agreement") between the City and NMC Builders LLC, the City agreed to cooperate with the members of NMC Builders LLC in the formation of community facilities districts to assist in the financing of the public improvements included in the agreement. Lennar Homes of California, Inc., a member of NMC Builders LLC, has provided a written petition to the City requesting formation of a community facilities district for the Park & Turner NE Facilities project in the Ontario Ranch. The Park & Turner NE Facilities project addresses the development of approximately 24.63 taxable acres (approximately 47 gross acres) located generally east of Archibald Avenue, west of Haven Avenue, south of Ontario Ranch Road (formerly Edison Avenue) and north of Eucalyptus Avenue. At build out, the development is projected to include 330 detached units.

Included, as part of the resolution of formation is the proposed Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities). The terms of the Rate and Method of Apportionment of Special Tax are consistent with the City Council's adopted Mello-Roos Local Goals and Policies in all aspects, except that the percentage of assessed value of the total annual tax obligation plus the Homeowners Association (HOA) fee exceeds the adopted policy thresholds, in aggregate, by .23% for each detached unit. However, as has been previously authorized for other similarly constituted community facilities districts in the Ontario Ranch, and as is consistent with the "enhanced level of amenities" provisions of the Memorandum of Understanding executed between the city and NMC Builders on July 21, 2015 (the MOU), it is recommended that the policy threshold limitations be waived in this instance in recognition of the significantly enhanced level of amenities and services to be provided by the project's HOA(s), which are of the type contemplated by the MOU.

Under the proposed Rate and Method of Apportionment, **the portion of the maximum annual special tax rates which will be used to fund debt service payments on the bonds is fixed and will not increase over time.** As proposed, the amount of bonds authorized for the district (\$35 million) is set intentionally higher than the current estimated bond amount (approximately \$8.8 million) in order to allow future City Councils the option, without increasing the amount of the annual special taxes, to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund City services. The term and structure of the Rate and Method of Apportionment of Special Tax for the Park & Turner NE Facilities project is consistent with those of the previously adopted Rates and Methods of Apportionment for Ontario Ranch community facilities districts. This ensures that the special tax rates levied on all residential property owners in community facilities districts in Ontario Ranch are developed in a consistent and equivalent manner. In addition, under the provisions of the Mello-Roos Act, to ensure that home buyers are making an informed decision, all residential builders in the Ontario Ranch districts will be required to disclose the maximum annual special tax amount to each homeowner before entering into a sales contract.

Attached are five resolutions and an ordinance. The first resolution establishes the community facilities district, with the rate and method of apportionment of special taxes, and authorizes the levy of special taxes within the district. The second resolution deems the necessity of incurring bonded indebtedness for the district. The third calls for a special landowner election to be held on May 16, 2017. The fourth resolution declares the results of the election, including a statement from the City Clerk as to the canvass of ballots, and directs the recording of the Notice of Special Tax Lien. The ordinance authorizes the levying of special taxes, and the final resolution authorizes the execution and delivery of an acquisition and funding agreement with Lennar Homes of California, Inc.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

WHEREAS, on April 4, 2017, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities), and to Authorize the Levy of Special Taxes" (the "Resolution of Intention"), stating its intention to establish a community facilities district (the "Community Facilities District") proposed to be named City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities), to authorize the levy of special taxes within the Community Facilities District to finance certain public facilities and services and setting the date for a public hearing to be held on the establishment of the Community Facilities District; and

WHEREAS, pursuant to the Resolution of Intention, notice of said public hearing was published in the *Inland Valley Daily Bulletin*, a newspaper of general circulation published in the area of the Community Facilities District, in accordance with the Act; and

WHEREAS, on this date, the City Council opened, conducted and closed said public hearing; and

WHEREAS, pursuant to the Resolution of Intention, each officer of the City who is or will be responsible for providing one or more of the proposed types of public facilities or services was directed to study, or cause to be studied, the proposed Community Facilities District and, at or before said public hearing, file a report with the City Council containing a brief description of the public facilities and services by type that will in his or her opinion be required to adequately meet the needs of the Community Facilities District, and his or her estimate of the cost of providing such public facilities and services; such officers were also directed to estimate the fair and reasonable cost of the public facilities proposed to be purchased as completed public facilities and of the incidental expenses proposed to be paid; and

WHEREAS, said report was so filed with the City Council and made a part of the record of said public hearing; and

WHEREAS, at the hearing, the testimony of all persons for or against the establishment of the Community Facilities District, the extent of the Community Facilities District and the furnishing of the specified types of public facilities and services was heard; and

WHEREAS, written protests against the establishment of the Community Facilities District, the furnishing of any specified type or types of facilities and services within the Community Facilities District or the levying of any specified special tax were not made or filed at or before said hearing by 50% or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the Community Facilities District, or the owners of one-half or more of the area of land in the territory proposed to be included in the Community Facilities District and not exempt from the special tax; and

WHEREAS, there has been filed with the City Clerk of the City a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 17, 2017, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the proposed Community Facilities District for each of the 90 days preceding the close of said public hearing; and

WHEREAS, Section 53314.9 of the Act provides that, at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a community facilities district; and

WHEREAS, Section 53314.9 of the Act further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the legislative body, with or without interest, under all the following conditions: (a) the proposal to repay the funds is included in both the resolution of intention to establish a community facilities district adopted pursuant to Section 53521 of the Act and in the resolution of formation to establish a community facilities district pursuant to Section 53325.1 of the Act, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any agreement shall specify that if the qualified electors of the community facilities district do not approve the proposed special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds; and

WHEREAS, the City and Lennar Homes of California, Inc. (the "Landowner") entered into a Deposit and Reimbursement Agreement, dated as of April 1, 2017 (the "Deposit Agreement"), that provides for the advancement of funds by the Landowner to be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby, and provides for the reimbursement to the Landowner of such funds advanced, without interest, from the proceeds of any such bonds issued by the Community Facilities District; and

WHEREAS, in accordance with Section 53314.9 of the Act, the City desires to accept such advances and to reimburse the Landowner therefor, without interest, from the proceeds of special tax bonds issued by the Community Facilities District;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ontario as follows:

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The Community Facilities District is hereby established pursuant to the Act.

SECTION 3. The Community Facilities District is hereby named "City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities)."

SECTION 4. The public facilities (the "Facilities") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Facilities" on Exhibit A hereto, which is by this reference incorporated herein. Those Facilities proposed to be purchased as completed public facilities are described under the caption "Facilities to be Purchased" on Exhibit A hereto. The services (the "Services") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Services" on Exhibit A hereto. The incidental expenses proposed to be incurred are identified under the caption "Incidental" on Exhibit A hereto. All or any portion of the Facilities may be financed through a financing plan, including, but not limited to, a lease, lease-purchase or installment-purchase arrangement.

SECTION 5. The proposed special tax to be levied within the Community Facilities District has not been precluded by majority protest pursuant to Section 53324 of the Act.

SECTION 6. Except where funds are otherwise available, a special tax sufficient to pay for all Facilities and Services, secured by recordation of a continuing lien against all nonexempt real property in the Community Facilities District, will be annually levied within the Community Facilities District. The rate and method of apportionment of the special tax (the "Rate and Method"), in sufficient detail to allow each landowner within the proposed Community Facilities District to estimate the maximum amount that he or she will have to pay, is described in Exhibit B attached hereto, which is by this reference incorporated herein. The conditions under which the obligation to pay the special tax to pay for Facilities may be prepaid and permanently satisfied are specified in the Rate and Method. The special tax will be collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as the City Council shall determine, including direct billing of the affected property owners.

SECTION 7. The special tax may only finance the Services to the extent that they are in addition to those provided in the territory of the Community Facilities District before the Community Facilities District is created. The Services may not supplant services already available within that territory when the Community Facilities District is created.

SECTION 8. The tax year after which no further special tax to pay for Facilities will be levied against any parcel used for private residential purposes is specified in the Rate and Method. Under no circumstances shall the special tax to pay

for Facilities in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the Community Facilities District by more than 10% above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. For purposes of this paragraph, a parcel shall be considered "used for private residential purposes" not later than the date on which an occupancy permit for private residential use is issued.

SECTION 9. Pursuant to Section 53344.1 of the Act, the City Council hereby reserves to itself the right and authority to allow any interested owner of property within the Community Facilities District, subject to the provisions of said Section 53344.1 and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the Community Facilities District treasurer in full payment or part payment of any installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

SECTION 10. The name, address and telephone number of the office that will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and that will be responsible for estimating further special tax levies pursuant to Section 53340.2 of the Act are as follows: Management Analyst, Management Services, City of Ontario, 303 East B Street, Ontario, California 91764, (909) 395-2341.

SECTION 11. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the Community Facilities District and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the City Council ceases.

SECTION 12. The boundary map of the Community Facilities District has been recorded in San Bernardino County in Book 87 at Page 46 of Maps of Assessments and Community Facilities Districts in the San Bernardino County Recorder's Office (Document No. 2017-0149860).

SECTION 13. The annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the Community Facilities District is hereby established at \$35,000,000.

SECTION 14. Pursuant to the provisions of the Act, the levy of the special tax and a proposition to establish the appropriations limit specified above shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 17, 2017, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close

of the public hearing held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax. The voting procedure shall be by mailed or hand-delivered ballot.

SECTION 15. The Landowner has heretofore advanced certain funds, and may advance additional funds, which have been or may be used to pay costs incurred in connection with the creation of the Community Facilities District and the issuance of special tax bonds thereby. The City Council has previously approved the acceptance of such funds for the purpose of paying costs incurred in connection with the creation of the Community Facilities District and the issuance of special tax bonds thereby. The City Council proposes to repay all or a portion of such funds expended for such purpose, solely from the proceeds of such bonds, pursuant to the Deposit Agreement. The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

SECTION 16. The City Council hereby finds and determines that all proceedings up to and including the adoption of this Resolution were valid and in conformity with the requirements of the Act. In accordance with Section 53325.1 of the Act, such finding shall be final and conclusive.

SECTION 17. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 18. This Resolution shall take effect immediately upon its adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED and ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

EXHIBIT A

FACILITIES, SERVICES AND INCIDENTAL EXPENSES

Facilities

The types of facilities to be financed by the Community Facilities District are street and bridge improvements, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, domestic and recycled water distribution facilities, sewer collection facilities, solid waste facilities, storm drainage facilities, park and recreation facilities and equipment, aquatic facilities and equipment, fire facilities and equipment, police facilities and equipment, library facilities and equipment, fiber optic telecommunication system facilities, general governmental office, administrative and meeting facilities, and land, rights-of-way and easements necessary for any of such facilities.

Facilities to be Purchased

The types of facilities to be purchased as completed facilities are street and bridge improvements, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, domestic and recycled water distribution facilities, sewer collection facilities, solid waste facilities, storm drainage facilities, park and recreation facilities and equipment, aquatic facilities and equipment, fire facilities and equipment, police facilities and equipment, library facilities and equipment, fiber optic telecommunication system facilities, general governmental office, administrative and meeting facilities, and land, rights-of-way and easements necessary for any of such facilities.

Services

The types of services to be financed by the Community Facilities District are police protection services, fire protection and suppression services, ambulance and paramedic services, maintenance and lighting of parks, parkways, streets, roads and open space, flood and storm protection services and maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the City.

Incidental Expenses

The incidental expenses proposed to be incurred include the following:

- (a) the cost of planning and designing public facilities to be financed, including the cost of environmental evaluations of those facilities;
- (b) the costs associated with the creation of the Community Facilities District, issuance of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District; and
- (c) any other expenses incidental to the construction, completion, and inspection of the authorized work.

EXHIBIT B

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities) ("CFD No. 38") and collected each Fiscal Year, commencing in Fiscal Year 2017-18, in an amount determined by the City Council of the City of Ontario through the application of the Rate and Method of Apportionment, as described below. All of the real property in CFD No. 38, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Subdivision Map, parcel map, condominium plan, or other recorded County map.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 38: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 38 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City or CFD No. 38 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 38 of complying with City, CFD No. 38, or obligated persons disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 38 related to the analysis and reduction, if any, of the Special Tax on Residential Property in accordance with Section C.1 herein; the costs of the City or CFD No. 38 related to an appeal of the Special Tax; the costs associated with the release of funds from any escrow account; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead relating to CFD No. 38; and amounts estimated or advanced by the City or CFD No. 38 for any other administrative purposes

of the CFD, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Assessor's Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by Assessor's Parcel Number.

"Assessor's Parcel Number" means, with respect to an Assessor's Parcel, that number assigned to such Assessor's Parcel by the County for purposes of identification.

"Assigned Special Tax" means the Special Tax for each Land Use Class of Developed Property, as determined in accordance with Section C.1.a.2 below.

"Backup Special Tax" means the Special Tax for each Land Use Class of Developed Property, as determined in accordance with Section C.1.a.3 below.

"Bonds" means any bonds or other debt (as defined in Section 53317(d) of the Act) issued by CFD No. 38 under the Act and payable from Special Taxes.

"Buildable Lot" means an individual lot, within a Final Subdivision Map or an area expected by CFD No. 38 to become Final Mapped Property, such as the area within a Tentative Tract Map, for which a building permit may be issued without further subdivision of such lot.

"CFD Administrator" means an official of the City responsible for determining the Special Tax Requirement, providing for the levy and collection of the Special Taxes, and performing the other duties provided for herein.

"CFD No. 38" means City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities).

"City" means the City of Ontario, California.

"City Council" means the City Council of the City, acting as the legislative body of CFD No. 38.

"County" means the County of San Bernardino.

"Designated Buildable Lot" means a Buildable Lot for which a building permit has not been issued by the City as of the date of calculation of the Backup Special Tax.

"Developed Property" means for each Fiscal Year, all Taxable Property, exclusive of Final Mapped Property, Taxable Property Owner Association Property, and Taxable Public Property, for which a building permit or other applicable permit for new construction was issued after January 1, 2016, and before May 1 of the prior Fiscal Year.

“Expected Residential Lot Count” means 330 Buildable Lots of Residential Property or, as determined by the CFD Administrator, the number of Buildable Lots of Residential Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

“Facilities” means the public facilities authorized to be financed, in whole or in part, by CFD No. 38.

“Final Mapped Property” means, for each Fiscal Year, all Taxable Property, exclusive of Developed Property, Taxable Property Owner Association Property, and Taxable Public Property, which as of January 1 of the previous Fiscal Year was located within a Final Subdivision Map. The term Final Mapped Property shall include any parcel map or Final Subdivision Map, or portion thereof, that creates individual lots for which a building permit may be issued, including Parcels that are designated as a remainder Parcel (i.e., one where the size, location, etc., precludes any further subdivision or taxable use).

“Final Subdivision Map” means a final tract map, parcel map, or lot line adjustment approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or a condominium plan recorded pursuant to California Civil Code 1352 that, in either case, creates individual lots for which building permits may be issued without further subdivision.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Indenture” means the indenture, fiscal agent agreement, resolution, or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time.

“Land Use Class” means any of the classes listed in Table 1 below.

“Maximum Special Tax” means, with respect to an Assessor’s Parcel of Taxable Property, the Maximum Special Tax determined in accordance with Section C.1 below that can be levied in any Fiscal Year on such Assessor’s Parcel of Taxable Property.

“Minimum Sale Price” means the minimum price at which Units of a given Land Use Class have sold or are expected to be sold in a normal marketing environment and shall not include prices for such Units that are sold at a discount to expected sales prices for the purpose of stimulating the initial sales activity with respect to such Land Use Class.

“Non-Residential Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued by the City permitting the construction of one or more non-residential structures or facilities that are not public school facilities.

“Outstanding Bonds” means all Bonds which are outstanding under and in accordance with the provisions of the Indenture.

“PACE Charges” means a contractual assessment or special tax as established by a public agency pursuant to AB 811 or SB 555, respectively, levied on an Assessor’s Parcel to fund eligible improvements to private property and entered into voluntarily by the property owner.

“Price Point Consultant” means any consultant or firm of such consultants selected by CFD No. 38 that (a) has substantial experience in performing price point studies for residential units within community facilities districts established under the Act or otherwise estimating or confirming pricing for residential units in such community facilities districts, (b) has recognized expertise in analyzing economic and real estate data that relates to the pricing of residential units in such community facilities districts, (c) is in fact independent and not under the control of CFD No. 38 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 38, (ii) the City, (iii) any owner of real property in CFD No. 38, or (iv) any real property in CFD No. 38, and (e) is not connected with CFD No. 38 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 38 or the City.

“Price Point Study” means a price point study or a letter updating a previous price point study prepared by the Price Point Consultant pursuant to Section C herein.

“Property Owner Association Property” means, for each Fiscal Year, any property within the boundaries of CFD No. 38 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

“Proportionately” means (a) for Developed Property in the first step of Section D below, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Developed Property; however, for Developed Property in the fourth step of Section D below, Proportionately means that the amount of the increase above the Assigned Special Tax, if necessary, is equal for all Assessor’s Parcels of Developed Property, except that if the Backup Special Tax limits the increase on any Assessor’s Parcel(s), then the amount of the increase shall be equal for the remaining Assessor’s Parcels; (b) for Final Mapped Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Final Mapped Property; (c) for Undeveloped Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Undeveloped Property; (d) for Taxable Property Owner Association Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Property Owner Association Property; and (e) for Taxable Public Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Public Property.

“Public Property” means, for each Fiscal Year, property within the boundaries of CFD No. 38 that is (a) owned by, irrevocably offered to, or dedicated to the federal government, the State, the County, the City, or any local government or other public agency or (b) encumbered by an easement for purposes of public right-of-way that makes impractical its use for any purpose other than that set forth in such easement, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

“Rate and Method of Apportionment” means this Rate and Method of Apportionment of Special Tax.

“Residential Floor Area” means all of the Square Footage of living area within the perimeter of a residential Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be as set forth in the building permit(s) issued for such Assessor’s Parcel, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 38. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor’s Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

“Residential Property” means all Assessor’s Parcels of Taxable Property for which a building permit may be issued for purposes of constructing one or more Units.

“Services” means the services authorized to be financed, in whole or in part, by CFD No. 38.

“Special Tax” means the special tax authorized by the qualified electors of CFD No. 38 to be levied within the boundaries of CFD No. 38.

“Special Tax Requirement” means for any Fiscal Year that amount required, after taking into account available amounts held in the funds and accounts established under the Indenture, for CFD No. 38 to: (i) pay debt service on all Outstanding Bonds which is due in the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including, but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay Administrative Expenses; (iv) provide any amounts required to establish or replenish any reserve fund for the Bonds; (v) pay directly for acquisition or construction of Facilities, or the cost of Services, to the extent that the inclusion of such amounts does not increase the Special Tax levy on Final Mapped Property or Undeveloped Property; (vi) provide an amount equal to Special Tax delinquencies based on the historical delinquency rate for the Special Tax as determined by the CFD Administrator.

“Square Footage” or **“Sq. Ft.”** means the floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 38, issued for construction of Residential Property or Non-Residential Property, plus any square footage subsequently added to a building of Non-Residential Property after issuance of a building permit for expansion or renovation of such building.

“State” means the State of California.

“Taxable Property” means, for each Fiscal Year, all of the Assessor’s Parcels within the boundaries of CFD No. 38 that are not exempt from the Special Tax pursuant to law or Section E below.

“Taxable Property Owner Association Property” means, for each Fiscal Year, all Assessor’s Parcels of Property Owner Association Property that are not exempt from the Special Tax pursuant to Section E below.

“Taxable Public Property” means, for each Fiscal Year, all Assessor’s Parcels of Public Property that are not exempt from the Special Tax pursuant to law or Section E below.

“Tentative Tract Map” means a map: (i) showing a proposed subdivision of an Assessor’s Parcel(s) and the conditions pertaining thereto; (ii) that may or may not be based on a detailed survey; and (iii) that is not recorded by the County to create legal lots.

“Total Tax Burden” means for any Unit, the annual Special Tax, together with *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities district, and any other taxes, fees, and charges which are levied and imposed on such Unit and the real property on which it is located and collected by the County on *ad valorem* tax bills and which are secured by such Unit and the real property on which it is located, assuming such Unit had been completed, sold, and subject to such levies and impositions, excluding service charges such as those related to sewer and trash and excluding PACE Charges levied on individual Assessor’s Parcels.

“Trustee” means the trustee or fiscal agent under the Indenture.

“TTM 18662” means Tentative Tract Map No. 18662, the area of which is located within CFD No. 38 and is commonly referred to as planning areas 4, 5, and 6 (or PA 4, PA 5, and PA 6).

“Undeveloped Property” means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Final Mapped Property, Taxable Public Property, or Taxable Property Owner Association Property.

“Unit” means an individual single-family detached or attached home, townhome, condominium, apartment, or other residential dwelling unit, including each separate living area within a half-plex, duplex, triplex, fourplex, or other residential structure.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2017-18, all Taxable Property within CFD No. 38 shall be classified as Developed Property, Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below. Assessor’s Parcels of Residential Property shall be assigned to Land Use Classes 1 through 18 as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor’s Parcels. Non-Residential Property shall be assigned to Land Use Class 19.

C. MAXIMUM SPECIAL TAX

1. Special Tax

At least 30 days prior to the issuance of Bonds, the Assigned Special Tax on Developed Property (set forth in Table 1 below) shall be analyzed in accordance with and subject to the conditions set forth in this Section C. At such time, CFD No. 38 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class. If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to Units within one or more Land Use Classes of Residential Property to be constructed within CFD No. 38 exceeds 1.95% of the Minimum Sale Price of such Units, the Assigned Special Tax shall be reduced to the extent necessary to cause the Total Tax Burden that shall apply to Units within such Land Use Class(es) not to exceed 1.95% of the Minimum Sale Price of such Units. Each Assigned Special Tax reduction for a Land Use Class shall be calculated by the CFD Administrator separately, and it shall not be required that such reduction be proportionate among Land Use Classes. In connection with any reduction in the Assigned Special Tax, the Backup Special Tax shall also be reduced by the CFD Administrator based on the percentage reduction in Maximum Special Tax revenues within the Tentative Tract Map area(s) where the Assigned Special Tax reductions occurred. The Special Tax reductions required pursuant to this paragraph shall be reflected in an amended notice of Special Tax lien which CFD No. 38 shall cause to be recorded by executing a certificate in substantially the form attached herein as Exhibit A. The reductions in this section apply to Residential Property, but not to Non-Residential Property.

a. *Developed Property*

1) *Maximum Special Tax*

The Maximum Special Tax that may be levied in any Fiscal Year for each Assessor's Parcel classified as Developed Property shall be the greater of (i) the amount derived by application of the Assigned Special Tax or (ii) the amount derived by application of the Backup Special Tax. The Maximum Special Tax shall not increase in future years, other than as calculated pursuant to Section C.1.a.3 below.

2) *Assigned Special Tax*

The Assigned Special Tax that may be levied in any Fiscal Year for each Land Use Class is shown below in Table 1.

**TABLE 1
ASSIGNED SPECIAL TAX – DEVELOPED PROPERTY**

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Residential Property	< 1,501	\$1,771 per Unit
2	Residential Property	1,501 – 1,600	\$1,842 per Unit
3	Residential Property	1,601 – 1,700	\$1,964 per Unit
4	Residential Property	1,701 – 1,800	\$2,046 per Unit
5	Residential Property	1,801 – 1,900	\$2,050 per Unit
6	Residential Property	1,901 – 2,000	\$2,148 per Unit
7	Residential Property	2,001 – 2,100	\$2,219 per Unit
8	Residential Property	2,101 – 2,200	\$2,289 per Unit
9	Residential Property	2,201 – 2,300	\$2,383 per Unit
10	Residential Property	2,301 – 2,400	\$2,405 per Unit
11	Residential Property	2,401 – 2,500	\$2,536 per Unit
12	Residential Property	2,501 – 2,600	\$2,539 per Unit
13	Residential Property	2,601 – 2,700	\$2,609 per Unit
14	Residential Property	2,701 – 2,800	\$2,724 per Unit
15	Residential Property	2,801 – 2,900	\$2,749 per Unit
16	Residential Property	2,901 – 3,000	\$2,865 per Unit
17	Residential Property	3,001 – 3,100	\$2,888 per Unit
18	Residential Property	> 3,100	\$2,958 per Unit
19	Non-Residential Property TTM 18662		\$31,636 per Acre

3) *Backup Special Tax*

The Backup Special Tax shall be \$2,361 per Unit for Residential Property in TTM 18662. However, if the Expected Residential Lot Count does not equal 330 for TTM 18662, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Residential Property shall be calculated separately for each Tentative Tract Map area according to the following formula:

$$\begin{aligned} \text{Backup Special Tax} &= \$31,636 \text{ for TTM 18662} \\ &\times \text{Acreage of Designated Buildable Lots} \\ &\quad \text{of Residential Property within the} \\ &\quad \text{applicable Tentative Tract Map} \\ &\div \text{Expected Residential Lot Count for} \\ &\quad \text{Residential Property within the} \\ &\quad \text{applicable Tentative Tract Map} \end{aligned}$$

If any portion of a Final Subdivision Map, or any area expected by CFD No. 38 to become Final Mapped Property, such as the area within TTM 18662, or any other Tentative Tract Map, changes any time after the City has issued Bonds, causing an adjustment to the number of Designated Buildable Lots, then the Backup Special Tax for all Designated Buildable Lots of Residential Property subject to the change shall be calculated according to the following steps:

- Step 1:*** Determine the total Backup Special Taxes that could have been collected from Designated Buildable Lots, separately for each Tentative Tract Map, prior to the Final Subdivision Map or expected Final Mapped Property change.
- Step 2:*** Divide the amount(s) determined in Step 1 by the number of Designated Buildable Lots, separately for each Tentative Tract Map, that exists after the Final Subdivision Map or expected Final Mapped Property change.
- Step 3:*** Apply the amount(s) determined in Step 2 as the Backup Special Tax per Unit for Residential Property for each Tentative Tract Map.

The Backup Special Tax for an Assessor's Parcel shall not change once an Assessor's Parcel is classified as Developed Property.

b. Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property

The Maximum Special Tax for Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property shall be \$31,636 per Acre for such property in TTM 18662, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

2. Multiple Land Use Classes on an Assessor's Parcel

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax levied on such Assessor's Parcel shall be the sum of the Maximum Special Tax for all Units of Residential Property and Acres of Non-Residential Property (based on the applicable building permits, Final Subdivision Map, parcel map, condominium plan, or other recorded County map) located on that Assessor's Parcel.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Each Fiscal Year, beginning with Fiscal Year 2017-18, the CFD Administrator shall determine the Special Tax Requirement for such Fiscal Year. The Special Tax shall then be levied as follows:

First: If needed to satisfy the Special Tax Requirement, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property up to 100% of the applicable Assigned Special Tax;

Second: If additional monies are needed to satisfy the Special Tax Requirement after the first step has been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Final Mapped Property up to 100% of the Maximum Special Tax for Final Mapped Property;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property up to 100% of the Maximum Special Tax for Undeveloped Property;

Fourth: If additional monies are needed to satisfy the Special Tax Requirement after the first three steps have been completed, then the levy of the Special Tax on each Assessor's Parcel of Developed Property whose Maximum Special Tax is determined through the application of the Backup Special Tax shall be increased Proportionately from the Assigned Special Tax up to the Maximum Special Tax for each such Assessor's Parcel;

Fifth: If additional monies are needed to satisfy the Special Tax Requirement after the first four steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Property Owner Association Property up to the Maximum Special Tax for Taxable Property Owner Association Property;

Sixth: If additional monies are needed to satisfy the Special Tax Requirement after the first five steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property up to the Maximum Special Tax for Taxable Public Property.

Notwithstanding the above, under no circumstances shall the Special Tax levied in any Fiscal Year on any Assessor's Parcel of Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of delinquency

or default by the owner or owners of any other Assessor's Parcel or Assessor's Parcels within CFD No. 38 by more than ten percent above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults.

E. EXEMPTIONS

No Special Tax shall be levied on up to 15.86 Acres of Public Property and up to 5.59 Acres of Property Owner Association Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property or Property Owner Association Property.

Property Owner Association Property or Public Property that is not exempt from the Special Tax under this section shall be subject to the levy of the Special Tax and shall be taxed Proportionately as part of the fifth or sixth step, respectively, in Section D above, up to 100% of the applicable Maximum Special Tax for Taxable Property Owner Association Property and Taxable Public Property. No Special Tax shall be levied in any Fiscal Year on Assessor's Parcels that have fully prepaid the Special Tax obligation pursuant to the formula set forth in Section H.

F. APPEALS

Any property owner may file a written appeal of the Special Tax with CFD No. 38 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council whose subsequent decision shall be final and binding on all interested parties. If the decision of the CFD Administrator or subsequent decision by the City Council requires the Special Tax to be modified or changed in favor of the property owner, then the CFD Administrator shall determine if sufficient Special Tax revenue is available to make a cash refund. If a cash refund cannot be made, then an adjustment shall be made to credit future Special Tax levy(ies).

This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

G. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the Special Taxes may be collected in

such other manner as the City Council shall determine, including direct billing of affected property owners.

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

“CFD Public Facilities” means \$9,815,000 for each Prepayment Period, or such lower number as determined by the City Council to be sufficient to fund the Facilities and Services to be provided by CFD No. 38.

“Expenditures Fund” means funds or accounts, regardless of their names, that are established to hold moneys that are available to acquire or construct Facilities and to fund Services.

“Future Facilities Costs” means the CFD Public Facilities minus (i) Facilities and Services costs previously paid from the Expenditures Fund during the Prepayment Period in which the prepayment is being made, (ii) moneys currently on deposit in the Expenditures Fund from deposits made during the Prepayment Period in which the prepayment is being made, and (iii) moneys currently on deposit in an escrow fund that are expected to be available to finance Facilities costs. In no event shall the amount of Future Facilities Costs be less than zero.

“Prepayment Period” means one of three periods of time during which a Special Tax prepayment may be made.

“Prepayment Period 1” means July 1, 2017, through June 30, 2051.

“Prepayment Period 2” means July 1, 2051, through June 30, 2084.

“Prepayment Period 3” means July 1, 2084, through June 30, 2118.

1. Prepayment in Full

The obligation of an Assessor's Parcel to pay the Special Tax may be prepaid as described herein, provided that a prepayment may be made only for Assessor's Parcels for which a building permit for new construction was issued after January 1, 2016, and only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge a fee for providing this service. Prepayment in any six month period must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

The Special Tax Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

	Bond Redemption Amount
plus	Redemption Premium
plus	Future Facilities Amount
plus	Defeasance Amount
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
Total	Prepayment Amount

As of the proposed date of prepayment, the Special Tax Prepayment Amount (defined below) shall be calculated by the CFD Administrator as follows:

Paragraph No.

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel, and determine the Prepayment Period for the proposed prepayment.
2. Compute the Assigned Special Tax and Backup Special Tax for the Assessor's Parcel to be prepaid based on the Developed Property Special Tax which is, or could be, charged in the current Fiscal Year. For Assessor's Parcels of Final Mapped Property (for which a building permit has been issued but which is not yet classified as Developed Property) to be prepaid, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.
3. (a) Divide the Assigned Special Tax computed pursuant to Paragraph 2 by the total estimated Assigned Special Tax for CFD No. 38 based on the Developed Property Special Tax which could be charged in the current Fiscal Year on all expected development through buildout of CFD No. 38, excluding any Assessor's Parcels which have been prepaid, and

(b) Divide the Backup Special Tax computed pursuant to Paragraph 2 by the estimated total Backup Special Tax at buildout of CFD No. 38, excluding any Assessor's Parcels which have been prepaid.
4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").

6. Compute the current Future Facilities Costs.
7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the “Future Facilities Amount”).
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Determine the Special Tax levied on the Assessor’s Parcel in the current Fiscal Year which has not yet been paid.
10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the “Defeasance Amount”.
11. Verify the administrative fees and expenses of CFD No. 38, including the costs to compute the prepayment, the costs to invest the prepayment proceeds, the costs to redeem Bonds, and the costs to record any notices to evidence the prepayment and the redemption (the “Administrative Fees and Expenses”).
12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the “Reserve Fund Credit”). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement on the prepayment date or the redemption date.
13. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to Paragraphs 4, 5, 7, 10, and 11, less the amount computed pursuant to Paragraph 12 (the “Prepayment Amount”).
14. From the Prepayment Amount, the amounts computed pursuant to Paragraphs 4, 5, 10, and 12 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to Paragraph 7 shall be deposited into the Expenditures Fund. The amount computed pursuant to Paragraph 11 shall be retained by CFD No. 38.

The Special Tax Prepayment Amount may be sufficient to redeem other than a \$5,000 increment of Bonds. In such cases, the increment above \$5,000, or integral multiple thereof, will be retained in the appropriate fund established under the Indenture to be used with the next prepayment of Bonds or to make debt service payments.

As a result of the payment of the current Fiscal Year's Special Tax levy as determined under Paragraph 9 (above), the CFD Administrator shall remove the current Fiscal Year's Special Tax levy for such Assessor's Parcel from the County tax rolls. With respect to any Assessor's Parcel that is prepaid during Prepayment Period 3, the CFD Administrator shall cause a suitable notice to be recorded in compliance with the Act to indicate that the Special Tax has been prepaid and that the obligation of such Assessor's Parcel to pay the Special Tax shall cease.

With respect to the Special Tax for any Assessor's Parcel that is prepaid during Prepayment Period 1 or Prepayment Period 2, the obligation of such Assessor's Parcel to pay the Special Tax shall be tolled, or suspended, through the end of such Prepayment Period, but shall resume in the first Fiscal Year of the subsequent Prepayment Period. The CFD Administrator shall cause a suitable notice to be recorded in compliance with the Act to indicate that the Special Tax has been satisfied for the remainder of the applicable Prepayment Period but has not been permanently satisfied and the obligation to pay the Special Tax will resume in the first Fiscal Year of the Prepayment Period following the Prepayment Period in which the prepayment was made. Once the obligation of an Assessor's Parcel to pay the Special Tax resumes, the Special Tax for the then applicable Prepayment Period may be prepaid.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Special Tax that may be levied on Taxable Property within CFD No. 38 (after excluding 15.86 Acres of Public Property and 5.59 Acres of Property Owner Association Property,) both prior to and after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

2. Prepayment in Part

The Special Tax on an Assessor's Parcel for which a building permit for new construction was issued after January 1, 2016, may be partially prepaid. The amount of the prepayment shall be calculated as in Section H.1, except that a partial prepayment shall be calculated by the CFD Administrator according to the following formula:

$$PP = (PF - AE) \times \% + AE.$$

The terms above have the following meaning:

PP = the partial prepayment

PF = the Prepayment Amount (full prepayment) for the Special Tax calculated according to Section H.1

AE = the Administrative Fees and Expenses determined pursuant to paragraph 11 above

% = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax

The Special Tax partial prepayment amount must be sufficient to redeem at least a \$5,000 increment of Bonds.

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of such owner's intent to partially prepay the Special Tax and the percentage by which the Special Tax shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request and may charge a fee for providing this service. With respect to any Assessor's Parcel that is partially prepaid, the CFD Administrator shall (i) distribute the remitted prepayment funds according to Section H.1, and (ii) indicate in the records of CFD No. 38 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (100% - "%", as defined above) of the Maximum Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D during the Prepayment Period in which the partial prepayment is made.

For partial prepayments made during Prepayment Period 1 or Prepayment Period 2, the full amount of the Special Tax shall resume in the first Fiscal Year of the Prepayment Period following the Prepayment Period in which the partial prepayment was made. Once the obligation of an Assessor's Parcel to pay the Special Tax resumes, the Special Tax for the then applicable Prepayment Period may be prepaid.

I. TERM OF SPECIAL TAX

The Fiscal Year after which no further Special Tax shall be levied or collected is Fiscal Year 2117-2118, except that the Special Tax that was lawfully levied in or before such Fiscal Year and that remains delinquent may be collected in subsequent years.

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 1 OF 2)**

CFD No. 38 CERTIFICATE

1. Pursuant to Section C.1 of the Rate and Method of Apportionment of Special Tax (the “Rate and Method”) for City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities) (“CFD No. 38”), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 38 has been modified.
 - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 38, as stated in Section C.1.a.2 of the Rate and Method of Apportionment, has been modified as follows:

**TABLE 1
ASSIGNED SPECIAL TAX – DEVELOPED PROPERTY**

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Residential Property	< 1,501	[\$] per Unit
2	Residential Property	1,501 – 1,600	[\$] per Unit
3	Residential Property	1,601 – 1,700	[\$] per Unit
4	Residential Property	1,701 – 1,800	[\$] per Unit
5	Residential Property	1,801 – 1,900	[\$] per Unit
6	Residential Property	1,901 – 2,000	[\$] per Unit
7	Residential Property	2,001 – 2,100	[\$] per Unit
8	Residential Property	2,101 – 2,200	[\$] per Unit
9	Residential Property	2,201 – 2,300	[\$] per Unit
10	Residential Property	2,301 – 2,400	[\$] per Unit
11	Residential Property	2,401 – 2,500	[\$] per Unit
12	Residential Property	2,501 – 2,600	[\$] per Unit
13	Residential Property	2,601 – 2,700	[\$] per Unit
14	Residential Property	2,701 – 2,800	[\$] per Unit
15	Residential Property	2,801 – 2,900	[\$] per Unit
16	Residential Property	2,901 – 3,000	[\$] per Unit
17	Residential Property	3,001 – 3,100	[\$] per Unit
18	Residential Property	> 3,100	[\$] per Unit
19	Non-Residential Property TTM 18662		[\$] per Acre

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 2 OF 2)**

- b. The Backup Special Tax for Developed Property, as stated in Section C.1.a.3, shall be modified as follows:

The Backup Special Tax shall be \$[] per Unit for Residential Property in TTM 18662. However, if the Expected Residential Lot Count does not equal 330 for TTM 18662, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Residential Property shall be calculated according to the following formula:

$$\begin{aligned} \text{Backup Special Tax} &= \$[] \text{ for TTM 18662} \\ &\times \text{Acreage of Designated Buildable Lots} \\ &\quad \text{of Residential Property within the} \\ &\quad \text{applicable Tentative Tract Map} \\ &\div \text{Expected Residential Lot Count for} \\ &\quad \text{Residential Property within the} \\ &\quad \text{applicable Tentative Tract Map} \end{aligned}$$

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 38 Bonds.
3. Upon execution of this Certificate by CFD No. 38, CFD No. 38 shall cause an amended notice of Special Tax lien for CFD No. 38 to be recorded reflecting the modifications set forth herein.

The undersigned acknowledges receipt of this certificate and of the modification of the Assigned Special Tax and the Backup Special Tax for Developed Property as set forth in this Certificate. Capitalized undefined terms used herein have the meanings ascribed thereto in the Rate and Method.

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES)

By: _____

Date: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES).

WHEREAS, on April 4, 2017, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities), and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities) (the "Community Facilities District") and to authorize the levy of special taxes within the Community Facilities District to finance certain public facilities and services; and

WHEREAS, on April 4, 2017, the City Council also adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, to Incur Bonded Indebtedness of the Proposed City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities)" (the "Resolution to Incur Bonded Indebtedness") declaring the necessity for incurring bonded indebtedness and setting the date for a public hearing to be held on the proposed debt issue; and

WHEREAS, pursuant to the Resolution to Incur Bonded Indebtedness, notice of said public hearing was published in the *Inland Valley Daily Bulletin*, a newspaper of general circulation published in the area of the Community Facilities District, in accordance with the Act; and

WHEREAS, on this date, the City Council opened, conducted and closed said public hearing; and

WHEREAS, at said public hearing, any person interested, including persons owning property within the area and desiring to appear and present any matters material to the questions set forth in the Resolution to Incur Bonded Indebtedness appeared and presented such matters; and

WHEREAS, oral or written protests against the proposed debt issue were not made or filed at or before said public hearing by 50% or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the Community Facilities District, or the owners of one-half or more of the area of land in the territory proposed to be included in the Community Facilities District and not exempt from the special tax; and

WHEREAS, on this date, the City Council adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities), Authorizing

the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District” (the “Resolution of Formation”); and

WHEREAS, the City Clerk of the City (the “City Clerk”) is the election official that will conduct the special election on the proposition to incur bonded indebtedness for the Community Facilities District; and

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 17, 2017, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of said public hearing; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on May 16, 2017, and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on May 16, 2017.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ontario as follows:

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The City Council deems it necessary to incur the bonded indebtedness.

SECTION 3. The bonded indebtedness will be incurred for the purpose of financing the costs of the Facilities (as defined in the Resolution of Formation), including all costs and estimated costs incidental to, or connected with, the accomplishment of such purpose.

SECTION 4. In accordance with the previous determination of the City Council, the whole of the Community Facilities District will pay for the bonded indebtedness.

SECTION 5. The maximum aggregate amount of debt to be incurred is \$35,000,000.

SECTION 6. The maximum term the bonds to be issued shall run before maturity is 40 years.

SECTION 7. The maximum annual rate of interest to be paid shall not exceed the maximum interest rate permitted by applicable law at the time of sale of the bonds, payable semiannually or at such times as the City Council or its designee shall determine, the actual rate or rates and times of payment of such interest to be determined by the City Council or its designee at the time or times of sale of the bonds.

SECTION 8. The proposition to incur the bonded indebtedness will be submitted to the voters.

SECTION 9. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 17, 2017, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings held by the City Council on the proposed debt issue for the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 10. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), and (b) to the holding of said election on May 16, 2017. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on May 16, 2017.

SECTION 11. The date of the special community facilities district election (which shall be consolidated with the special district election to levy a special tax within the Community Facilities District) at which time the proposition shall be submitted to the voters is May 16, 2017.

SECTION 12. The election is to be conducted by mail ballot. The mailed ballots are required to be received in the office of the City Clerk no later than 7:30 p.m. on May 16, 2017; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 13. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 14. This Resolution shall take effect immediately upon its adoption.

The City Clerk shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES).

WHEREAS, on this date, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation"), establishing City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities) (the "Community Facilities District"), authorizing the levy of a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District; and

WHEREAS, on this date, the City Council also adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities)" (the "Resolution Deeming it Necessary to Incur"), deeming it necessary to incur bonded indebtedness in the maximum amount of \$35,000,000; and

WHEREAS, pursuant to the provisions of said resolutions, the propositions to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District are to be submitted to the qualified electors of the Community Facilities District as required by the Act; and

WHEREAS, the City Council desires to designate the City Clerk of the City (the "City Clerk") as the election official for the special election provided for herein; and

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 17, 2017, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings on the establishment of the Community Facilities District and the proposed debt issue for the Community Facilities District; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on May 16, 2017 and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on May 16, 2017.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ontario as follows:

SECTION 1. Pursuant to Sections 53351, 53326 and 53325.7 of the Act, the propositions to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District shall be submitted to the qualified electors of the Community Facilities District at an election called therefor as provided below.

SECTION 2. The City Clerk is hereby designated as the official to conduct said election.

SECTION 3. As authorized by Section 53353.5 of the Act, the propositions to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District shall be combined into one ballot proposition.

SECTION 4. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 17, 2017, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings heretofore held by the City Council on the establishment of the Community Facilities District and the proposed debt issue for the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 5. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), (b) to the holding of said election on May 16, 2017, and (c) to the waiver of any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on May 16, 2017.

SECTION 6. The City Council hereby calls a special election to submit to the qualified electors of the Community Facilities District the combined proposition to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District, which election shall be held at 303 East B Street, Ontario, California, on May 16, 2017. The City

Council has caused to be provided to the City Clerk, as the official to conduct said election, the Resolution of Formation, the Resolution Deeming it Necessary to Incur, a certified map of sufficient scale and clarity to show the boundaries of the Community Facilities District, and a sufficient description to allow the City Clerk to determine the boundaries of the Community Facilities District.

The voted ballots shall be returned to the City Clerk not later than 7:30 p.m. on May 16, 2017; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 7. Pursuant to Section 53326 of the Act, the election shall be conducted by mail or hand-delivered ballot pursuant to Section 4000 *et. seq.* of the California Elections Code. Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election.

SECTION 8. The form of the ballot for said election is attached hereto as Exhibit A and by this reference incorporated herein, and such form of ballot is hereby approved. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective landowner to which it pertains.

Each ballot shall be accompanied by all supplies and written instructions necessary for the use and return of the ballot. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the return postage prepaid, and shall contain: (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the voter, (d) the date of signing and place of execution of the declaration described in clause (b) above, and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

Analysis and arguments with respect to the ballot proposition are hereby waived, as provided in Section 53327 of the Act.

SECTION 9. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk at 303 East B Street, Ontario, California, to and including 7:30 p.m. on May 16, 2017, whether said ballots be personally delivered or received by mail. The City Clerk shall have available ballots which may be marked at said location on the election day by said qualified electors.

SECTION 10. The City Council hereby determines that the facilities and services financed by the Community Facilities District are necessary to meet increased demands placed upon local agencies as a result of development occurring in the Community Facilities District.

SECTION 11. The specific purposes of the bonded indebtedness proposed to be incurred is the financing of the Facilities (as defined in the Resolution of Formation), including all costs and estimated costs incidental to, or connected with, the accomplishment of such purpose, and the proceeds of such bonded indebtedness shall be applied only to such specific purposes.

Upon approval of the proposition to incur bonded indebtedness, and the sale of any bonds evidencing such indebtedness, the City Council shall take such action as may be necessary to cause to be established an account for deposit of the proceeds of sale of the bonds. For so long as any proceeds of the bonds remain unexpended, the Management Analyst, Management Services of the City shall cause to be filed with the City Council, no later than January 1 of each year, a report stating (a) the amount of bond proceeds received and expended during the preceding year, and (b) the status of any project funded or to be funded from bond proceeds. Said report may relate to the calendar year, fiscal year, or other appropriate annual period, as the Management Analyst, Management Services of the City shall determine, and may be incorporated into the annual budget, audit, or other appropriate routine report to the City Council.

SECTION 12. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 13. This Resolution shall take effect immediately upon its adoption.

The City Clerk shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

OFFICIAL BALLOT

CITY OF ONTARIO

May 16, 2017

SPECIAL ELECTION

This ballot is for a special, landowner election. The number of votes to be voted pursuant to this ballot is _____.

INSTRUCTIONS TO VOTERS:

To vote on the measure, mark a cross (+ or X) in the voting square after the word "YES" or after the word "NO". All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Ontario and obtain another.

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 38
(PARK & TURNER NE FACILITIES)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities) (the "Community Facilities District") be authorized to incur bonded indebtedness in a maximum aggregate amount of not to exceed \$35,000,000 and levy a special tax in order to finance certain facilities and services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$35,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" and the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities)," each adopted by the City Council of the City of Ontario on May 16, 2017?

Yes:

No:

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,
CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION AND
DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN.

WHEREAS, on May 16, 2017, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities)" (the "Resolution Calling Election"), calling for a special election of the qualified electors within City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities) (the "Community Facilities District"); and

WHEREAS, pursuant to the terms of the Resolution Calling Election and the provisions of the Act, the special election was held on May 16, 2017; and

WHEREAS, the City Clerk of the City (the "City Clerk") has certified the canvass of the returns of the election and has filed a Canvass and Statement of Results of Election (the "Canvass"), a copy of which is attached hereto as Exhibit A;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ontario as follows:

SECTION 1. The City Council has received, reviewed and hereby accepts the Canvass.

SECTION 2. The City Council hereby finds and declares that the ballot proposition submitted to the qualified electors of the Community Facilities District pursuant to the Resolution Calling Election has been passed and approved by such electors in accordance with Section 53328, Section 53355 and Section 53325.7 of the Act.

SECTION 3. The City Clerk is hereby directed to execute and cause to be recorded in the office of the County Recorder of the County of San Bernardino a notice of special tax lien in the form required by the Act, said recording to occur no later than fifteen days following adoption by the City Council of this Resolution.

SECTION 4. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 5. This Resolution shall take effect immediately upon its adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 38
(PARK & TURNER NE FACILITIES)

CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on May 16, 2017, I canvassed the returns of the special election held on May 16, 2017, for the City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities), that the total number of ballots cast in said Community Facilities District and the total number of votes cast for and against the proposition are as follows and that the totals as shown for and against the proposition are true and correct:

	Qualified Landowner <u>Votes</u>	Votes <u>Cast</u>	<u>YES</u>	<u>NO</u>
City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities) Special Election, May 16, 2017	47	—	—	—

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities) (the "Community Facilities District") be authorized to incur bonded indebtedness in a maximum aggregate amount of not to exceed \$35,000,000 and levy a special tax in order to finance certain facilities and services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$35,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" and the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities)," each adopted by the City Council of the City of Ontario on May 16, 2017?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 16th day of May, 2017.

By: _____
Sheila Mautz, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 38 (PARK & TURNER NE FACILITIES).

WHEREAS, on April 4, 2017, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities), and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities) (the "Community Facilities District") and to finance certain public facilities (the "Facilities") and services (the "Services"); and

WHEREAS, on May 16, 2017, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation"), "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities)" and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities)", which resolutions established the Community Facilities District, authorized the levy of a special tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of incurring indebtedness, levying a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District, respectively; and

WHEREAS, on May 16, 2017, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act.

THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby authorizes and levies special taxes within the Community Facilities District pursuant to Sections 53328 and 53340 of the

Act, at the rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method of Apportionment"). The special taxes are hereby levied commencing in fiscal year 2017-18 and in each fiscal year thereafter until the last fiscal year in which such special taxes are authorized to be levied pursuant to the Rate and Method of Apportionment.

SECTION 2. The City Council may, in accordance with subdivision (b) of Section 53340 of the Act, provide, by resolution, for the levy of the special tax in future tax years at the same rate or at a lower rate than the rate provided by this Ordinance. In no event shall the special tax be levied on any parcel within the Community Facilities District in excess of the maximum tax specified therefor in the Rate and Method of Apportionment.

SECTION 3. The special tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Rate and Method of Apportionment.

SECTION 4. The proceeds of the special tax shall only be used to pay, in whole or in part, the cost of providing the Facilities and Services and incidental expenses pursuant to the Act.

SECTION 5. The special tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes, unless another procedure is adopted by the City Council.

SECTION 6. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the Community Facilities District, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the Community Facilities District shall not be affected.

SECTION 7. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held _____ and adopted at the regular meeting held _____, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. _____ duly passed and adopted by the Ontario City Council at their regular meeting held _____ and that Summaries of the Ordinance were published on _____ and _____, in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACQUISITION AND FUNDING AGREEMENT WITH LENNAR HOMES OF CALIFORNIA, INC.

WHEREAS, certain real property within the boundaries of the City located generally south of State Route 60 is commonly known as the New Model Colony; and

WHEREAS, the City has approved a General Plan Amendment for the New Model Colony, which has been supplemented by certain water, recycled water and sewer master plans (as so supplemented, the "General Plan Amendment") and has certified an Environmental Impact Report and adopted a Mitigated Negative Declaration in connection with the General Plan Amendment (together, the "Environmental Impact Report"); and

WHEREAS, the City has specified in the General Plan Amendment and the Environmental Impact Report the major backbone transportation, water, sewer, storm drainage, parks, public safety infrastructure and fiber optic systems required to serve the New Model Colony; and

WHEREAS, the New Model Colony is now commonly referred to as the Ontario Ranch; and

WHEREAS, Lennar Homes of California, Inc. (the "Developer") is developing certain of the property within the Ontario Ranch (the "Property"); and

WHEREAS, certain of such major backbone infrastructure is required to serve the Property; and

WHEREAS, the City and the Developer desire to provide a mechanism to fund, in a timely manner, the costs of certain of such major backbone infrastructure required to serve the Ontario Ranch (the "Facilities") so that such development may occur; and

WHEREAS, in order to provide such a mechanism, the City has, pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 (the "Act"), established City of Ontario Community Facilities District No. 38 (Park & Turner NE Facilities) (the "Community Facilities District"), the boundaries of which include the Property; and

WHEREAS, the Community Facilities District is authorized to levy special taxes within the Community Facilities District (the "Special Taxes") and issue special tax bonds (the "Bonds") secured by the Special Taxes in order to finance certain of the Facilities; and

WHEREAS, it is anticipated that Special Taxes will be levied by the Community Facilities District and that, from time to time, Bonds will be issued by the Community Facilities District; and

WHEREAS, the Developer proposes to construct, or cause to be constructed, certain of the Facilities proposed to be financed by the Community Facilities Districts pursuant to the Act, and the City proposes to purchase such Facilities from the Developer pursuant to an Acquisition and Funding Agreement by and between the City and the Developer (such Acquisition and Funding Agreement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the "Acquisition Agreement"); and

WHEREAS, the City Council is the legislative body of the Community Facilities District.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ontario as follows:

SECTION 1. The Acquisition Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. Each of the Mayor of the City, and such other member of the City Council as the Mayor may designate, the City Manager of the City and the Administrative Services/Finance Director of the City, and such other officer or employee of the City as the City Manager may designate (the "Authorized Officers") is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the City, to execute and deliver the Acquisition Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Acquisition Agreement by such Authorized Officer.

SECTION 2. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 3. This Resolution shall take effect immediately upon its adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED and ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER FILE NO. PCUP16-023, A CONDITIONAL USE PERMIT TO ESTABLISH A 4-STORY, 131-ROOM HOTEL TOTALING 93,177 SQUARE FEET ON APPROXIMATELY 4.5 ACRES OF LAND, IN CONJUNCTION WITH FILE NO. PDEV16-050 FOR A DEVELOPMENT PLAN TO CONSTRUCT THE HOTEL, LOCATED AT 900 NORTH VIA PIEMONTE, WITHIN THE URBAN COMMERCIAL LAND USE DISTRICT AND PIEMONTE OVERLAY DISTRICT OF THE ONTARIO CENTER SPECIFIC PLAN

RECOMMENDATION: That the City Council hold a public hearing to consider adoption of a resolution approving File No. PCUP16-023, pursuant to the facts and reasons contained in the staff report, attached resolution, and subject to the conditions of approval contained in the attached departmental reports.

COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: The project will generate approximately \$703,000 in Development Impact Fees. In addition, the City will receive estimated transient occupancy tax revenues of \$540,000 in the first year, and future years' revenue will be based upon visitors' use of the hotel for their travelling needs.

BACKGROUND: The applicant is requesting approval of a Conditional Use Permit to establish a hotel (Element Hotel by Westin) totaling 93,177 square feet on 4.5 acres. The building will be a 4-story structure with a total of 131 guest rooms, which range from 294 to 508 square feet in area. Proposed amenities include a pool, fitness center, conference rooms, and full service restaurant.

The proposed exterior design of the hotel is based on the Element Hotel by Westin prototype, which incorporates a modern style of clean lines and materials, utilizing sustainable or "green," practices. Horizontal and vertical changes break up the massing of each elevation, providing full 360-degree architectural detailing. The hotel has been designed in an "L"-shaped configuration to provide maximum

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Jeanie Irene Aguilo
Department: Planning

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

17

exposure to the Via Piemonte and Ontario Center Parkway street frontages and Citizens Business Bank Arena, located diagonally across the street. The hotel's exterior design complements the architecture of the Citizens Business Bank Arena with its contemporary design and finishes.

A market analysis was prepared for the hotel project by Larry Kaufman, Director of Sales for the Greater Ontario Convention and Visitors Bureau, and the City's Economic Development Agency. The study measured the demand within the various markets and the growing competition from a variety of hotels. With an expected opening date of 2019, the market analysis determined that the proposed hotel would be successful based upon factors such as future growth in the area, including new office and commercial space, as well as future airport expansion. The analysis further found that in 2016, the revenue per available hotel room in Ontario increased 10.5 percent compared to 2015. In addition, the average daily room rate increased 8.8 percent in 2016, with solid gains in both the transient (+8.3 percent) and group (+9.6 percent) market segments. Supported by a major hotel brand and a room inventory distribution system that corresponds, the market analysis finds that demand will continue to outpace supply within the Ontario market. Based upon the proposed location in close proximity to the region's demand-drivers, including the Citizens Business Bank Arena and major transportation channels, the proposed hotel would achieve positive results in the market.

On April 25, 2017, the Planning Commission conducted a duly noticed public hearing on the subject application, and voted unanimously (6-0) to recommend that the City Council approve the Conditional Use Permit for the project.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, and Policy Plan (General Plan) components of The Ontario Plan (TOP). More specifically, TOP goals and policies furthered by the proposed project are noted in the Planning Commission staff report (attached).

HOUSING ELEMENT COMPLIANCE: The Project will be consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project does not specifically affect the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

AIRPORT LAND USE COMPATIBILITY PLAN COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously analyzed in conjunction with an Addendum to the Ontario Center Environmental Impact Report (EIR 88-2, SCH No. 89041009), which was prepared in conjunction with File No. PSPA05-003 and was approved by the City Council on March 23, 2006. This application introduces no new significant environmental impacts.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PCUP16-023, A CONDITIONAL USE PERMIT FOR TO ESTABLISH A 93,177 SQUARE FOOT HOTEL (ELEMENT HOTEL) ON 4.5 ACRES OF LAND, LOCATED AT 900 NORTH VIA PIEMONTE, WITHIN THE PIEMONTE OVERLAY OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 0210-204-18. RELATED FILE NO. PDEV16-050.

WHEREAS, GLACIER HOUSE HOTELS ("Applicant") has filed an Application for the approval of a Conditional Use Permit, File No. PCUP16-023, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 4.5 acres of land located at 900 North Via Piemonte, within the Piemonte Overlay of The Ontario Center Specific Plan, and is presently vacant; and

WHEREAS, the property to the north of the Project site is within the Piemonte Overlay – Special Use/Hotel (Urban Commercial) of The Ontario Center Specific Plan and is currently vacant. The property to the east is within the Piemonte Overlay – Office (Urban Commercial) of The Ontario Center Specific Plan and is currently vacant. The property to the south is within the Urban Commercial zoning designation of The Ontario Center Specific Plan and is developed with the Citizens Business Bank Arena. The property to the west is within the Piemonte Overlay – Office (Urban Commercial) of The Ontario Center Specific Plan zoning district and is developed with an office building; and

WHEREAS, the Conditional Use Permit proposes to establish the hotel use for Element Hotel by Westin, a four-story, 131-room hotel; and

WHEREAS, a Development Plan Application (File No. PDEV16-050) was submitted in conjunction with the Conditional Use Permit application to construct the hotel. On April 25, 2017, the Planning Commission issued Resolution PC17-024 approving the Development Plan application contingent upon City Council approval of the Conditional Use Permit; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, on March 23, 2006, the City Council approved a resolution adopting an Addendum to The Ontario Center Environmental Impact Report (EIR 88-2, SCH No. 89041009), which was prepared in conjunction with File No. PSPA05-003, pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of significance. The proposed project is consistent with the previously adopted Addendum; and

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed; and

WHEREAS, on April 17, 2017, the Development Advisory Board of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date, voting to issue Decision No. DAB17-014 recommending the Planning Commission approve the Application; and

WHEREAS, on April 25, 2017, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and issued Resolution No. PC17-024 recommending the City Council approve the application.

WHEREAS, on May 16, 2017, the City Council of the City of Ontario conducted a duly noticed public hearing to consider the Project and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the City Council of the City of Ontario, as follows:

SECTION 1. *Environmental Determination and Findings* As the approving body for the Project, the City Council has reviewed and considered the information contained in the previously adopted Addendum to The Ontario Center Environmental Impact Report (EIR 88-2, SCH No. 89041009), which was prepared in conjunction with File No. PSPA05-003, and was approved by the City Council on March 23, 2006 and supporting documentation. Based upon the facts and information contained in the Addendum to The Ontario Center Environmental Impact Report (EIR 88-2, SCH No. 89041009) and supporting documentation, the City Council finds as follows:

a. The previous Addendum to The Ontario Center Environmental Impact Report (EIR 88-2, SCH No. 89041009) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

b. The previous Addendum to The Ontario Center Environmental Impact Report (EIR 88-2, SCH No. 89041009) was completed in compliance with CEQA and the Guidelines promulgated thereunder; and.

c. The previous Addendum to The Ontario Center Environmental Impact Report (EIR 88-2, SCH No. 89041009) reflects the independent judgement of the City Council; and

d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 2. *Concluding Facts and Reasons* Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the City Council hereby concludes as follows:

a. The scale and intensity of the proposed land use would be consistent with the scale and intensity of land uses intended for the particular zoning or land use district. The proposed project is consistent with the design guidelines set forth in the Ontario Development Code and the Piemonte Overlay of The Ontario Center Specific Plan. The Special Use/Hotel (Urban Commercial) land use designation of the Piemonte Overlay explicitly indicates the parcel to be developed for a hotel. In addition, the hotel complements the architecture of the Citizens Business Bank Arena, to the southwest of the site, with its contemporary design. Therefore, the proposed project is consistent with the project site and the surrounding area.

b. The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. The proposed project is a compatible use with the project site and the surrounding area. The proposed location of the requested Conditional Use Permit, and the proposed conditions under which it will be operated or maintained, will be consistent with the Policy Plan component of The Ontario Plan and will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity. The Special Use/Hotel (Urban Commercial) land use designation of the Piemonte Overlay explicitly indicates the parcel to be developed for a hotel. The Ontario Plan (TOP) identifies the Ontario Airport Metro Area as a Focused Growth Area. This area is envisioned as the most intensive concentration of development in the Inland Empire and includes the Convention Center and hospitality area along Vineyard Avenue; Ontario Mills; Guasti Village, the Events Center, and major office and urban residential centers. The area benefits from major transportation facilities including the I-10 and I-15 freeways, Ontario International Airport, and a variety of transit options. Therefore, the project is consistent with the goals and policies of the Policy Plan (General Plan).

c. The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the objectives and requirements of this Development Code and the Piemonte Overlay of The Ontario Center Specific Plan. The proposed location of the project is in accord with the objectives and purposes of the Ontario Development Code and Piemonte Overlay of The Ontario Center Specific Plan within which the site is located. The use will be operated in accordance with the Ontario Development Code and the use meets the objectives and purposes as required in the Special Use/Hotel (Urban Commercial) land use designation of the Piemonte Overlay of The Ontario Center Specific Plan. The Piemonte Overlay is intended to provide multiple employment, entertainment, housing, and shopping opportunities, available to residents of the Piemonte Project as well as patrons from the greater Ontario area and surrounding region. The Special Use/Hotel (Urban Commercial) land use designation is intended to maintain a pedestrian friendly atmosphere to reduce reliance on private automobiles.

d. The proposed use at the proposed location would be consistent with the provisions of the Airport Land Use Compatibility Plan. The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

The establishment, maintenance, and operation of the proposed use at the proposed location would not be detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood. The project site is located within the Special Use/Hotel (Urban Commercial) land use designation of the Piemonte Overlay of The Ontario Center Specific Plan, for which a hotel is a conditionally permitted use. The project will be conditioned to ensure that it will operate and be properly maintained, therefore the project will not be detrimental or injurious to surrounding property and improvements.

SECTION 3. *Housing Element Consistency.* Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the approving body for the Project, the City Council finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

SECTION 4. *Airport Land Use Compatibility Plan (ALUCP) Consistency.* As the approving body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 5. *City Council Action.* Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby APPROVES the Project subject to each and every condition set forth in the Department reports, attached hereto as Exhibit "A" and incorporated herein by this reference.

SECTION 6. *Indemnification.* The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. *Custodian of Records.* The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8. *Certification to Adoption.* The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

Exhibit "A"

Conditions of Approval



City of Ontario
Planning Department
303 East B Street
Ontario, California 91764
Phone: 909.395.2036
Fax: 909.395.2420

Planning Department Land Development Division Conditions of Approval

Meeting Date: April 17, 2017

File No: PCUP16-023

Related Files: PDEV16-050

Project Description: A Conditional Use Permit to establish a 93,177-square foot hotel (Element Hotel) on 4.5 acres of land, located at 900 North Via Piemonte, within the Piemonte Overlay of the Ontario Center Specific Plan (APN: 0210-204-18); **submitted by Glacier House Hotels.**

Prepared By: Jeanie Irene Aguilo
Phone: 909.395.2418 (direct)
Email: jaguilo@ontarioca.gov

The Planning Department, Land Development Section, conditions of approval applicable to the above-described Project, are listed below. The Project shall comply with each condition of approval listed below:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2010-021 on March 16, 2010. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or City Clerk/Records Management Department.

2.0 Special Conditions of Approval. In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

2.1 Time Limits.

(a) Conditional Use Permit approval shall become null and void one year following the effective date of application approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved by the Planning Director, except that a Variance approved in conjunction with a Development Plan shall have the same time limits as said Development Plan. This condition does not supersede any individual time limits specified herein, or any other departmental conditions of approval applicable to the Project, for the performance of specific conditions or improvements.

2.2 General Requirements. The Project shall comply with the following general requirements:

(a) All construction documentation shall be coordinated for consistency, including, but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, utility and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.

(b) The project site shall be developed in conformance with the approved plans on file with the City. Any variation from the approved plans must be reviewed and approved by the Planning Department prior to building permit issuance.

(c) The herein-listed conditions of approval from all City departments shall be included in the construction plan set for project, which shall be maintained on site during project construction.

2.3 Landscaping.

(a) The Project shall provide and continuously maintain landscaping and irrigation systems in compliance with the provisions of Ontario Development Code Division 6.05 (Landscaping).

(b) Comply with the conditions of approval of the Planning Department; Landscape Planning Division.

(c) Landscaping shall not be installed until the Landscape and Irrigation Construction Documentation Plans required by Ontario Development Code Division 6.05 (Landscaping) have been approved by the Landscape Planning Division.

(d) Changes to approved Landscape and Irrigation Construction Documentation Plans, which affect the character or quantity of the plant material or irrigation system design, shall be resubmitted for approval of the revision by the Landscape Planning Division, prior to the commencement of the changes.

2.4 Walls and Fences. All Project walls and fences shall comply with the requirements of Ontario Development Code Division 6.02 (Walls, Fences and Obstructions).

2.5 Parking, Circulation and Access.

(a) The Project shall comply with the applicable off-street parking, loading and lighting requirements of City of Ontario Development Code Division 6.03 (Off-Street Parking and Loading).

(b) All drive approaches shall be provided with an enhanced pavement treatment. The enhanced paving shall extend from the back of the approach apron, into the site, to the first intersecting drive aisle or parking space.

(c) Areas provided to meet the City's parking requirements, including off-street parking and loading spaces, access drives, and maneuvering areas, shall not be used for the outdoor storage of materials and equipment, nor shall it be used for any other purpose than parking.

(d) The required number of off-street parking spaces and/or loading spaces shall be provided at the time of site and/or building occupancy. All parking and loading spaces shall be maintained in good condition for the duration of the building or use.

(e) Parking spaces specifically designated and conveniently located for use by the physically disabled shall be provided pursuant to current accessibility regulations contained in State law (CCR Title 24, Part 2, Chapters 2B71, and CVC Section 22507.8).

(f) Bicycle parking facilities, including bicycle racks, lockers, and other secure facilities, shall be provided in conjunction with development projects pursuant to current regulations contained in CALGreen (CAC Title 24, Part 11).

2.6 Outdoor Loading and Storage Areas.

(a) Loading facilities shall be designed and constructed pursuant to Development Code Division 6.03 (Off-Street Parking and Loading).

(b) Areas designated for off-street parking, loading, and vehicular circulation and maneuvering, shall not be used for the outdoor storage of materials or equipment.

(c) Outdoor loading and storage areas, and loading doors, shall be screened from public view pursuant to the requirements of Development Code Paragraph 6.02.025.A.2 (Screening of Outdoor Loading and Storage Areas, and Loading Doors) Et Seq.

2.7 Site Lighting.

(a) All off-street parking facilities shall be provided with nighttime security lighting pursuant to Ontario Municipal Code Section 4-11.08 (Special Residential Building Provisions) and Section 4-11.09 (Special Commercial/Industrial Building Provisions), designed to confine emitted light to the parking areas. Parking facilities shall be lighted from sunset until sunrise, daily, and shall be operated by a photocell switch.

(b) Unless intended as part of a master lighting program, no operation, activity, or lighting fixture shall create illumination on any adjacent property.

2.8 Mechanical and Rooftop Equipment.

(a) All exterior roof-mounted mechanical, heating and air conditioning equipment, and all appurtenances thereto, shall be completely screened from public view by parapet walls or roof screens that are architecturally treated so as to be consistent with the building architecture.

(b) All ground-mounted utility equipment and structures, such as tanks, transformers, HVAC equipment, and backflow prevention devices, shall be located out of view from a public street, or adequately screened through the use of landscaping and/or decorative low garden walls.

2.9 Security Standards. The Project shall comply with all applicable requirements of Ontario Municipal Code Title 4 (Public Safety), Chapter 11 (Security Standards for Buildings).

2.10 Signs.

(a) All Project signage shall comply with the requirements of the Piemonte Sign Program (File No. PSGP16-001), Piemonte Overlay of the Ontario Center Specific Plan, and Ontario Development Code Division 8.1 (Sign Regulations).

(b) A sign program amendment to the Piemonte Sign Program (File No. PSGP16-001) shall be submitted to the Planning Department for review and approval. The sign program amendment shall be approved prior to the approval of any individual signs.

(c) Individual sign plans (3 copies) for the project shall be submitted for separate review and approval to the Planning and Building Departments prior to installation.

(d)

2.11 Sound Attenuation. The Project shall be constructed and operated in a manner so as not to exceed the maximum interior and exterior noised levels set forth in Ontario Municipal Code Title 5 (Public Welfare, Morals, and Conduct), Chapter 29 (Noise).

2.12 Environmental Review.

(a) The environmental impacts of this project were previously analyzed in conjunction with an Addendum to the Ontario Center EIR, which was prepared in conjunction with File No. PSPA05-003, and was approved by the City Council on March 23, 2006. This application introduces no new

significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. The previously adopted mitigation measures shall be a condition of project approval, and are incorporated herein by this reference.

(b) If human remains are found during project grading/excavation/construction activities, the area shall not be disturbed until any required investigation is completed by the County Coroner and Native American consultation has been completed (if deemed applicable).

(c) If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

2.13 Indemnification. The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

2.14 Additional Fees.

(a) Within 5 days following final application approval, the Notice of Determination (NOD) filing fee shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which shall be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in a 180-day extension to the statute of limitations for the filing of a CEQA lawsuit.

(b) After the Project's entitlement approval, and prior to issuance of final building permits, the Planning Department's Plan Check and Inspection fees shall be paid at the rate established by resolution of the City Council.

2.15 Additional Requirements.

(a) Final design of art sculpture proposed on south portion of site along Ontario Center Parkway shall be subject to Planning Director review and approval.



**ENGINEERING DEPARTMENT
CONDITIONS OF APPROVAL**

(Environmental, Traffic/Transportation Division, Ontario Municipal Utilities Company
Information Technology and Management Services Department conditions incorporated herein)

<input checked="" type="checkbox"/> DEVELOPMENT PLAN <input type="checkbox"/> OTHER	<input type="checkbox"/> PARCEL MAP <input type="checkbox"/> TRACT MAP <input type="checkbox"/> FOR CONDOMINIUM PURPOSES
PROJECT FILE NO. <u>PDEV16-050</u> RELATED FILE NO(S). <u>PM 17550</u>	
<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> REVISED: <u> </u> / <u> </u> / <u> </u>	

CITY PROJECT ENGINEER & PHONE NO: Omar Gonzalez, Senior Associate Civil Engineer, (909)395-2147
 CITY PROJECT PLANNER & PHONE NO: Jeanie Anguilo, Assistant Planner, (909)395-2147
 DAB MEETING DATE: April 17, 2017

PROJECT NAME / DESCRIPTION: A development plan to construct a 4 story, 131 room hotel totaling 92,823 square feet on approximately 4.5 acres, within the Piemonte District of the Ontario Center Specific Plan

LOCATION: Northeast Corner of Ontario Center Parkway and Via Piemonte

APPLICANT: Glacier House Hotels

REVIEWED BY: *N. Khoury* 4-6-17
 Naim Khoury Date
 Associate Engineer

APPROVED BY: *K. Do* 4-6-17
 Khoi Do, P.E. Date
 Assistant City Engineer



THIS PROJECT SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE GENERAL STANDARD CONDITIONS OF APPROVAL ADOPTED BY THE CITY COUNCIL (RESOLUTION NO. 2010-021) AND THE PROJECT SPECIFIC CONDITIONS OF APPROVAL SPECIFIED IN HEREIN. ONLY APPLICABLE CONDITIONS OF APPROVAL ARE CHECKED. THE APPLICANT SHALL BE RESPONSIBLE FOR THE COMPLETION OF ALL APPLICABLE CONDITIONS OF APPROVAL PRIOR TO FINAL MAP OR PARCEL MAP APPROVAL, ISSUANCE OF PERMITS AND/OR OCCUPANCY CLEARANCE, AS SPECIFIED IN THIS REPORT.

1. PRIOR TO FINAL MAP OR PARCEL MAP APPROVAL, APPLICANT SHALL: Check When Complete

- 1.01 Dedicate to the City of Ontario, the right-of-way, described below:
_____ feet on _____
Property line corner 'cut-back' required at the intersection of _____
and _____.
- 1.02 Dedicate to the City of Ontario, the following easement(s): _____

- 1.03 Restrict vehicular access to the site as follows: _____
- 1.04 Vacate the following street(s) and/or easement(s): _____
- 1.05 Submit a copy of a recorded private reciprocal use agreement or easement. The agreement or easement shall ensure, at a minimum, common ingress and egress and joint maintenance of all common access areas and drive aisles.
- 1.06 Provide (original document) Covenants, Conditions and Restrictions (CC&Rs) as applicable to the project and as approved by the City Attorney and the Engineering and Planning Departments, ready for recordation with the County of San Bernardino. The CC&Rs shall provide for, but not be limited to, common ingress and egress, joint maintenance responsibility for all common access improvements, common facilities, parking areas, utilities, median and landscaping improvements and drive approaches, in addition to maintenance requirements established in the Water Quality Management Plan (WQMP), as applicable to the project. The CC&Rs shall also address the maintenance and repair responsibility for public improvements/utilities (sewer, water, storm drain, recycled water, etc.) located within open space/easements. In the event of any maintenance or repair of these facilities, the City shall only restore disturbed areas to current City Standards.
- 1.07 File an application for Reapportionment of Assessment, together with payment of a reapportionment processing fee, for each existing assessment district listed below. Contact the Management Services Department at (909) 395-2124 regarding this requirement.
(1) _____
(2) _____
- 1.08 Prepare a fully executed Subdivision Agreement (on City approved format and forms) with accompanying security as required, or complete all public improvements.
- 1.09 Provide a monument bond (i.e. cash deposit) in an amount calculated by the City's approved cost estimate spreadsheet (available for download on the City's website: www.ci.ontario.ca.us) or as specified in writing by the applicant's Registered Engineer or Licensed Land Surveyor of Record and approved by the City Engineer, whichever is greater.
- 1.10 Provide a preliminary title report current to within 30 days.
- 1.11 File an application, together with an initial deposit (if required), to establish a Community Facilities District (CFD) pursuant to the Mello-Roos Community Facilities District Act of 1982. The application and fee shall be submitted a minimum of three (3) months prior to final subdivision map approval, and



the CFD shall be established prior to final subdivision map approval or issuance of building permits, whichever occurs first. The CFD shall be established upon the subject property to provide funding for various City services. An annual special tax shall be levied upon each parcel or lot in an amount to be determined. The special tax will be collected along with annual property taxes. The City shall be the sole lead agency in the formation of any CFD. Contact Management Services at (909) 395-2353 to initiate the CFD application process.

- 1.12 New Model Colony (NMC) Developments:
- 1) Provide evidence of final cancellation of Williamson Act contracts associated with this tract, prior to approval of any final subdivision map. Cancellation of contracts shall have been approved by the City Council.
- 2) Provide evidence of sufficient storm water capacity availability equivalents (Certificate of Storm Water Treatment Equivalents).
- 3) Provide evidence of sufficient water availability equivalents (Certificate of Net MDD Availability).
- 1.13 Other conditions: _____

2. PRIOR TO ISSUANCE OF ANY PERMITS, APPLICANT SHALL:

**A. GENERAL
 (Permits includes Grading, Building, Demolition and Encroachment)**

- 2.01 Record Parcel Map/Tract Map No. _____ pursuant to the Subdivision Map Act and in accordance with the City of Ontario Municipal Code.
- 2.02 Submit a duplicate photo mylar of the recorded map to the City Engineer's office.
- 2.03 Note that the subject parcel is a recognized parcel in the City of Ontario per _____.
- 2.04 Note that the subject parcel is an 'unrecognized' parcel in the City of Ontario and shall require a Certificate of Compliance to be processed unless a deed is provided confirming the existence of the parcel prior to the date of _____.
- 2.05 Apply for a: Certificate of Compliance with a Record of Survey; Lot Line Adjustment
 Make a Dedication of Easement.
- 2.06 Provide (original document) Covenants, Conditions and Restrictions (CC&R's), as applicable to the project, and as approved by the City Attorney and the Engineering and Planning Departments, ready for recordation with the County of San Bernardino. The CC&R's shall provide for, but not be limited to, common ingress and egress, joint maintenance of all common access improvements, common facilities, parking areas, utilities and drive approaches in addition to maintenance requirements established in the Water Quality Management Plan (WQMP), as applicable to the project.
- 2.07 Submit a soils/geology report.
- 2.08 Other Agency Permit/Approval: Submit a copy of the approved permit and/or other form of approval of the project from the following agency or agencies:
- State of California Department of Transportation (Caltrans)
 - San Bernardino County Road Department (SBCRD)
 - San Bernardino County Flood Control District (SBCFCD)
 - Federal Emergency Management Agency (FEMA)
 - Cucamonga Valley Water District (CVWD) for sewer/water service



- United States Army Corps of Engineers (USACE)
- California Department of Fish & Game
- Inland Empire Utilities Agency (IEUA)
- Other: Property Owner's Association (POA) for connection to private storm drain system on Via Alba**

- 2.09 Dedicate to the City of Ontario the right-of-way described below:
_____ feet on _____
Property line corner 'cut-back' required at the intersection of _____
and _____.
- 2.10 Dedicate to the City of Ontario the following easement(s): _____

- 2.11 New Model Colony (NMC) Developments:
- 1) Submit a copy of the permit from the San Bernardino County Health Department to the Engineering Department and the Ontario Municipal Utilities Company (OMUC) for the destruction/abandonment of the on-site water well. The well shall be destroyed/abandoned in accordance with the San Bernardino County Health Department guidelines.
 - 2) Make a formal request to the City of Ontario Engineering Department for the proposed temporary use of an existing agricultural water well for purposes other than agriculture, such as grading, dust control, etc. Upon approval, the Applicant shall enter into an agreement with the City of Ontario and pay any applicable fees as set forth by said agreement.
 - 3) Design proposed retaining walls to retain up to a maximum of three (3) feet of earth. In no case shall a wall exceed an overall height of nine (9) feet (i.e. maximum 6-foot high wall on top of a maximum 3-foot high retaining wall).
- 2.12 **Submit a security deposit to the Engineering Department to guarantee construction of the public improvements required herein valued at 100% of the approved construction cost estimate. Security deposit shall be in accordance with the City of Ontario Municipal Code. Security deposit will be eligible for release, in accordance with City procedure, upon completion and acceptance of said public improvements.**
- 2.13 The applicant/developer shall submit all necessary survey documents prepared by a Licensed Surveyor registered in the State of California detailing all existing survey monuments in and around the project site. These documents are to be reviewed and approved by the City Survey Office.
- 2.14 **Pay all Development Impact Fees (DIF) to the Building Department.**
- 2.15 Other conditions: _____



B. PUBLIC IMPROVEMENTS

(See attached Exhibit 'A' for plan check submittal requirements.)

- 2.16 Design and construct full public Improvements in accordance with the City of Ontario Municipal Code, current City standards and specifications, master plans and the adopted specific plan for the area, if any. These public improvements shall include, but not be limited to, the following (checked boxes):

Improvement	Ontario Center Parkway	Via Piemonte (Private)	Via Alba (Private)	Street 4
Curb and Gutter	<input type="checkbox"/> New; ___ ft. from C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New; ___ ft. from C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New; ___ ft. from C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New; ___ ft. from C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace
AC Pavement	<input type="checkbox"/> Replacement <input type="checkbox"/> Widen ___ additional feet along frontage, including pavm't transitions	<input type="checkbox"/> Replacement <input type="checkbox"/> Widen ___ additional feet along frontage, including pavm't transitions	<input type="checkbox"/> Replacement <input type="checkbox"/> Widen ___ additional feet along frontage, including pavm't transitions	<input type="checkbox"/> Replacement <input type="checkbox"/> Widen ___ additional feet along frontage, including pavm't transitions
PCC Pavement (Truck Route Only)	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Drive Approach	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace replace
Sidewalk	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace
ADA Access Ramp	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace
Parkway	<input type="checkbox"/> Trees <input type="checkbox"/> Landscaping (w/irrigation)	<input type="checkbox"/> Trees <input type="checkbox"/> Landscaping (w/irrigation)	<input type="checkbox"/> Trees <input type="checkbox"/> Landscaping (w/irrigation)	<input type="checkbox"/> Trees <input type="checkbox"/> Landscaping (w/irrigation)
Raised Landscaped Median	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace
Fire Hydrant	<input checked="" type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation



Sewer (see Sec. 2.C)	<input type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input type="checkbox"/> Main <input type="checkbox"/> Lateral	<input type="checkbox"/> Main <input type="checkbox"/> Lateral	<input type="checkbox"/> Main <input type="checkbox"/> Lateral
Water (see Sec. 2.D)	<input type="checkbox"/> Main <input checked="" type="checkbox"/> Service	<input type="checkbox"/> Main <input type="checkbox"/> Service	<input type="checkbox"/> Main <input type="checkbox"/> Service	<input type="checkbox"/> Main <input type="checkbox"/> Service
Recycled Water (see Sec. 2.E)	<input type="checkbox"/> Main <input type="checkbox"/> Service	<input type="checkbox"/> Main <input type="checkbox"/> Service	<input type="checkbox"/> Main <input checked="" type="checkbox"/> Service	<input type="checkbox"/> Main <input type="checkbox"/> Service
Traffic Signal System (see Sec. 2.F)	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Traffic Signing and Striping (see Sec. 2.F)	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Street Light (see Sec. 2.F)	<input checked="" type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation
Bus Stop Pad or Turn-out (see Sec. 2.F)	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Storm Drain (see Sec. 2G)	<input type="checkbox"/> Main <input type="checkbox"/> Lateral	<input type="checkbox"/> Main <input type="checkbox"/> Lateral	<input type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral (Private connection)	<input type="checkbox"/> Main <input type="checkbox"/> Lateral
Fiber Optics (see Sec. 2K)	<input checked="" type="checkbox"/> Conduit / Appurtenances	<input type="checkbox"/> Conduit / Appurtenances	<input type="checkbox"/> Conduit / Appurtenances	<input type="checkbox"/> Conduit / Appurtenances
Overhead Utilities	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate
Removal of Improvements	_____	_____	_____	_____
Other Improvements	_____	_____	_____	_____

Specific notes for improvements listed in item no. 2.15, above: _____

2.17 Construct a 0.15' asphalt concrete (AC) grind and overlay on the following street(s): _____



- 2.18 Reconstruct the full pavement structural section per City of Ontario Standard Drawing number 1011, based on existing pavement condition and approved street section design. Minimum limits of reconstruction shall be along property frontage, from street centerline to curb/gutter. 'Pothole' verification of existing pavement section required prior to acceptance/approval of street improvement plan.
- 2.19 Make arrangements with the Cucamonga Valley Water District (CVWD) to provide water service sewer service to the site. This property is within the area served by the CVWD and Applicant shall provide documentation to the City verifying that all required CVWD fees have been paid.
- 2.20 Other conditions:

C. SEWER

- 2.21 **An 8 inch sewer main is available for connection by this project in Ontario Center Parkway. (Ref: Sewer plan bar code: S13831). New manhole shall be constructed at point of connection.**
- 2.22 Design and construct a sewer main extension. A sewer main is not available for direct connection. The closest main is approximately _____ feet away.
- 2.23 Submit documentation that shows expected peak loading values for modeling the impact of the subject project to the existing sewer system. The project site is within a deficient public sewer system area. Applicant shall be responsible for all costs associated with the preparation of the model. Based on the results of the analysis, Applicant may be required to mitigate the project impact to the deficient public sewer system, including, but not limited to, upgrading of existing sewer main(s), construction of new sewer main(s) or diversion of sewer discharge to another sewer.
- 2.24 **Other conditions:**
 - 1. **The Occupant/Applicant shall apply for a Wastewater Discharge Permit for their Establishment, and shall comply will all the requirements of their Wastewater Discharge Permit. Requirements of Wastewater Discharge Permit may include, but not to limited to including: installation of wastewater pretreatment equipment, such as clarifiers. For wastewater permit application, please contact:**

Sheldon Yu, Sr. Associate Civil Engineer
omucenvironmental@ontarioca.gov

D. WATER

- 2.25 **A 12 inch water main is available for connection by this project in Ontario Center Parkway (Ref: Water plan bar code: W13054; W13055)**
- 2.26 Design and construct a water main extension. A water main is not available for direct connection. The closest main is approximately _____ feet away.
- 2.27 **Other conditions:**
 - 1. **Private fire service line at the northern boundary of the project shall be maintained and operated by the Owner**

E. RECYCLED WATER

- 2.28 **An 8 inch recycled water main is available for connection by this project in Via Alba. (Ref: Recycled Water plan bar code:P10075)**
- 2.29 **Design and construct an on-site recycled water system for this project. A recycled water main does exist in the vicinity of this project.**



2.30 Design and construct an on-site recycled water ready system for this project. A recycled water main does not currently exist in the vicinity of this project, but is planned for the near future. Applicant shall be responsible for construction of a connection to the recycled water main for approved uses, when the main becomes available. The cost for connection to the main shall be borne solely by Applicant.

2.31 **Submit two (2) hard copies and one (1) electronic copy, in PDF format, of the Engineering Report (ER), for the use of recycled water, to the OMUC for review and subsequent submittal to the California Department of Public Health (CDPH) for final approval.**

Note: The OMUC and the CDPH review and approval process will be approximately three (3) months. Contact the Ontario Municipal Utilities Company at (909) 395-2687 regarding this requirement.

2.32 Other conditions: _____

F. TRAFFIC / TRANSPORTATION

2.33 Submit a focused traffic impact study, prepared and signed by a Traffic/Civil Engineer registered in the State of California. The study shall address, but not be limited to, the following issues as required by the City Engineer:

1. On-site and off-site circulation
2. Traffic level of service (LOS) at 'build-out' and future years
3. Impact at specific intersections as selected by the City Engineer

2.34 **Other conditions:**

1. **Reciprocal access shall be required to be maintained between the proposed project site and the undeveloped area north of the proposed project site.**
2. **Existing parking restrictions along Ontario Center Parkway are to remain in place upon development of the project site.**
3. **The applicant/developer shall replace existing streetlight fixtures with City-approved LED equivalent fixtures, along Ontario Center Parkway. Please refer to the Traffic and Transportation Design Guidelines Section 1.4 Street Light Plans for LED fixture requirements.**
4. **The applicant/developer's engineer of record shall meet with City Engineering staff prior to starting the street lighting design.**

G. DRAINAGE / HYDROLOGY

2.35 **Submit a hydrology study and drainage analysis, prepared and signed by a Civil Engineer registered in the State of California. The study shall be prepared in accordance with the San Bernardino County Hydrology Manual and City of Ontario standards and guidelines. Additional drainage facilities, including, but not limited to, improvements beyond the project frontage, may be required to be designed and constructed, by Applicant, as a result of the findings of this study.**

2.36 An adequate drainage facility to accept additional runoff from the site does not currently exist downstream of the project. Design and construct a storm water detention facility on the project site. 100 year post-development peak flow shall be attenuated such that it does not exceed 80% of pre-development peak flows, in accordance with the approved hydrology study and improvement plans.

2.37 Submit a copy of a recorded private drainage easement or drainage acceptance agreement to the Engineering Department for the acceptance of any increase to volume and/or concentration of historical drainage flows onto adjacent property, prior to approval of the grading plan for the project.

2.38 Comply with the City of Ontario Flood Damage Prevention Ordinance (Ordinance No. 2409). The project site or a portion of the project site is within the Special Flood Hazard Area (SFHA) as indicated on the Flood Insurance Rate Map (FIRM) and is subject to flooding during a 100 year frequency storm. The site plan shall be subject to the provisions of the National Flood Insurance Program.

2.39 **Pay Storm Drain Development Impact Fee, approximately \$92,000, Fee shall be paid to the Building Department. Final fee shall be determined based on the approved site plan.**

2.40 Other conditions: _____



H. STORM WATER QUALITY / NATIONAL POLLUTANT DISCHARGE AND ELIMINATION SYSTEM (NPDES)

- 2.41 401 Water Quality Certification/404 Permit – Submit a copy of any applicable 401 Certification or 404 Permit for the subject project to the City project engineer. Development that will affect any body of surface water (i.e. lake, creek, open drainage channel, etc.) may require a 401 Water Quality Certification from the California Regional Water Quality Control Board, Santa Ana Region (RWQCB) and a 404 Permit from the United States Army Corps of Engineers (USACE). The groups of water bodies classified in these requirements are perennial (flow year round) and ephemeral (flow during rain conditions, only) and include, but are not limited to, direct connections into San Bernardino County Flood Control District (SBCFCD) channels.
If a 401 Certification and/or a 404 Permit are not required, a letter confirming this from Applicant's engineer shall be submitted.
Contact information: USACE (Los Angeles District) (213) 452-3414; RWQCB (951) 782-4130.

- 2.42 **Submit a Water Quality Management Plan (WQMP). This plan shall be approved by the Engineering Department prior to approval of any grading plan. The WQMP shall be submitted, utilizing the current San Bernardino County Stormwater Program template, available at: <http://www.sbcounty.gov/dpw/land/npdes.asp>.**

- 2.43 Other conditions: _____

J. SPECIAL DISTRICTS

- 2.44 File an application, together with an initial payment deposit (if required), to establish a Community Facilities District (CFD) pursuant to the Mello-Roos Community facilities District Act of 1982. The application and fee shall be submitted a minimum three (3) months prior to final subdivision map approval, and the CFD shall be established prior to final subdivision map approval or issuance of building permits, whichever occurs first. The CFD shall be established upon the subject property to provide funding for various City services. An annual special tax shall be levied upon each parcel or lot in an amount to be determined. The special tax will be collected along with annual property taxes. The City shall be the sole lead agency in the formation of any CFD. Contact the Management Services Department at (909) 395-2353 to initiate the CFD application process.

- 2.45 Other conditions: _____

K. FIBER OPTIC

- 2.46 **Design and construct fiber optic system to provide access to the City's conduit and fiber optic system per the City's Fiber Optic Master Plan. Building entrance conduits shall start from the closest OntarioNet hand hole constructed along the project frontage in the ROW and shall terminate in the main telecommunications room for each building. Conduit infrastructure shall interconnect with the primary and/or secondary backbone fiber optic conduit system at the nearest OntarioNet hand hole. Generally located on Ontario Center Parkway, see Fiber Optic Exhibit herein.**
1. All hand holes, conduits, conduit banks, materials and installations are per the City's Fiber Optic Master Plan and City Fiber Optic Cable and Duct Standards. All hand holes, conduits and ducts shall be placed in the public right of way.
 2. All hand holes will have ¼-inch galvanized wire between the hand holes and the gravel it is placed on.
 3. Building Entrance (Multi-family and Commercial) - Design and install fiber optic conduit at a minimum depth of 36 inches. Trenching shall be per City Standard for Commercial Buildings. (1) 2-inch HDPE SDR-11 (Smoothwall) roll pipe (Orange) duct. Install locate/tracer wires minimum 12AWG within conduit bank and fiber warning tape 18-inch above the uppermost duct.
 4. Multi-Family Unit Telecommunications Room - Location of telecommunications room is conceptual. Terminate no less than 5 inches above the finished floor adjacent to the wall in the telecomm/electrical room. A 20" width X length 36" space shall be reserved on the plywood wall for OntarioNet equipment. This space shall be labeled "OntarioNet Only". Ontario Conduit shall be labeled "OntarioNet". A 1.5 inch joint use telecommunications conduit from the telecomm/electrical room to each apartment shall be installed



- 2.47 Refer to the City's Fiber Optic Master Plan for design and layout guidelines. Contact the Information Technology Department at (909) 395-2000, regarding this requirement.

L. Solid Waste

- 2.48 Onsite solid waste shall be designed in accordance with the City's Solid Waste Manual location at:
<http://www.ontarioca.gov/municipal-utilities-company/solid-waste>
- 2.49 Other conditions:
1. Volumetrically, the hotel requires ten (10), 4-CY trash bins (40-CY total volume). The applicant/developer may utilize four (4), 4-CY trash bins in conjunction with the necessary compactor(s) to meet their solid waste needs.

3. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY, APPLICANT SHALL:

- 3.01 Set new monuments in place of any monuments that have been damaged or destroyed as a result of construction of the subject project. Monuments shall be set in accordance with City of Ontario standards and to the satisfaction of the City Engineer.
- 3.02 Complete all requirements for recycled water usage.
 1) Procure from the OMUC a copy of the letter of confirmation from the California Department of Public Health (CDPH) that the Engineering Report (ER) has been reviewed and the subject site is approved for the use of recycled water.
 2) Obtain clearance from the OMUC confirming completion of recycled water improvements and passing of shutdown tests and cross connection inspection, upon availability/usage of recycled water.
 3) Complete education training of on-site personnel in the use of recycled water, in accordance with the ER, upon availability/usage of recycled water.
- 3.03 The applicant/developer shall submit all final survey documents prepared by a Licensed Surveyor registered in the State of California detailing all survey monuments that have been preserved, revised, adjusted or set along with any maps, corner records or Records of Survey needed to comply with these Conditions of Approvals and the latest edition of the California Professional Land Survey Act. These documents are to be reviewed and approved by the City Survey Office.
- 3.04 NMC Projects: For developments located at an intersection of any two collector or arterial streets, the applicant/developer shall set a benchmark if one does not already exist at that intersection. Contact the City Survey office for information on reference benchmarks, acceptable methodology and required submittals.
- 3.05 Confirm payment of all Development Impact Fees (DIF) to the Building Department.
- 3.06 Submit electronic copies (PDF and Auto CAD format) of all approved improvement plans, studies and reports (i.e. hydrology, traffic, WQMP, etc.).



EXHIBIT 'A'

**ENGINEERING DEPARTMENT
First Plan Check Submittal Checklist**

Project Number: PDEV 16-050

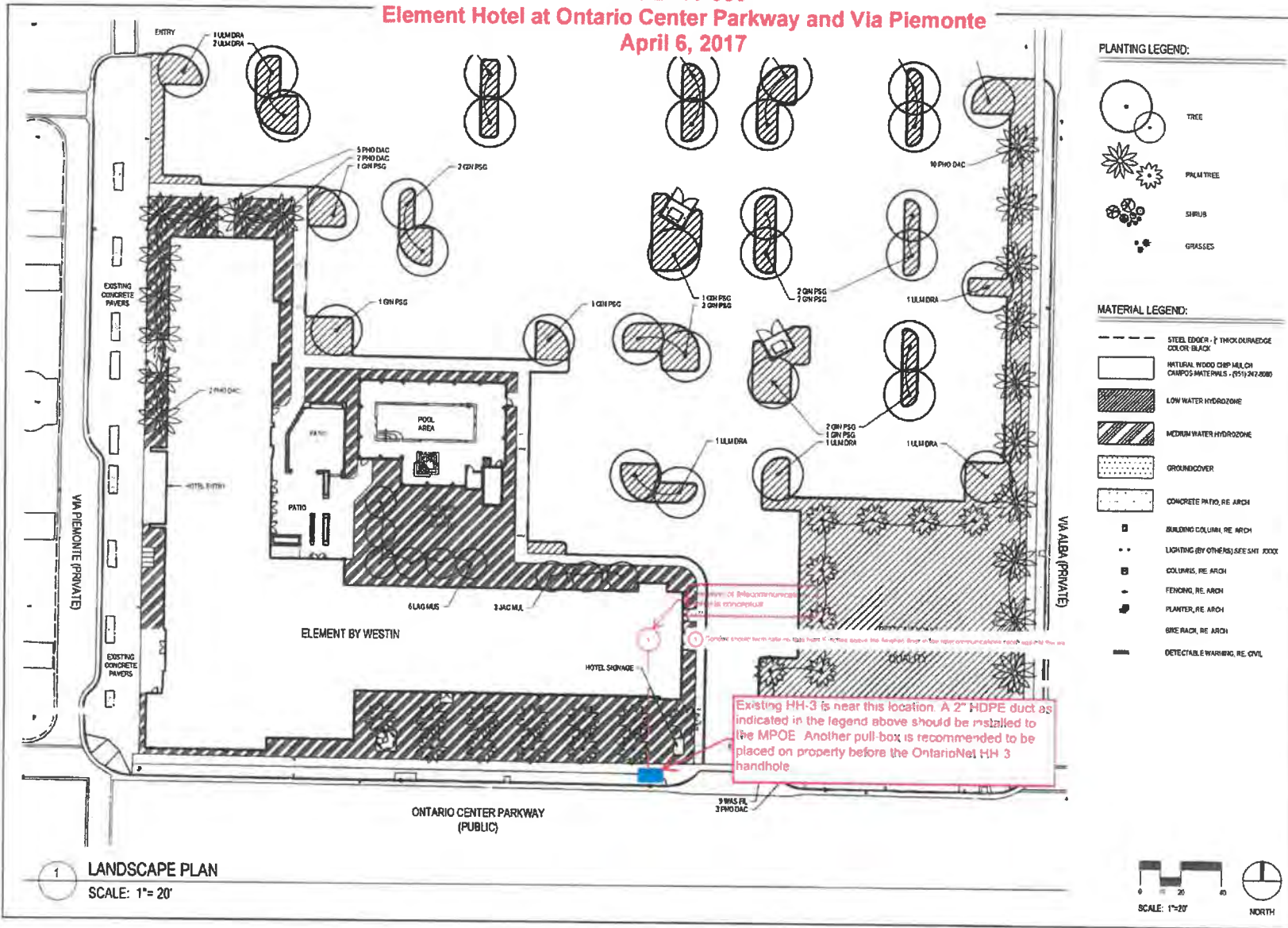
The following items are required to be included with the first plan check submittal:

1. **A copy of this check list**
2. **Payment of fee for Plan Checking**
3. **One (1) copy of Engineering Cost Estimate (on City form) with engineer's wet signature and stamp.**
4. **One (1) copy of project Conditions of Approval**
5. Two (2) sets of Potable and Recycled Water demand calculations (include water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size).
6. Three (3) sets of Public Street improvement plan with street cross-sections
7. Three (3) sets of Private Street improvement plan with street cross-sections
8. Four (4) sets of Public Water improvement plan (include water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size)
9. Four (4) sets of Recycled Water improvement plan (include recycled water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size and an exhibit showing the limits of areas being irrigated by each recycled water meter)
10. Four (4) sets of Public Sewer improvement plan
11. Five (5) sets of Public Storm Drain improvement plan
12. **Three (3) sets of Public Street Light improvement plan**
13. Three (3) sets of Signing and Striping improvement plan
14. **Three (3) sets of Fiber Optic plan (include Auto CAD electronic submittal)**
15. Three (3) sets of Dry Utility plans within public right-of-way (at a minimum the plans must show existing and ultimate right-of-way, curb and gutter, proposed utility location including centerline dimensions, wall to wall clearances between proposed utility and adjacent public line, street work repaired per Standard Drawing No. 1306. Include Auto CAD electronic submittal)
16. Three (3) sets of Traffic Signal improvement plan and One (1) copy of Traffic Signal Specifications with modified Special Provisions. Please contact the Traffic Division at (909) 395-2154 to obtain Traffic Signal Specifications.
17. Two (2) copies of Water Quality Management Plan (WQMP), including one (1) copy of the approved Preliminary WQMP (PWQMP).
18. **One (1) copy of Hydrology/Drainage study**
19. **One (1) copy of Soils/Geology report**
20. Payment for Final Map/Parcel Map processing fee
21. Three (3) copies of Final Map/Parcel Map



- 22. One (1) copy of approved Tentative Map
- 23. One (1) copy of Preliminary Title Report (current within 30 days)
- 24. One (1) copy of Traverse Closure Calculations
- 25. **One (1) set of supporting documents and maps (legible copies): referenced improvement plans (full size), referenced record final maps/parcel maps (full size, 18"x26"), Assessor's Parcel map (full size, 11"x17"), recorded documents such as deeds, lot line adjustments, easements, etc.**
- 26. **Two (2) copies of Engineering Report and an electronic file (include PDF format electronic submittal) for recycled water use**
- 27. Other: _____

PDEV16-050
Element Hotel at Ontario Center Parkway and Via Piemonte
April 6, 2017



PLANTING LEGEND:

- TREE
- PALM TREE
- SHRUBS
- GRASSES

MATERIAL LEGEND:

- STEEL EDGER - 1" THICK DURABEDGE COLOR BLACK
- NATURAL WOOD CHIP MULCH CHARCO MATTERIALS - (951) 247-8080
- LOW WATER HYDROZONE
- MEDIUM WATER HYDROZONE
- GROUND COVER
- CONCRETE PATIO, RE ARCH
- BUILDING COLUMN, RE ARCH
- LIGHTING (BY OTHERS), SEE SHT XXXX
- COLUMN, RE ARCH
- FENCING, RE ARCH
- PLANTER, RE ARCH
- BIKE RACK, RE ARCH
- DETECTABLE WARNING, RE CIVIL

xbow

CLIENT:
 GLACIER HOUSE
 HOTEL DEVELOPMENT
 1861 WEST 7TH AVENUE & ROAD
 SCOTTSDALE, AZ 85260

CONSULTANT:
 OXBOW DESIGN COLLAB LTD
 1000 NORTH 5 STREET, SUITE 212
 DENVER, CO 80202
 720.462.4747
 WWW.OXBOWDESIGN.COM

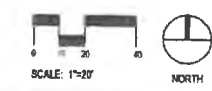
ELEMENT BY WESTIN
 1910 ONTARIO CENTER PARKWAY & VIA ALBA
 ONTARIO, CALIFORNIA 91764

DATE: 02/23/16
 DRAWN BY: [Signature]
 REVIEWED BY: [Signature]
 PROJECT NUMBER: 16017

LANDSCAPE PLAN

SHEET NUMBER:
L101

LANDSCAPE PLAN
 SCALE: 1" = 20'





CITY OF ONTARIO

MEMORANDUM

TO: "Vacant", Development Director
Scott Murphy, Planning Director (Copy of memo only)
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khoi Do, Assistant City Engineer
Carolyn Bell, Landscape Planning Division
Sheldon Yu, Municipal Utility Company
Doug Sorel, Police Department
Art Andres, Deputy Fire Chief/Fire Marshal
Tom Danna, T. E., Traffic/Transportation Manager
Lorena Mejia, Associate Planner, Airport Planning
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director
Jimmy Chang, IT Department
David Simpson, Development/IT (Copy of memo only)

FROM: Jeanie Irene Aguilo, Assistant Planner

DATE: March 06, 2017

SUBJECT: FILE #: PCUP16-023

Finance Acct#:

The following project has been resubmitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Monday, March 20, 2017**.

PROJECT DESCRIPTION: A Conditional Use Permit to establish a 92,823-square foot hotel (Element) on approximately 4.5 acres of land located at 900 North Via Piemonte, within the Piemonte Overlay of the Ontario Center Specific Plan (APN: 0210-204-18). Related File: PDEV16-050).

The plan does adequately address the departmental concerns at this time.

- No comments
- See previous report for Conditions
- Report attached (1 copy and email 1 copy)
- Standard Conditions of Approval apply

The plan does not adequately address the departmental concerns.

- The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Landscape Planning Division *J. J. D.* Landscape Planner 3/23/17
Department Signature Title Date

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT



Project File No.: PDEV16-050 & PCUP16-023
 Address: 900 Via Piemonte
 APN: 210-204-18
 Existing Land Use: Vacant
 Proposed Land Use: 92,823 SF Hotel
 Site Acreage: 4.5 Proposed Structure Height: 62 ft
 ONT-IAC Project Review: N/A
 Airport Influence Area: ONT

Reviewed By: Lorena Mejia
 Contact Info: 909-395-2276
 Project Planner: Jeanie Aguilo
 Date: 1/19/17
 CD No.: 2016-077
 PALU No.: n/a

The project is impacted by the following ONT ALUCP Compatibility Zones:

Safety	Noise Impact	Airspace Protection	Overflight Notification
<input type="radio"/> Zone 1	<input type="radio"/> 75+ dB CNEL	<input type="radio"/> High Terrain Zone	<input type="radio"/> Avigation Easement Dedication
<input type="radio"/> Zone 1A	<input type="radio"/> 70 - 75 dB CNEL	<input checked="" type="checkbox"/> FAA Notification Surfaces	<input type="radio"/> Recorded Overflight Notification
<input type="radio"/> Zone 2	<input type="radio"/> 65 - 70 dB CNEL	<input checked="" type="checkbox"/> Airspace Obstruction Surfaces	<input checked="" type="checkbox"/> Real Estate Transaction Disclosure
<input type="radio"/> Zone 3	<input type="radio"/> 60 - 65 dB CNEL	<input type="radio"/> Airspace Avigation Easement Area	
<input type="radio"/> Zone 4		Allowable Height: 75 ft	
<input type="radio"/> Zone 5			

The project is impacted by the following Chino ALUCP Safety Zones:

Zone 1
 Zone 2
 Zone 3
 Zone 4
 Zone 5
 Zone 6
 Allowable Height: _____

CONSISTENCY DETERMINATION

This proposed Project is: Exempt from the ALUCP Consistent Consistent with Conditions Inconsistent

The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

See Attached Conditions

Airport Planner Signature: _____

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT

CD No.: 2016-077
PALU No.: _____

PROJECT CONDITIONS

The maximum allowable height for the project site is 75 feet. FAA notification is required for any objects which exceed the 75 foot height limit, such as construction cranes. The applicant shall file a Notice of Proposed Construction or Alteration (FAA Form 7460-1) with the FAA and receive a Determination of No Hazard prior to utilizing any construction equipment that will exceed 75 feet in height.



CITY OF ONTARIO MEMORANDUM

TO: "Vacant", Development Director
Scott Murphy, Planning Director (Copy of Memo only)
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khoi Do, Assistant City Engineer
Carolyn Bell, Landscape Planning Division
Sheldon Yu, Municipal Utility Company
Doug Sorel, Police Department
Art Andres, Deputy Fire Chief/Fire Marshal
Tom Danna, T. E., Traffic/Transportation Manager
Lorena Mejia, Associate Planner, Airport Planning
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director
Jimmy Chang, IT Department
David Simpson, Development/IT (Copy of memo only)

FROM: Jeanie Irene Aguilo, Assistant Planner

DATE: November 29, 2016

SUBJECT: FILE #: PCUP16-023 Finance Acct#:

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Tuesday, December 13, 2016**.

- Note:
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A Conditional Use Permit to establish a 92,823-square foot hotel on approximately 4.5 acres of land located at 900 Via Piemonte, within the Piemonte District of Ontario Center Specific Plan (APN(s): 210-204-18. Related File(s): PDEV16-050).

- The plan does adequately address the departmental concerns at this time.
- No comments
- Report attached (1 copy and email 1 copy)
- Standard Conditions of Approval apply
- The plan does not adequately address the departmental concerns.
 - The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Building
Department

Signature

Title

Date

CITY OF ONTARIO

MEMORANDUM

TO: PLANNING DEPARTMENT, Jeanie Aguilo
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: December 1, 2016
SUBJECT: PCUP16-023

1. The plan **does** adequately address the departmental concerns at this time.
No comments.

KS:lm



CITY OF ONTARIO

MEMORANDUM

TO: Jeanie Aguilo, Planning Department

FROM: Douglas Sorel, Police Department

DATE: January 5, 2017

SUBJECT: PDEV16-050 AND PCUP16-023: A DEVELOPMENT PLAN AND
CONDITIONAL USE PERMIT TO DEVELOP A 4 STORY, 131 ROOM
HOTEL AT ONTARIO CENTER PARKWAY AND VIA PIEMONTE

The "Standard Conditions of Approval" contained in Resolution No. 2010-021 apply. The applicant shall read and be thoroughly familiar with these conditions, including, but not limited to, the requirements below:

- Required lighting for walkways, driveways, doorways and other areas used by the public shall be provided. Required lighting shall operate on photosensor. Photometrics shall be provided and include the types of fixtures proposed and demonstrate that such fixtures meet the vandal-resistant requirement. Planned landscaping shall not obstruct lighting fixtures.
- Rooftop addresses shall be installed on the building as stated in the Standard Conditions. The numbers shall be at a minimum 3 feet tall and 1 foot wide, in reflective white paint on a flat black background, and oriented with the bottom of the numbers towards the addressed street.
- The Applicant shall comply with construction site security requirements as stated in the Standard Conditions.

The approval of this Conditional Use Permit shall not be construed so as to permit the sale of alcohol on the premises. Should the Applicant desire to sell alcohol on-site, the Applicant shall apply for a modification to this Conditional Use Permit.

The Applicant is invited to call Douglas Sorel at (909) 395-2873 regarding any questions or concerns



CITY OF ONTARIO

MEMORANDUM

TO: Jeanie Irene Aguilo, Assistant Planner
Planning Department

FROM: Lora L. Gearhart, Fire Protection Analyst
Fire Department

DATE: February 13, 2017

SUBJECT: PDEV16-050 - A Development Plan To Construct A 4-Story 131 Room Hotel Totaling 92,823 Square Feet On Approximately 4.5 Acres Of Land Located At The NEC Of Ontario Center Pkwy And Via Piemonte, Within The Piemonte District Of The Ontario Center Specific Plan (APN(S): 210-204-18).

-
- The plan **does** adequately address Fire Department requirements at this time.
- No comments.
- Standard Conditions of Approval apply, as stated below.
-

SITE AND BUILDING FEATURES:

- A. 2016 CBC Type of Construction: Unknown
- B. Type of Roof Materials: Unknown
- C. Ground Floor Area(s): 24,294 Sq. Ft.
- D. Number of Stories: 4 Stories
- E. Total Square Footage: 92,688 Sq. Ft.
- F. 2016 CBC Occupancy Classification(s): R, B, A

CONDITIONS OF APPROVAL:

1.0 GENERAL

- 1.1 The following are the Ontario Fire Department ("Fire Department") requirements for this development project, based on the current edition of the California Fire Code (CFC), and the current versions of the Fire Prevention Standards ("Standards.") It is recommended that the applicant or developer transmit a copy of these requirements to the on-site contractor(s) and that all questions or concerns be directed to the Bureau of Fire Prevention, at (909) 395-2029. For copies of Ontario Fire Department Standards please access the City of Ontario web site at www.ontarioca.gov, click on "Fire Department" and then on "Standards and Forms."
- 1.2 These Fire Department conditions of approval are to be included on any and all construction drawings.

2.0 FIRE DEPARTMENT ACCESS

- 2.1 Fire Department vehicle access roadways shall be provided to within 150 ft. of all portions of the exterior walls of the first story of any building, unless specifically approved. Roadways shall be paved with an all-weather surface and shall be a minimum of twenty (20) ft. wide. See Standard #B-004.
- 2.2 In order to allow for adequate turning radius for emergency fire apparatus, all turns shall be designed to meet the minimum twenty five feet (25') inside and forty-five feet (45') outside turning radius per Standard #B-005.
- 2.3 Fire Department access roadways that exceed one hundred and fifty feet (150') in length shall have an approved turn-around per Standard #B-002.
- 2.4 Access drive aisles which cross property lines shall be provided with CC&Rs, access easements, or reciprocating agreements, and shall be recorded on the titles of affected properties, and copies of same shall be provided at the time of building plan check.
- 2.5 "No Parking-Fire Lane" signs and /or red painted curbs with lettering are required to be installed in interior access roadways, in locations where vehicle parking would obstruct the minimum clear width requirement. Installation shall be per Standard #B-001.
- 2.6 Security gates or other barriers on fire access roadways shall be provided with a Knox brand key switch or padlock to allow Fire Department access. See Standards #B-003, B-004 and H-001.

3.0 WATER SUPPLY

- 3.1 The required fire flow per Fire Department standards, based on the 2013 California Fire Code, Appendix B, is 4000 gallons per minute (g.p.m.) for 4 hours at a minimum of 20 pounds per square inch (p.s.i.) residual operating pressure.

- ☒ 3.2 Off-site (public) fire hydrants are required to be installed on all frontage streets, at a minimum spacing of three hundred foot (300') apart, per Engineering Department specifications.
- ☒ 3.4 The public water supply, including water mains and fire hydrants, shall be tested and approved by the Engineering Department and Fire Department prior to combustible construction to assure availability and reliability for firefighting purposes.

4.0 FIRE PROTECTION SYSTEMS

- ☒ 4.1 On-site private fire hydrants are required per Standard #D-005, and identified in accordance with Standard #D-002. Installation and locations(s) are subject to the approval of the Fire Department. An application with detailed plans shall be submitted, and a construction permit shall be issued by the Fire Department, prior to any work being done.
- ☒ 4.2 Underground fire mains which cross property lines shall be provided with CC & R, easements, or reciprocating agreements, and shall be recorded on the titles of affected properties, and copies of same shall be provided at the time of fire department plan check. The shared use of private fire mains or fire pumps is allowable only between immediately adjacent properties and shall not cross any public street.
- ☒ 4.3 An automatic fire sprinkler system is required. The system design shall be in accordance with National Fire Protection Association (NFPA) Standard 13. All new fire sprinkler systems, except those in single family dwellings, which contain twenty (20) sprinkler heads or more shall be monitored by an approved listed supervising station. An application along with detailed plans shall be submitted, and a construction permit shall be issued by the Fire Department, prior to any work being done.
- ☒ 4.4 Fire Department Connections (FDC) shall be located on the address side of the building within one hundred fifty feet (150') of a public fire hydrant on the same side of the street. Provide identification for all fire sprinkler control valves and fire department connections per Standard #D-007. Raised curbs adjacent to Fire Department connection(s) shall be painted red, five feet either side, per City standards.
- ☒ 4.5 A fire alarm system is required. The system design shall be in accordance with National Fire Protection Association (NFPA) Standard 72. An application along with detailed plans shall be submitted, and a construction permit shall be issued by the Fire Department, prior to any work being done.
- ☒ 4.6 Portable fire extinguishers are required to be installed prior to occupancy per Standard #C-001. Please contact the Fire Prevention Bureau to determine the exact number, type and placement required.
- ☒ 4.7 A fixed fire extinguishing system is required for the protection of hood, duct, plenum and cooking surfaces. This system must comply with National Fire Protection Association (NFPA) Standards 17A and 96. An application with detailed plans shall be submitted, and a construction permit shall be issued by the Fire Department, prior to any work being done.

5.0 BUILDING CONSTRUCTION FEATURES

- 5.1 The developer/general contractor is to be responsible for reasonable periodic cleanup of the development during construction to avoid hazardous accumulations of combustible trash and debris both on and off the site.
- 5.2 Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Multi-tenant or building projects shall have addresses and/or suite numbers provided on the rear of the building. Address numbers shall contrast with their background. See Section 9-1.3280 of the Ontario Municipal Code and Standards #H-003 and #H-002.
- 5.3 Single station smoke alarms and carbon monoxide alarms are required to be installed per the California Building Code and the California Fire Code.
- 5.6 Knox ® brand key-box(es) shall be installed in location(s) acceptable to the Fire Department. All Knox boxes shall be monitored for tamper by the building fire alarm system. See Standard #H-001 for specific requirements.
- 5.8 The building shall be provided with a Public Safety 800 MHZ radio amplification system per the Ontario Municipal Code Section 4-11.09 (n) and the CFC. The design and installation shall be approved by the Fire Department.

6.0 OTHER SPECIAL USES

- 6.1 The storage, use, dispensing, or handling of any hazardous materials shall be approved by the Fire Department, and adequate fire protection features shall be required. If hazardous materials are proposed, a Fire Department Hazardous Materials Information Packet, including Disclosure Form and Information Worksheet, shall be completed and submitted with Material Safety Data Sheets to the Fire Department along with building construction plans.



CITY OF ONTARIO

MEMORANDUM

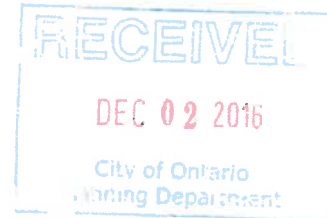
TO: "Vacant", Development Director
Scott Murphy, Planning Director (Copy of Memo only)
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khoi Do, Assistant City Engineer
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Lorena Mejia, Associate Planner, Airport Planning
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director
Jimmy Chang, IT Department
David Simpson, Development/IT (Copy of memo only)

FROM: Jeanie Irene Aguilo, Assistant Planner

DATE: November 29, 2016

SUBJECT: FILE #: PDEV16-050

Finance Acct#:



The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Tuesday, December 13, 2016**.

- Note:
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A Development Plan to construct a 4-story 131 room Hotel totaling 92,823 square feet on approximately 4.5 acres of land located at the NEC of Ontario Center Pkwy and Via Piemonte, within the Piemonte District of the Ontario Center Specific Plan (APN(s): 210-204-18).

- The plan does adequately address the departmental concerns at this time.
 - No comments
 - Report attached (1 copy and email 1 copy)
 - Standard Conditions of Approval apply
- The plan does not adequately address the departmental concerns.
 - The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Cathy Wahlstrom
Department

Scott Murphy
Signature

Supervisor
Title

11/30/16
Date

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE ONTARIO CENTER SPECIFIC PLAN, FILE NO. PSPA16-003, REVISING TEXT AND MAPS PERTAINING TO THE PIEMONTE OVERLAY, INCLUDING CHANGES TO THE DEVELOPMENT CONCEPT AND REGULATIONS, AND ALLOWED LAND USES WITHIN THE COMMERCIAL, ENTERTAINMENT/RETAIL COMMERCIAL, OFFICE, SPECIAL USE, AND RESIDENTIAL SUBAREAS, AFFECTING APPROXIMATELY 84 ACRES OF LAND, GENERALLY LOCATED SOUTH OF FOURTH STREET, WEST OF MILLIKEN AVENUE, NORTH OF CONCOURS STREET, AND EAST OF HAVEN AVENUE, WITHIN THE URBAN COMMERCIAL LAND USE DISTRICT AND PIEMONTE OVERLAY AREA OF THE ONTARIO CENTER SPECIFIC PLAN (APNS: 0210-531-16, 0210-531-15, 0210-531-14, 0210-531-13, 0210-531-12, 0210-531-11, 0210-531-10, 0210-531-09, 0210-531-08, 0210-531-07, 0210-531-06, 0210-204-26, 0210-204-23, 0210-204-22, 0210-204-21, 0210-204-20, 0210-204-19, 0210-204-16, 0210-204-15, 0210-204-14, 0210-204-13, 0210-204-12, 0210-204-11, & 0210-204-10)

RECOMMENDATION: That the City Council conduct a public hearing to consider adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approve an Amendment to The Ontario Center Specific Plan, File No. PSPA16-003, revising the text and maps pertaining to the Piemonte Overlay, including changes to the development concept and regulations, and allowed land uses.

COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: None.

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Charles Mercier
Department: Planning

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

18

BACKGROUND: In 2006, the City Council approved the creation of the Piemonte Overlay within the Urban Commercial land use district of The Ontario Center Specific Plan, establishing a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre project site, which is generally located south of Fourth Street, west of Milliken Avenue, north of Concours Street, and east of Haven Avenue.

Since its approval, the Piemonte Overlay area has been developed with: [1] a 126,000-square foot 5-story office building; [2] a 275,000-square foot retail center anchored by a Target store; and [3] public parking facilities west of the Citizens Business Bank Arena. The balance of the overlay area was mass graded, wet and dry utilities were installed, and street improvements were constructed. Additionally, a portion of the overlay area was excavated to accommodate the development of two 4-story mixed use buildings with 400 residential units above 72,000 square feet of retail space. Construction ceased with the economic downturn in 2008 and the balance of the overlay area has remained undeveloped.

The Applicant has submitted an Amendment to The Ontario Center Specific Plan to revise the land use plan and development concept of the Piemonte Overlay area. Similar to the 2006 plan, the Amendment proposes up to 1.3 million square feet of commercial development; however, fewer multiple-family dwellings are proposed. A total of 791 units are proposed, as opposed to 806 units currently allowed, for a total reduction of 15 units. Furthermore, the development concept for the Overlay area will be revised from a vertical mixed-use configuration (residential constructed over commercial in the same structure) to a horizontal mixed-use configuration (groups of residential and commercial uses in separate structures). Other changes proposed by the Specific Plan Amendment include:

- Redistribution of a portion of the residential units, allowing up to 220 dwellings to be constructed within Subareas 1, 2 and 3 (the westerly-most area of the Overlay, which covers approximately 16 acres of land, bordered by Fourth Street on the north, Haven Avenue on the west, and Concours Street on the south). The Specific Plan Amendment would allow dwellings to replace commercial floor area at the rate of one dwelling for each 600 square feet of commercial floor area;
- A 100-room reduction in the maximum allowed number of hotel rooms;
- Introduction of an outdoor plaza event space at the NEC of Via Villaggio & Via Piemonte to accommodate outdoor events such as a farmer's market, concerts, and the like; and
- A change in the architectural design concept for the project from the original Tuscan-influenced architecture to a more modern architectural design concept.

Upon consideration of the Applicant's request to allow residential units in place of commercial and office floor area within Subareas 1, 2 and 3, the Planning Commission did not support this request within Subarea 1, but did support the request within Subareas 2 and 3. Allowing residential units in Subarea 1 could potentially lead to the elimination of a much desired community shopping center in the area.

In addition to this change, the Planning Commission is also recommending the inclusion of certain revisions requested by the Engineering Department and the City of Rancho Cucamonga regarding the location of the Fourth Street drive approach in Subarea 1 and corresponding changes to the Fourth Street median. A memorandum specifically outlining the necessary changes is included with the City Council Resolution.

On April 25, 2017, the Planning Commission conducted a public hearing to consider the above-described Specific Plan Amendment and concluded the hearing on that date. Upon conclusion of the public hearing, the Planning Commission voted unanimously (6-0) to approve resolutions recommending that the City Council adopt a Mitigated Negative Declaration and Mitigation Monitoring and Report Program and approve the Specific Plan Amendment.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site contains four properties totaling 15.13 acres, which are listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project, which totals approximately 19.4 acres of multiple-family residential designated property, is consistent with the density specified in the Available Land Inventory (minimum 25.1 dwelling units/acre is required, and 29.43 dwelling units/acre is allowed).

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

ENVIRONMENTAL REVIEW: The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts. On the basis of the initial study, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of insignificance, a Mitigated Negative Declaration was prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines. Furthermore, to ensure that the mitigation measures are implemented, a Mitigation Monitoring and Reporting Program has been prepared for the Project pursuant to CEQA Guidelines Section 15097, which specifies responsible agencies/departments, monitoring frequency, timing and method of verification and possible sanctions for non-compliance with mitigation measures. The environmental documentation for this project is available for review at the Planning Department public counter.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM FOR FILE NO. PSPA16-003, AN AMENDMENT TO THE ONTARIO CENTER SPECIFIC PLAN, REVISING THE PROVISIONS OF THE PIEMONTE OVERLAY AREA, INCLUDING CHANGES TO THE DEVELOPMENT CONCEPT AND REGULATIONS, AND ALLOWED LAND USES WITHIN THE COMMERCIAL, ENTERTAINMENT/RETAIL COMMERCIAL, OFFICE, SPECIAL USE, AND RESIDENTIAL SUB-AREAS, AFFECTING PROPERTIES WITHIN AN IRREGULAR-SHAPED AREA COMPRISED OF APPROXIMATELY 84 ACRES OF LAND, GENERALLY LOCATED SOUTH OF FOURTH STREET, WEST OF MILLIKEN AVENUE, NORTH OF CONCOURS STREET, AND EAST OF HAVEN AVENUE - APNS: 0210-531-16, 0210-531-15, 0210-531-14, 0210-531-13, 0210-531-12, 0210-531-11, 0210-531-10, 0210-531-09, 0210-531-08, 0210-531-07, 0210-531-06, 0210-204-26, 0210-204-23, 0210-204-22, 0210-204-21, 0210-204-20, 0210-204-19, 0210-204-16, 0210-204-15, 0210-204-14, 0210-204-13, 0210-204-12, 0210-204-11, AND 0210-204-10.

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for File No. PSPA16-003 (hereinafter referred to as "Initial Study/Mitigated Negative Declaration"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively referred to as "CEQA"); and

WHEREAS, File No. PSPA16-003 analyzed under the Initial Study/Mitigated Negative Declaration consists of an Amendment to The Ontario Center Specific Plan, revising the provisions of the Piemonte Overlay area, including changes to the development concept and regulations and allowed land uses within the Commercial, Entertainment/Retail Commercial, Office, Special Use, and Residential sub-areas, affecting properties within an irregular-shaped area comprised of 92.4 acres of land, generally located south of Fourth Street, west of Milliken Avenue, north of Concours Street, and east of Haven Avenue, in the City of Ontario, California (hereinafter referred to as the "Project"); and

WHEREAS, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in a number of significant effects on the environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an Initial Study/Mitigated Negative Declaration that identifies one or more significant environmental effects, CEQA requires the approving authority of the lead agency to incorporate feasible mitigation measures that would reduce those significant environment effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during project implementation, and such a Mitigation Monitoring and Reporting Program has been prepared for the Project for consideration by the approving authority of the City of Ontario as lead agency for the Project (the "Mitigation Monitoring and Reporting Program"); and

WHEREAS, the City of Ontario is the lead agency on the Project and the City Council is the Approving Authority for the proposed approval to construct and otherwise undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project are on file in the Planning Department, located at 303 East B Street, Ontario, CA 91764, are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the City Council of the City of Ontario, as follows:

SECTION 1. *Environmental Determination and Findings.* As the approving body for the Project, the City Council has reviewed and considered the information contained in the Initial Study/Mitigated Negative Declaration and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the Initial Study/Mitigated Negative Declaration and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. The City Council has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record, and has considered the information contained therein, prior to acting upon or approving the Project;

b. The Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with State and local guidelines implementing CEQA; and

c. The Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City of Ontario, as lead agency for the Project. The City Council designates the Planning Department, located at 303 East B Street, Ontario, CA 91764, as the custodian of documents and records of proceedings on which this decision is based.

SECTION 2. *City Council Action.* Based on the findings and conclusions of the entire record of proceedings before it, and all information received, that there is no substantial evidence that the Project will have a significant effect on the environment, the City Council hereby APPROVES the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project, attached hereto as Exhibit A.

SECTION 3. *Indemnification.* The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this action of the City Council. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 4. *Custodian of Records.* The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 5. *Certification to Adoption.* The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

Exhibit A:

Mitigation Monitoring and Reporting Program

(Exhibit A follows this page)



City of Ontario
 Planning Department
 303 East B Street
 Ontario, California 91764
 Phone: 909.395.2036
 Fax: 909.395.2420

California Environmental Quality Act Mitigation Monitoring and Reporting Program

Project Title: Piemonte Overlay for Ontario Center Specific Plan / **File No.:** PSPA16-003

Project Sponsors: Lewis Piemonte Land, LLC, c/o David Robbins, Lewis Management Corp., 1156 N Mountain Avenue, Upland, California 91785, Phone: 909.949.6781, Email: david.robbins@lewismc.com; and Pendulum Property Partners, c/o Kevin Hayes, 5 Park Plaza, Suite 370, Irvine, California 92614, Phone: 949.449.1381, Email: khayes@pendulumpp.com

Lead Agency: City of Ontario Planning Department, 303 East B Street, Ontario, California 91764, (909) 395-2036

Contact Person: Charles Mercier, Senior Planner; Phone: 909.395.2425, Email: cmercier@ontarioca.com

Mitigation Measures/Implementing Action	Responsible for Monitoring	Monitoring Frequency	Timing of Verification	Method of Verification	Verified (Initial/Date)	Sanctions for Noncompliance
1) AIR QUALITY						
a) Use of dust control during clearing, grading and construction. Fugitive dust generated during cleaning, grading, earth moving or excavation shall be controlled by regular watering, paving of construction roads, or other dust-preventative measures. If freshwater resources are too precious to waste on dust control, availability of brackish or reclaimed water sources shall be investigated. Soil disturbance shall be terminated when high winds (25 mph or greater) make dust control extremely difficult.	Building Dept & Planning Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading permit; or withhold building permit
b) Minimization of construction interference with regional non-project traffic movement. Impacts shall be reduced to below a level of significance by the following mitigation measures: i) Scheduling receipt of construction materials to non-peak travel periods. ii) Routing construction traffic through areas of least impact sensitivity. iii) Limiting lane closures and detours to off-peak travel periods. iv) Providing rideshare incentives for contractor and subcontractor personnel.	Building Dept & Planning Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading permit; or withhold building permit
c) After clearing, grading or earth moving: i) Seed and water until plant cover is established.	Building Dept & Planning Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading permit; or withhold

Mitigation Measures/Implementing Action	Responsible for Monitoring	Monitoring Frequency	Timing of Verification	Method of Verification	Verified (Initial/Date)	Sanctions for Noncompliance
ii) Spread soil binders. iii) Form and maintain a crust on the surface through repeated soaking that will prevent dust pickup by wind. iv) Reduce "spill-over" effects by washing vehicles entering public roadways from dirt off road project areas, and washing/sweeping project access to public roadways on an adequate schedule.						building permit
d) Emissions control from on-site equipment through a routine, mandatory program of low-emission tune-ups.	Building Dept & Planning Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading permit; or withhold building permit
2) BIOLOGICAL RESOURCES						
a) Thirty to ninety days prior to ground disturbing construction-related activities, a focused survey for the burrowing owl shall be conducted by a qualified biologist. Should any burrowing owls be located on the project site, the below-listed mitigation measures shall be completed: i) Occupied burrows should not be disturbed during nesting season (February 1 through August 31) unless a qualified biologist verifies through non-invasive methods, that: (1) Birds have not begun egg-laying and incubation; or (2) Juveniles from the occupied burrows are foraging independently and are capable of independent survival. ii) If owls must be moved away from the disturbance area, relocation techniques shall be used as established in the California Department of Fish and Game, Natural Resources Agency, "Staff Report on Burrowing Owls," dated March 7, 2012.	Planning Dept.	Grading Plan issuance	Prior to issuance of grading permits	Plan check		Withhold grading permit
3) GEOLOGY & SOILS						
a) The applicant shall submit an erosion control plan to reduce wind erosion impacts.	Building Dept, Planning Dept & Engineering Dept	Grading Plan issuance		Plan check		Withhold grading permit
b) Fugitive dust generated during cleaning, grading, earth moving or excavation shall be controlled by regular watering, paving of construction roads, or other dust-preventative measures.	Building Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading permit; or withhold building permit
c) After clearing, grading, or earth moving: i) Seed and water until plant cover is established.	Building Dept & Planning Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading permit; or withhold

Mitigation Measures/Implementing Action	Responsible for Monitoring	Monitoring Frequency	Timing of Verification	Method of Verification	Verified (Initial/Date)	Sanctions for Noncompliance
ii) Spread soil binders. iii) Form and maintain a crust on the surface through repeated soaking that will prevent dust pickup by wind. iv) Sweep streets if silt is carried to adjacent public thoroughfares						building permit
d) Obtain authorization to discharge storm water under an NPDES construction storm water permit and pay appropriate fees.	Engineering Dept	Grading Plan issuance	Prior to issuance of grading permits	Plan check		Withhold grading permit
4) GREENHOUSE GAS EMISSIONS						
a) The City has reviewed the emission reduction measures and concepts in The Ontario Plan EIR MM 6-2 and 6-3, and has determined that the following actions apply and shall be undertaken by the applicant in connection with the project: i) Evaluate existing landscaping and options to convert reflective and impervious surfaces to landscaping, and install or replace vegetation with drought-tolerant, low-maintenance native species or edible landscaping that can also provide shade and reduce heat-island effects. ii) Require all new landscaping irrigation systems installed to be automated, high-efficient irrigation systems to reduce water use and require use of bubbler irrigation; low-angle, low-flow spray heads; or moisture sensors. iii) Reduce heat gain from pavement and other similar hardscaping. iv) All new development shall comply with the requirements of the City of Ontario Community Climate Action Plan.	Building Dept & Planning Dept	Throughout construction	As necessary	Plan check/On-site inspection		Stop work order; or withhold building permit
5) MANDATORY FINDINGS OF SIGNIFICANCE						
a) Thirty to ninety days prior to ground disturbing construction-related activities, a focused survey for the burrowing owl shall be conducted by a qualified biologist. Should any burrowing owls be located on the project site, the below-listed mitigation measures shall be completed: i) Occupied burrows should not be disturbed during nesting season (February 1 through August 31) unless a qualified biologist verifies through non-invasive methods, that: (1) Birds have not begun egg-laying and incubation; or (2) Juveniles from the occupied burrows are foraging independently and are capable of independent survival.	Planning Dept.	Grading Plan issuance	Prior to issuance of grading permits	Plan check		Withhold grading permit

California Environmental Quality Act - Mitigation Monitoring and Reporting Program

File No.: PSPA16-003

Page 4 of 4

Mitigation Measures/Implementing Action	Responsible for Monitoring	Monitoring Frequency	Timing of Verification	Method of Verification	Verified (Initial/Date)	Sanctions for Noncompliance
ii) If owls must be moved away from the disturbance area, relocation techniques shall be used as established in the California Department of Fish and Game, Natural Resources Agency, "Staff Report on Burrowing Owls," dated March 7, 2012.						

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSPA16-003, AN AMENDMENT TO THE ONTARIO CENTER SPECIFIC PLAN, REVISING TEXT AND MAPS PERTAINING TO THE PIEMONTE OVERLAY, INCLUDING CHANGES TO THE DEVELOPMENT CONCEPT AND REGULATIONS, AND ALLOWED LAND USES WITHIN THE COMMERCIAL, ENTERTAINMENT/RETAIL COMMERCIAL, OFFICE, SPECIAL USE, AND RESIDENTIAL SUBAREAS, AFFECTING APPROXIMATELY 84 ACRES OF LAND, GENERALLY LOCATED SOUTH OF FOURTH STREET, WEST OF MILLIKEN AVENUE, NORTH OF CONCOURS STREET, AND EAST OF HAVEN AVENUE, WITHIN THE URBAN COMMERCIAL LAND USE DISTRICT AND PIEMONTE OVERLAY AREA OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 0210-531-16, 0210-531-15, 0210-531-14, 0210-531-13, 0210-531-12, 0210-531-11, 0210-531-10, 0210-531-09, 0210-531-08, 0210-531-07, 0210-531-06, 0210-204-26, 0210-204-23, 0210-204-22, 0210-204-21, 0210-204-20, 0210-204-19, 0210-204-16, 0210-204-15, 0210-204-14, 0210-204-13, 0210-204-12, 0210-204-11 AND 0210-204-10.

WHEREAS, LEWIS PIEMONTE LAND, LLC, AND PENDULUM PROPERTY PARTNERS ("Applicant") has filed an Application for the approval of a Specific Plan Amendment, File No. PSPA16-003, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 92.4 acres of land generally located south of Fourth Street, west of Milliken Avenue, north of Concours Street, and east of Haven Avenue, within the Piemonte Overlay Area and the Urban Commercial land use district of the Ontario Center Specific Plan; and

WHEREAS, Fourth Street forms the project site's northern boundary and is the corporate boundary dividing the cities of Ontario and Rancho Cucamonga. Residential apartments, a small retail/restaurant development, and a planned residential/mixed use development are located to the north, across Fourth Street, in Rancho Cucamonga. Located east of the project site is a commercial center anchored by a Kohl's department store and is also occupied by several in-line retail stores and numerous limited service restaurants. Further east, across Milliken Avenue, is the Ontario Mills Mall, which is comprised of a central mall, surrounded by freestanding commercial, entertainment, and restaurant uses. South of the project site is existing retail uses across Concours Street, adjacent to Milliken Avenue, as well as Citizens Business Bank Arena directly to the south, across Ontario Center Parkway, and numerous office buildings to the southwest. West of the project site, across Haven Avenue, is a multiple-family housing complex, and a low-rise office/retail complex; and

WHEREAS, the project site comprises an 84-acre portion of the former 800-acre Ontario Motor Speedway. The racing facility was completed in 1970 and closed approximately 10 years later. The facility was razed in 1981 and remained vacant until 2006, following the approval of the Piemonte at The Ontario Center Project, which established the Piemonte Overlay, allowing for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the project site; and

WHEREAS, the proposed Specific Plan Amendment will revise the land use plan and development concept for the Piemonte Overlay from a primarily vertical mixed-use (residential constructed over commercial uses in the same structure) configuration to a horizontal mixed-use (residential and commercial uses in separate structures on the same site) configuration; however, the overall maximum allowed floor area will remain unchanged. Other changes proposed to the Piemonte Overlay include:

- A reduction (15 dwelling units) in the maximum allowed number of residential units;
- Redistribution of a portion of the multiple-family residential units, allowing up to 220 dwellings to be constructed within Subareas 1, 2 and 3 (16.66-acre commercial and office areas located north of Concours Street, East of Haven Avenue, and South of Fourth Street). Dwellings may replace commercial floor area at the rate of one dwelling for each 600 square feet of commercial floor area;
 - A reduction (100 rooms) in the maximum allowed number of hotel rooms;
 - Introduction of outdoor plaza event space, as illustrated in Figure 6 (Conceptual Commercial Development Concept; Intersection of Via Villaggio & Via Piemonte), to accommodate outdoor events such a farmer's market, concerts, gathering and dining areas, reception areas, etc.;
 - A change in the architectural design concept for the project from the original Tuscan-influenced architecture to a more modern architectural design concept; and

WHEREAS, upon review of the Applicant's request to allow multiple-family residential units in place of commercial and office floor area within Subareas 1, 2 and 3, this request is not supported within Subarea 1 as residential units within this subarea would eliminate a much needed, and long desired, community shopping center in the area. Furthermore, the large number of dwelling units currently under construction, and/or proposed for construction, within the surrounding area, will feed demand for the community commercial center; and

WHEREAS, the Planning Commission has recommended changes to the Specific Plan Amendment such that dwelling units not be allowed within Subarea 1 of the Piemonte Overlay Area. Furthermore, the dwelling units assumed for Subarea 1 should be redistributed to other Subareas to the extent feasible; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport (ONT), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the ONT Airport Land Use Compatibility Plan (ALUCP),

which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts; and

WHEREAS, on April 25, 2017, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, initial study, and Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program prepared pursuant to CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of significance, and concluded said hearing on that date. After receiving all public testimony, the Planning Commission voted unanimously (6-0) to approve Resolution No. PC17-025, recommending that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and to approve Resolution No. PC17-026, recommending City Council approval of the Specific Plan Amendment; and

WHEREAS, on May 16, 2017, the City Council of the City of Ontario conducted a hearing to consider the Project, initial study, and Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program prepared pursuant to CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of significance, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the City Council of the City of Ontario, as follows:

SECTION 1. *Environmental Determination and Findings.* As the approving body for the Project, the City Council has reviewed and considered the information contained in the MND, the initial study, and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the MND, the initial study, and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. The MND, initial study, and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

b. The MND and initial study contain a complete and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment of the City Council; and

c. There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and

d. All environmental impacts of the Project are either insignificant or can be mitigated to a level of insignificance pursuant to the mitigation measures outlined in the MND, the Mitigation Monitoring and Reporting Program, and the initial study.

SECTION 2. *Housing Element Consistency.* Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the approving body for the Project, the City Council finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site includes properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the density range specified in the Available Land Inventory. A minimum density of 25.1 dwelling units per acre is required, and a proposed density of 28.81 dwelling units per acre is proposed.

SECTION 3. *Airport Land Use Compatibility Plan (ALUCP) Consistency.* As the approving body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 4. *Concluding Facts and Reasons.* Based upon the substantial evidence presented to the City Council during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 3 above, the City Council hereby concludes as follows:

a. The proposed Specific Plan, or amendment thereto, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. The proposed Specific Plan Amendment is consistent with the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, in that the Specific Plan Amendment contributes toward the legislative framework for the implementation of The Ontario Plan components, guiding growth and development within the project area to achieve optimum results from the City's physical, economic, environmental, and human resources.

b. The proposed Specific Plan, or amendment thereto, would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The development standards and guidelines established by the proposed Specific Plan Amendment have been created with the intent to safeguard and further the public interest, health, safety, convenience, and/or general welfare, and to ensure that the purposes of The Ontario Plan and the proposed Specific Plan Amendment, are maintained.

c. The proposed Specific Plan Amendment will not adversely affect the harmonious relationship with adjacent properties and land uses. The proposed location of the proposed Specific Plan Amendment, and the proposed conditions under which it will be constructed and maintained, is consistent with the Policy Plan component of The Ontario Plan and the City's Development Plan, and, therefore, will not adversely affect the harmonious relationship with adjacent properties and land uses.

d. In the case of an application affecting specific properties, the subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development. The proposed Specific Plan Amendment has been reviewed by all City departments, which have established that the project site is physically suitable for the anticipated development in terms of parcel size, shape, access, and availability of utilities.

SECTION 5. *City Council Action.* Based upon the findings and conclusions set forth in Sections 1 and 4 above, the City Council hereby APPROVES the herein described Specific Plan Amendment, attached hereto as Exhibit B, with the exception that the City Council orders the following changes to the Specific Plan Amendment:

a. Dwelling units not be allowed within Subarea 1 of the Piemonte Overlay Area, and the dwelling units assumed for Subarea 1 shall be redistributed to other Subareas of the Piemonte Overlay Area, to the extent feasible; and

b. The proposed Specific Plan Amendment document shall be revised to contain the requirements specified the attached Exhibit A of this resolution.

SECTION 6. *Indemnification.* The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. *Custodian of Records.* The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8. *Certification to Adoption.* The Secretary shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

Exhibit A:

Engineering Department Memorandum

(Exhibit A follows this page)



CITY OF ONTARIO

MEMORANDUM

TO: Chuck Mercier, Senior Planner

FROM: Omar Gonzalez, Sr. Associate Civil Engineer

DATE: April 25, 2017

SUBJECT: Piemonte Overlay at Ontario Center Specific Plan

The current draft of the "Piemonte Overlay at Ontario Center Specific Plan (February 2017)" (Amendment) proposes a mid-block, westbound left turn pocket into a future commercial site located at the southeast corner of Fourth Street and Haven Avenue, known in the Amendment as Sub-Area 1 (SA 1).

The proposed access from Fourth Street will be permitted by the City Engineer if, and only if, the following conditions are satisfied:

- The proposed driveway into SA 1 is relocated farther east, as close as practicable to the east property line; and
- The resultant intersection is controlled with a traffic signal.

Because Fourth Street is a boundary street with the City of Rancho Cucamonga (CRC) any changes, including those related to access management and median modifications, must be reviewed by CRC. After their review of the proposed access into SA 1, CRC concurs with the proposal and has provided additional recommendations and conditions per the attached email (Espinoza, April 25, 2017).

The Amendment shall be modified to include the conditions and recommendations set forth above and per the CRC email prior to City Council approval of the Amendment.

cc: Louis Abi-Younes
Scott Murphy
Khoi Do
Jay Bautista

Jay Bautista

From: Espinoza, Albert <Albert.Espinoza@cityofrc.us>
Sent: Tuesday, April 25, 2017 8:21 AM
To: Larry Tay; Jay Bautista
Cc: Bloom, Jeff; Welday, Jason; Cruz, Craig
Subject: RE: FTP - Synchro
Attachments: 4th and Haven Access Signalized Dwy Full Signal with 4nb 150 sec .syn

Good morning Larry and Jay,

The City of Rancho Cucamonga had the opportunity to review the Synchro and Sim Traffic files along 4th Street between Haven Avenue, the potential future driveway into the shopping center, and Utica Avenue/Duesenberg Drive. The City did add the future 4th northbound lane along Haven Avenue in the built out scenario to the model per the Empire Lakes Traffic Analysis. The City also assumed the new midblock signal will have access for future development to the north of 4th Street in the City of Rancho. See attached Synchro File. Below are our findings, concerns, and recommendations with this corridor.

- In order to make these three intersections function, the cycle length was increased to 150 seconds during the built out scenario in the PM. This brings some concern to the City of Rancho Cucamonga because long cycle lengths tend to create motorist frustration when waiting at an intersection for such a long time.
- City of Rancho also analyzed the intersection of Haven and 4th with basic pedestrian timing which impacts the level of service (LOS). The proper calculated pedestrian and bicycle timing will be required in all future analysis of the corridor.
- 4th Street between Haven, the new driveway, Utica/Duesenberg, Cleveland/Via Asti, the future signal into Empire Lakes, Empire Court/Via Turin, and Milliken will need to be coordinated in order to make this corridor function. Both agencies will work together to come up with appropriate timing along this corridor.
- The City recommends running shorter cycle lengths during off peaks to reduce motorist frustration and increase progression along 4th Street.
- Aesthetically, the removal of the center landscaped median along 4th Street between Haven and Utica/Duesenberg will not be pleasing. The City of Rancho and Ontario will work together to come up with a solution to the removal of the landscaping. This may include conditioning developers to add enhanced landscaping along the parkways.
- The LOS Rancho calculated at Haven and 4th for future year is LOS E. This LOS may be acceptable to Ontario, but is not acceptable to the City of Rancho Cucamonga per our General Plan. An overriding consideration will be required in the EIR for the development of the project.

If you have any questions, send me an email or give me a call.

Have a good day,

Albert Espinoza, P.E., T.E.
Assistant City Engineer
City of Rancho Cucamonga
10500 Civic Center Drive
Rancho Cucamonga, CA 91730
(909) 477-2740 x.4051

From: Larry Tay [mailto:LTay@ontarioca.gov]
Sent: Thursday, April 20, 2017 8:44 AM
To: Espinoza, Albert
Cc: Jay Bautista
Subject: RE: FTP - Synchro

Albert –

Exhibit B:

***Piemonte Overlay Area
of the
Ontario Center Specific Plan***

(Attachment follows this page)

**The Piedmont Overlay
Ontario Center Specific Plan
PSPA16-003
(Exhibit B to Resolution)**

**Full document is available
for viewing
at the
City Clerk's Department**

Item 18

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE ONTARIO GATEWAY SPECIFIC PLAN (FILE NO. PSPA17-001) TO CHANGE TABLE 2.B: PERMITTED LAND USES BY PLANNING AREAS, TO ALLOW DRIVE-THRU QUICK SERVE RESTAURANTS AS A CONDITIONALLY PERMITTED USE WITHIN THE MIXED-USE PLANNING AREA LAND USE DESIGNATION, LOCATED AT THE SOUTHEAST CORNER OF HAVEN AVENUE AND GUASTI ROAD

RECOMMENDATION: That the City Council hold a public hearing and consider adoption of a resolution approving an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010, and adopt a resolution approving an amendment to the Ontario Gateway Specific Plan (File No. PSPA17-001), pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval contained in the attached departmental reports.

COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: None.

BACKGROUND: The Ontario Gateway Specific Plan was approved by City Council in 2007 and established the standards, regulations and design guidelines for the development of the 41-acre site generally located at the southeast corner of the I-10 Freeway and Haven Avenue. The overall land use plan and site concept for the Ontario Gateway Specific Plan was developed to recognize the site's potential for commercial, office, business park, and institutional uses and to take advantage of the excellent freeway access and proximity to Ontario International Airport. The land and development site concepts provide for visitor-serving and freeway-serving commercial uses, medical-related uses, hospitality uses, business park uses, and office uses completing the transition of the site from a

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Henry K. Noh
Department: Planning

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

19

manufacturing and distributing use to a visitor, customer, and patient-serving area. With the freeway access at Haven Avenue, convenient access to the site is provided for both employees and clients. In order to allow for development flexibility, the project site is divided into four different planning areas, with each area having specific allowed uses. The land use and development site concept plan envisioned in the Ontario Gateway Specific Plan includes the following five planning area categories (See *Exhibit "A": Ontario Gateway Land Use Map*):

- Mixed Use Planning Area;
- Entertainment Planning Area;
- Office Planning Area I;
- Office Planning Area II; and
- Auto Planning Area.

Specific Plan Amendment — The Amendment to the Ontario Gateway Specific Plan proposes to change Table 2.B: Permitted Land Uses by Planning Areas, to allow drive-thru quick serve restaurants as a conditionally permitted use within the Mixed Use Planning Area land use designation.

Located on the south side of Guasti Road, the Mixed Use Planning Area of the Specific Plan extends to the Southern Pacific Railroad and is adjacent to Haven Avenue. The Mixed Use Planning Area provides for two development scenarios. Mixed Use *Scenario 1* includes a hospital/medical facility with a parking structure. Ancillary commercial uses may be provided with the medical services. *Scenario 2* provides for a business park with a small retail area for shops and services as the market demands.

Reddy Development ("Applicant") is moving forward with plans to develop the 11.22-acre parcel within the Mixed Use Planning Area located at the southeast corner of Haven Avenue and Guasti Road. Based on current market demands, the project site location, surrounding uses that include hospitality, auto and office uses and having limited commercial, retail and food uses to serve the project site area (north and south of the I-10 Freeway along Haven Avenue), the Applicant is the applicant is proposing to move forward with Mixed Use *Scenario 2*. In addition, currently there is a strong market demand from national retailers and restaurants, including a drive-thru tenant that will be the catalyst to finalize and sign the rest of the interested tenants. Therefore, the Applicant is requesting approval of a Specific Plan Amendment (File No. PSPA17-001) to amend the Ontario Gateway Specific Plan to conditionally permit quick serve restaurants with a drive-thru within the Mixed Use Planning Area land use designation.

On April 25, 2017, the Planning Commission conducted a public hearing and voted unanimously (6-0) to recommend City Council approval of the proposed specific plan amendment.

AIRPORT LAND USE COMPATIBILITY: The Proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) Ontario.

ENVIRONMENTAL REVIEW: The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts. On the basis of the initial study, which indicated that all potential environmental impacts from the Project were less than significant and an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) prepared in conjunction with File No. PGPA06-001 and adopted by City Council on January 27, 2010 was prepared

pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are to be a condition of project approval and are incorporated herein by reference. The environmental documentation for this project is available for review at the Planning Department public counter.

Exhibit "A": Ontario Gateway Land Use Map

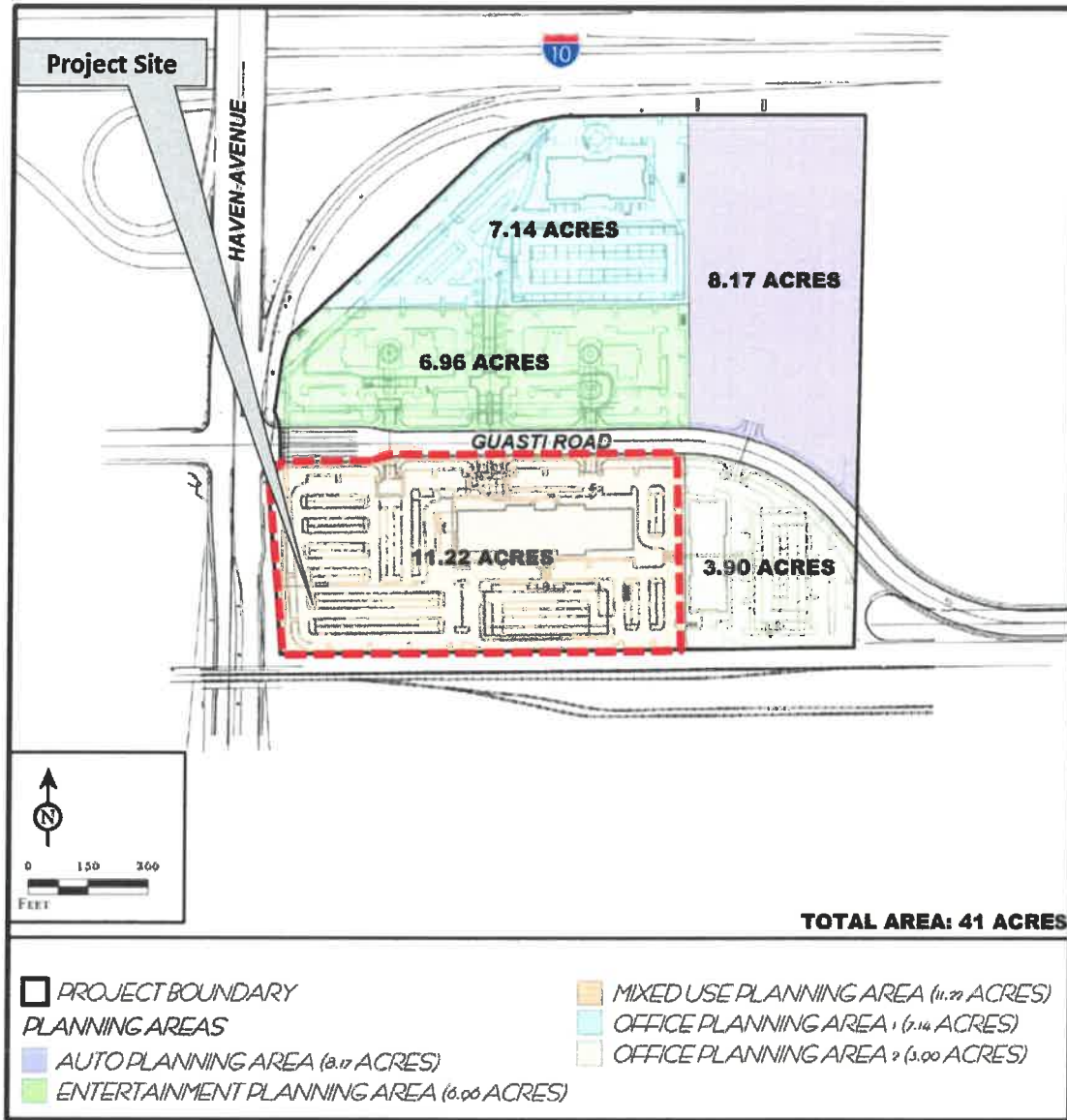


Exhibit B: Revised Permitted Land Use Table



Table 2.B: PERMITTED LAND USES BY PLANNING AREAS

Uses	Mixed Use Planning Area	Entertainment Planning Area ¹	Office Planning Area 1	Office Planning Area 2 ²	Auto Planning Area
Food Establishments					
<p><i>Eating Establishments.</i> Activities typically include, but are not limited to, the retail sale from the premises of food or beverages prepared for on-premises consumption. Uses typically include, but are not limited to:</p> <ul style="list-style-type: none"> ▪ Full-service restaurants, serving ready-to-eat food and beverages for on-site consumption. 	P	P	P	—	—
<ul style="list-style-type: none"> ▪ Cafes/Delicatessen/Sandwich Shop serving food that is usually quickly prepared and beverages for on-site or off-site consumption, with no drive-through facilities. 	P	P	P	—	—
<ul style="list-style-type: none"> • Quick serve restaurants with drive-through 	C	—	—	—	—
<ul style="list-style-type: none"> ▪ Mini-Marts 	P	A	A	—	—
<ul style="list-style-type: none"> ▪ Ice Cream/Yogurt/Juice/Coffee shop 	P	P	P	—	—
<ul style="list-style-type: none"> ▪ Catering establishments, preparing ready-to-eat food for delivery to an off-site location for consumption. 	P	A	P	—	—
<ul style="list-style-type: none"> ▪ Banquet Facilities, facilities catering on-site meals to large groups. 	P	P	A	—	—
<p><i>Bar/Cocktail Lounge.</i> Activities typically include, but are not limited to, the preparation and retail sale from the premises of alcoholic beverages prepared for on-premises consumption. Uses typically include, but are not limited to, taverns, bars, and brew-pubs.</p>	C	C	C	—	—
<ul style="list-style-type: none"> ▪ Health Club/Gymnasium 	P	A	P	—	—



California Environmental Quality Act Environmental Checklist Form

Project Title/File No.: Ontario Gateway Specific Plan Amendment (File No. PSPA17-001)

Lead Agency: City of Ontario, 303 East "B" Street, Ontario, California 91764, (909) 395-2036

Contact Person: Henry K. Noh, 909-395-2429

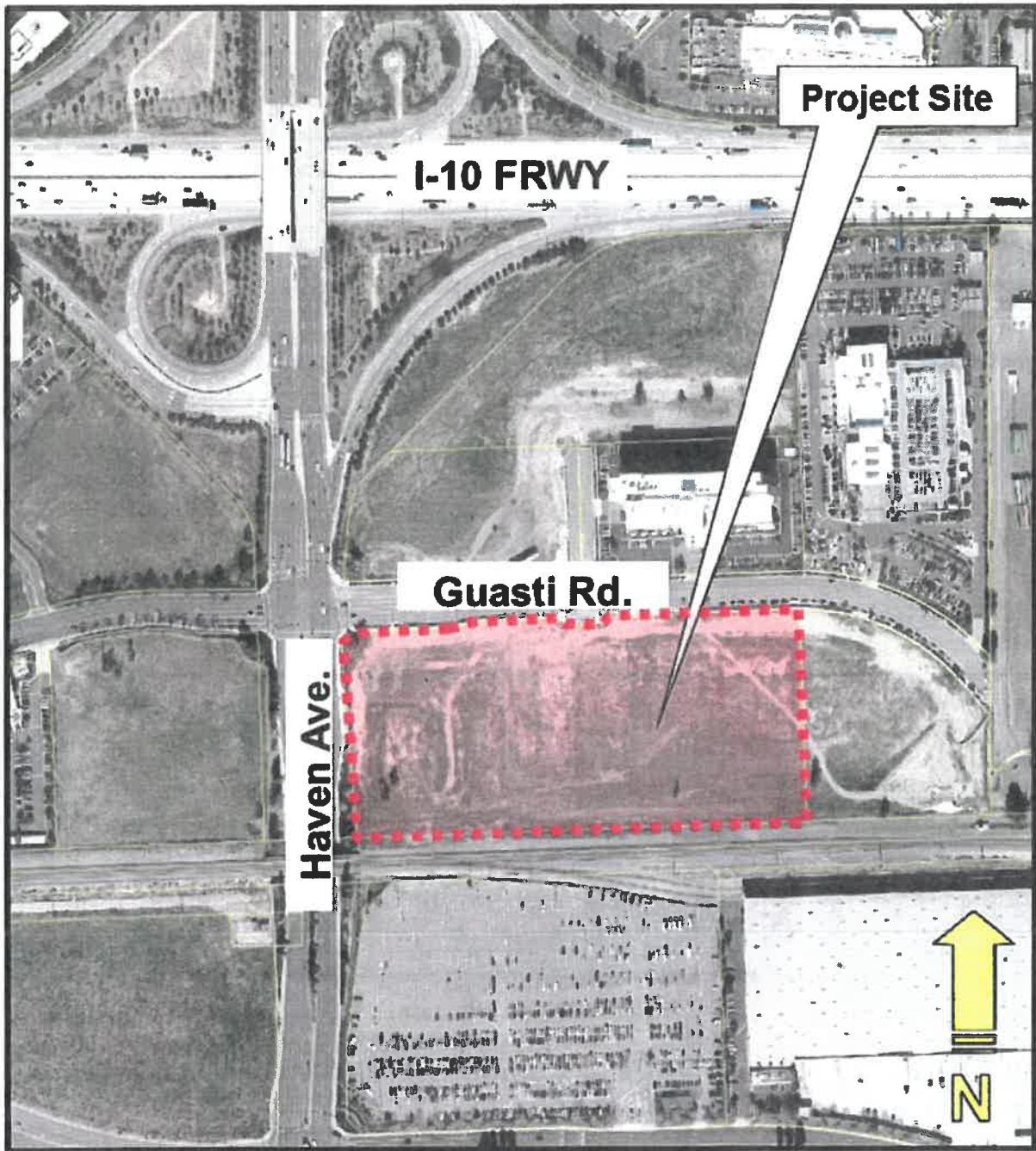
Project Sponsor: Architecture Design Collaborative, 23231 South Pointe Dr, Laguna Hills, CA 92653

Project Location: The project site is located in southwestern San Bernardino County, within the City of Ontario. The City of Ontario is located approximately 40 miles from downtown Los Angeles, 20 miles from downtown San Bernardino, and 30 miles from Orange County. As illustrated on Figures 1 and 2, below, the project site is located at the southeast corner of Haven Avenue and Guasti Road.

Figure 1—REGIONAL LOCATION MAP



Figure 2—VICINITY MAP



General Plan Designation: Office Commercial (0.75 FAR)

Zoning: Ontario Gateway Specific Plan - Mixed Use

Description of Project: An Amendment to the Ontario Gateway Specific Plan (File No. PSPA17-001) to change Table 2.B: Permitted Land Uses by Planning Areas, to allow drive-thru quick serve restaurants as a conditionally permitted use within the Mixed-Use Planning Area land use designation. The project site is located at the southeast corner of Haven Avenue and Guasti Road.

Project Setting: The project site is currently vacant and gently slopes from north to south and is surrounded by developed urban uses.

Surrounding Land Uses:

	<u>Zoning</u>	<u>Current Land Use</u>
▪ North—	Ontario Gateway Specific Plan - Entertainment and Auto	Office Commercial
▪ South—	California Commerce Center - Commercial/Food/Hotel	Industrial
▪ East—	Ontario Gateway Specific Plan - Office Planning Area 2	Office Commercial
▪ West—	Centrelake Specific Plan - Office	Office Commercial

Other public agencies whose approval is required (e.g., permits, financing approval or participation agreement): (Insert description)

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | |
|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Biological Resources |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology / Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning |
| <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation / Traffic |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION (To be completed by the Lead Agency):

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier Certified The Ontario Plan (TOP) Environmental Impact Report (EIR) pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier Certified EIR, including revisions or mitigation measures that are imposed upon the proposed project, the analysis from the Certified TOP EIR was used as a basis for this Addendum, nothing further is required.


Signature

April 5, 2017
Date

Henry K. Noh, Senior Planner
Printed Name and Title

City of Ontario Planning Department
For

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from the "Earlier Analyses" Section may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analyses Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards,

and state whether such effects were addressed by mitigation measures based on the earlier analysis.

- c) **Mitigation Measures.** For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) **Supporting Information Sources.** A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
1) AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) AGRICULTURE AND FOREST RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest protocols adopted by the California Air Resources Board. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) BIOLOGICAL RESOURCES. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in California Code of Regulations Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to California Code of Regulations Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Cause a substantial adverse change in the significance of a Tribal Cultural Resource as defined in Public Resources Code Section 21074?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18 1 B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) GREENHOUSE GAS EMISSIONS. Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
8) HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within the safety zone of the airport land use compatibility plan for ONT or Chino Airports, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9) HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any other water quality standards or waste discharge requirements or potential for discharge of storm water pollutants from areas of material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site or volume of storm water runoff to cause environmental harm or potential for significant increase in erosion of the project site or surrounding areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site or potential for significant changes in the flow velocity or volume of storm water runoff to cause environmental harm?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff during construction and/or post-construction activity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality or potential for discharge of storm water to affect the beneficial uses of receiving water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Expose people or structures to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10) LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, airport land use compatibility plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
11) MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12) NOISE. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within the noise impact zones of the airport land use compatibility plan for ONT and Chino Airports, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13) POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of road or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14) PUBLIC SERVICES. Would the project:				
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
v) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15) RECREATION. Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16) TRANSPORTATION/TRAFFIC. Would the project:				

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
17) UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? In making this determination, the City shall consider whether the project is subject to the water supply assessment requirements of Water Code Section 10910, et seq. (SB 610), and the requirements of Government Code Section 664737 (SB 221).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
18) MANDATORY FINDINGS OF SIGNIFICANCE				

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current project, and the effects of probable future projects.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Section 65088.4, Gov. Code; Sections 21080, 21083.05, 21095, Pub. Resources Code; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

EXPLANATION OF ISSUES

1) **AESTHETICS.** Would the project:

a) **Have a substantial adverse effect on a scenic vista?**

Discussion of Effects: The Policy Plan (General Plan) does not identify scenic vistas within the City. However, the Policy Plan (Policy CD1-5) requires all major north-south streets be designed and redeveloped to feature views of the San Gabriel Mountain. The project site is located along Haven Avenue which is a major north-south street as identified in the Functional Roadway Classification Plan (Figure M-2) of the Mobility Element within the Policy Plan. Any future development would be required to meet the development standards of the specific plan, which would limit impacts related to obstructing views of the San Gabriel Mountains for properties located south of the project site. Therefore, no adverse impacts are anticipated in relation to the project.

Mitigation: None required.

b) **Substantially damage scenic resources, including, but not limited to, tress, rock outcroppings and historic buildings within a state scenic highway?**

Discussion of Effects: The City of Ontario is served by three freeways: I-10, I-15, and SR-60. I-10 and SR-60 traverse the northern and central portion of the City, respectively, in an east-west direction. I-15 traverses the northeastern portion of the City in a north-south direction. These segments of I-10, I-15, and SR-60 have not been officially designated as scenic highways by the California Department of Transportation. In addition, there are no historic buildings or any scenic resources identified on or in the vicinity of the project site. Therefore, it will not result in adverse environmental impacts.

Mitigation: None required.

c) **Substantially degrade the existing visual character or quality of the site and its surroundings?**

Discussion of Effects: The project would not degrade the existing visual character or quality of the

site or its surroundings. The proposed project will substantially improve the visual quality of the area through development of the site with a mixed use development, which will be consistent with the design standards of the Ontario Gateway Specific Plan and the policies of the Community Design Element of the Policy Plan (General Plan), as well as with the existing and future development in the surrounding area. Therefore, no adverse impacts are anticipated in relation to the project.

Mitigation: None required.

d) **Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?**

Discussion of Effects: New lighting will be introduced to the site with the development of the project. Pursuant to the requirements of the City's Development Code, project on-site lighting will be shielded, diffused or indirect, to avoid glare to pedestrians or motorists. In addition, lighting fixtures will be selected and located to confine the area of illumination to within the project site and minimize light spillage.

Site lighting plans will be subject to review by the Planning Department and Police Department prior to issuance of building permits (pursuant to the City's Building Security Ordinance). Therefore, no adverse impacts are anticipated.

Mitigation: None required.

2) **AGRICULTURE AND FOREST RESOURCES.** In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) **Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

Discussion of Effects: The site is presently vacant and does not contain any agricultural uses. Further, the site is identified as urban and built-up land on the map prepared by the California Resources Agency, pursuant to the Farmland Mapping and Monitoring Program. As a result, no adverse environmental impacts are anticipated.

Mitigation: None required.

b) **Conflict with existing zoning for agricultural use, or a Williamson Act contract?**

Discussion of Effects: The project site is not zoned for agricultural use. The project site is zoned Ontario Gateway Specific Plan – Mixed Use. The proposed project will be required to be consistent with the development standards and allowed land uses of the zone. Furthermore, there is no Williamson Act contract in effect on the subject site. Therefore, no impacts to agricultural uses are anticipated, nor will there be any conflict with existing or Williamson Act contracts.

Mitigation: None required.

c) **Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?**

Discussion of Effects: The project is zoned Ontario Gateway Specific Plan – Mixed Use. The proposed project is consistent with the Land Use Element (Figure LU-6) of the Policy Plan (General Plan) and the development standards and allowed land uses of the Ontario Gateway Specific Plan zone. Therefore, no adverse impacts are anticipated.

Mitigation: None required.

d) **Result in the loss of forest land or conversion of forest land to non-forest use?**

Discussion of Effects: There is currently no land in the City of Ontario that qualifies as forest land as defined in Public Resources Code section 12220(g). Neither The Ontario Plan nor the City's Zoning Code provide designations for forest land. Consequently, the proposed project would not result in the loss or conversion of forest land.

Mitigation: None required.

e) **Involve other changes in the existing environment, which, due to their location or nature, could individually or cumulatively result in loss of Farmland to non-agricultural use or conversion of forest land to non-forest use?**

Discussion of Effects: The project site is currently zoned Ontario Gateway Specific Plan – Mixed Use and is not designated as Farmland. The project site is currently vacant and there are no agricultural uses occurring onsite. As a result, to the extent that the project would result in changes to the existing environment those changes would not result in loss of Farmland to non-agricultural use.

Additionally, there is currently no land in the City of Ontario that qualifies as forest land as defined in Public Resources Code Section 12220(g). Neither The Ontario Plan nor the City's Zoning Code provide designations for forest land. Consequently, to the extent that the proposed project would result in changes to the existing environment, those changes would not impact forest land.

Mitigation Required: None required.

3) **AIR QUALITY**. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) **Conflict with or obstruct implementation of the applicable air quality plan?**

Discussion of Effects: The project will not conflict with or obstruct implementation of any air quality plan. As noted in The Ontario Plan FEIR (Section 5.3), pollutant levels in the Ontario area already exceed Federal and State standards. To reduce pollutant levels, the City of Ontario is actively participating in efforts to enhance air quality by implementing Control Measures in the Air Quality Management Plan for local jurisdictions within the South Coast Air Basin.

The proposed project is consistent with The Ontario Plan, for which the EIR was prepared and impacts evaluated. Furthermore, the project is consistent with the City's participation in the Air Quality Management Plan and, because of the project's limited size and scope, will not conflict with or obstruct implementation of the plan. However, out of an abundance of caution, the project will be required when developed to use low emission fuel, use low VOC architectural coatings and implement an alternative transportation program (which may include incentives to participate in carpool or vanpool) as recommended by the South Coast Air Quality Management District's Air Quality modeling program.

Mitigation: None required.

b) **Violate any air quality standard or contribute substantially to an existing or projected air quality violation?**

Discussion of Effects: With the future development of the project site, short term air quality impacts will result from construction related activities associated with construction activity, such as excavation and grading, machinery and equipment emissions, vehicle emissions from construction employees, etc. The daily emissions of nitrogen oxides and particulates from resulting grading and vehicular emissions may exceed threshold levels of the South Coast Air Quality Management District (SCAQMD).

Mitigation: The following fugitive dust mitigation measures shall be required:

- i) Use of dust control during clearing, grading and construction. Fugitive dust generated during cleaning, grading, earth moving or excavation shall be controlled by regular watering, paving

of construction roads, or other dust-preventative measures. If freshwater resources are too precious to waste on dust control, availability of brackish or reclaimed water sources shall be investigated. Soil disturbance shall be terminated when high winds (25 mph or greater) make dust control extremely difficult.

- ii) Minimization of construction interference with regional non-project traffic movement. Impacts shall be reduced to below a level of significance by the following mitigation measures:
 - (1) Scheduling receipt of construction materials to non-peak travel periods.
 - (2) Routing construction traffic through areas of least impact sensitivity.
 - (3) Limiting lane closures and detours to off-peak travel periods.
 - (4) Providing rideshare incentives for contractor and subcontractor personnel.
 - iii) After clearing, grading or earth moving:
 - (1) Seed and water until plant cover is established;
 - (2) Spread soil binders;
 - (3) Form and maintain a crust on the surface through repeated soaking that will prevent dust pickup by wind; and
 - (4) Reduce "spill-over" effects by washing vehicles entering public roadways from dirt off road project areas, and washing/sweeping project access to public roadways on an adequate schedule.
 - iv) Emissions control from on-site equipment through a routine, mandatory program of low-emission tune-ups.
- c) **Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?**

Discussion of Effects: The project will not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment under an applicable federal or state ambient air quality because of the limited size and scope of the project. Although no impacts are anticipated, the project will still comply with the air quality standards of the TOP FEIR and the SCAQMD resulting in impacts that are less than significant [please refer to Sections 3(a) and 3(b)].

Mitigation: None required.

- d) **Expose sensitive receptors to substantial pollutant concentrations?**

Discussion of Effects: Sensitive receptors are defined as populations that are more susceptible to the effects of pollution than the population at large. The SCAQMD identifies the following as sensitive receptors: long-term health care facilities, rehabilitation centers, convalescent centers, retirement homes, residences, schools, playgrounds, child care centers, and athletic facilities. According to the SCAQMD, projects have the potential to create significant impacts if they are located within one-quarter mile of sensitive receptors and would emit toxic air contaminants identified in SCAQMD Rule 1401.

The project will not expose sensitive receptors to any increase in pollutant concentrations because there are no sensitive receptors located within close proximity of the project site. Further, there is limited potential for sensitive receptors to be located within close proximity of the site because the project site will be zoned Ontario Gateway Specific Plan – Mixed Use at the time of project approval. The types of uses that would potentially impact sensitive receptors would not be supported on the property pursuant to the Land Use Element (Figure LU-6) of the Policy Plan (General Plan) and zoning designations on the property. Therefore, no adverse impacts are anticipated.

Mitigation: None required.

- e) **Create objectionable odors affecting a substantial number of people?**

Discussion of Effects: The uses proposed on the subject site, as well as those permitted within the Ontario Gateway Specific Plan – Mixed Use zoning district, do not create objectionable odors. Further, the project shall comply with the policies of the Ontario Municipal Code and the Policy Plan (General Plan). Therefore, no adverse impacts are anticipated.

Mitigation: None required.

4) **BIOLOGICAL RESOURCES.** Would the project:

- a) **Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?**

Discussion of Effects: The project site is located within an area that has not been identified as containing species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service. Therefore, no adverse impacts are anticipated.

Mitigation: None required.

- b) **Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?**

Discussion of Effects: The site does not contain any riparian habitat or other sensitive natural community identified by the Department of Fish & Game or Fish & Wildlife Service. Therefore, no adverse environmental impacts are anticipated.

Mitigation: None required.

- c) **Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

Discussion of Effects: No wetland habitat is present on site. Therefore, project implementation would have no impact on these resources.

Mitigation: None required.

- d) **Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**

Discussion of Effects: The site is part of a larger vacant property that is bounded on all four sides by development. As a result, there are no wildlife corridors connecting this site to other areas. Therefore, no adverse environmental impacts are anticipated.

Mitigation: None required.

- e) **Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

Discussion of Effects: The City of Ontario does not have any ordinances protecting biological resources. Further, the site does not contain any mature trees necessitating the need for preservation. As a result, no adverse environmental impacts are anticipated.

Mitigation: None required.

- f) **Conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Community Conservation Plan (NCCP), or other approved local, regional, or state habitat conservation plan?**

Discussion of Effects: The site is not part of an adopted HCP, NCCP or other approved habitat conservation plan. As a result, no adverse environmental impacts are anticipated.

Mitigation: None required.

5) **CULTURAL RESOURCES.** Would the project:

- a) **Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?**

Discussion of Effects:

The project site is vacant and does not contain any buildings, structures, or objects. Therefore, no adverse impacts are anticipated.

Mitigation: None required.

- b) **Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?**

Discussion of Effects: The Ontario Plan FEIR (Section 5.5) indicates no archeological sites or resources have been recorded in the City with the Archeological Information Center at San Bernardino County Museum. However, only about 10 percent of the City of Ontario has been adequately surveyed for prehistoric or historic archaeology. While no adverse impacts to archeological resources are anticipated at this site due to its urbanized nature, standard conditions have been imposed on the project that in the event of unanticipated archeological discoveries, construction activities will not continue or will be moved to other parts of the project site and a qualified archaeologist shall be contacted to determine significance of these resources. If the find is discovered to be historical or unique archaeological resources, as defined in Section 15064.5 of the CEQA Guidelines, avoidance or other appropriate measures shall be implemented.

Mitigation: None required.

- c) **Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**

Discussion of Effects: The City of Ontario is underlain by deposits of Quaternary and Upper-Pleistocene sediments deposited during the Pliocene and early Pleistocene time. Quaternary Older Alluvial sediments may contain significant, nonrenewable, paleontological resources and are, therefore, considered to have high sensitivity at depths of 10 feet or more below ground surface. In addition, the Ontario Plan FEIR (Section 5.5) indicates that one paleontological resource has been discovered in the City. However, the project proposes excavation depths to be less than 10 feet. While no adverse impacts are anticipated, standard conditions have been imposed on the project that in the event of unanticipated paleontological resources are identified during excavation, construction activities will not continue or will be moved to other parts of the project site and a qualified paleontologist shall be contacted to determine significance of these resources. If the find is determined to be significant, avoidance or other appropriate measures shall be implemented.

Mitigation: None required.

- d) **Disturb any human remains, including those interred outside of formal cemeteries?**

Discussion of Effects: The proposed project is in an area that has been previously disturbed by development. No known religious or sacred sites exist within the project area. Thus, human remains are not expected to be encountered during any construction activities. However, in the unlikely event that human remains are discovered, existing regulations, including the California Public Resources Code Section 5097.98, would afford protection for human remains discovered during development activities. Furthermore, standard conditions have been imposed on the project that in the event of unanticipated discoveries of human remains are identified during excavation, construction activities, the area shall not be disturbed until any required investigation is completed by the County Coroner and/or Native American consultation has been completed, if deemed applicable.

Mitigation: None required.

- e) **Cause a substantial adverse change in the significance of a Tribal Cultural Resource as defined in Public Resources Code Section 21074?**

Discussion of Effects: The proposed project is in an area that has been previously disturbed by development. No known Tribal Cultural Resources exist within the project area.

Mitigation:

6) **GEOLOGY & SOILS.** Would the project:

a) **Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:**

i) **Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.**

Discussion of Effects: There are no active faults known on the site and the project site is located outside the Fault Rapture Hazard Zone (formerly Alquist-Priolo Zone). The Ontario Plan FEIR (Section 5.7/Figure 5.7-2) identifies eight active or potentially active fault zones near the City. Given that the closest fault zone is located more than ten miles from the project site, fault rupture within the project area is not likely. All development will comply with the Uniform Building Code seismic design standards to reduce geologic hazard susceptibility. Therefore, no adverse impacts are anticipated.

Mitigation: None required.

ii) **Strong seismic ground shaking?**

Discussion of Effects: There are no active faults known on the site and the project site is located outside the Fault Rapture Hazard Zone (formerly Alquist-Priolo Zone). The Land Use Plan (Figure LU-6) of the Policy Plan (General Plan) FEIR (Section 5.7/Figure 5.7-2) identifies eight active or potentially active fault zones near the City. The closest fault zone is located more than ten miles from the project site. The proximity of the site to the active faults will result in ground shaking during moderate to severe seismic events. All construction will be in compliance with the California Building Code, the Ontario Municipal Code, The Ontario Plan and all other ordinances adopted by the City related to construction and safety. Therefore, no adverse impacts are anticipated.

Mitigation: None required.

iii) **Seismic-related ground failure, including liquefaction?**

Discussion of Effects: As identified in the TOP FEIR (Section 5.7), groundwater saturation of sediments is required for earthquake induced liquefaction. In general, groundwater depths shallower than 10 feet to the surface can cause the highest liquefaction susceptibility. Depth to ground water at the project site during the winter months is estimated to be between 250 to 450 feet below ground surface. Therefore, the liquefaction potential within the project area is minimal. Implementation of The Ontario Plan strategies, Uniform Building Code and Ontario Municipal code would reduce impacts to a less than significant level.

Mitigation: None required.

iv) **Landslides?**

Discussion of Effects: The project would not expose people or structures to potential adverse effects, including the risk of loss, injury, or death involving landslides because the relatively flat topography of the project site (less than 2 percent slope across the City) makes the chance of landslides remote. Implementation of The Ontario Plan strategies, Uniform Building Code and Ontario Municipal Code would reduce impacts to a less than significant level.

Mitigation: None required.

b) **Result in substantial soil erosion or the loss of topsoil?**

Discussion of Effects: The project will not result in significant soil erosion or loss of topsoil because of the previously disturbed and developed nature of the project site and the limited size and scope of the project. Grading increases the potential for erosion by removing protective vegetation, changing natural drainage patterns, and constructing slopes. However, compliance with the California Building Code and review of grading plans by the City Engineer will ensure no significant

impacts will occur. In addition, the City requires an erosion/dust control plan for projects located within this area. Implementation of a NPDES program, the Environmental Resource Element of the Policy Plan (General Plan) strategies, Uniform Building Code and Ontario Municipal code would reduce impacts to a less than significant level.

Mitigation: The following mitigation measures shall be implemented:

- i) Prior to issuance of grading permits, the applicant shall submit an erosion control plan to reduce wind erosion impacts.
 - ii) Fugitive dust generated during cleaning, grading, earth moving or excavation should be controlled by regular watering, paving of construction roads, or other dust-preventative measures.
 - iii) After clearing, grading, or earth moving:
 - (1) Seed and water until plant cover is established;
 - (2) Spread soil binders;
 - (3) Form and maintain a crust on the surface through repeated soaking that will prevent dust pickup by wind; and
 - (4) Sweep streets if silt is carried to adjacent public thoroughfares.
 - iv) Obtain authorization to discharge storm water under an NPDES construction storm water permit and pay appropriate fees.
- c) **Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**

Discussion of Effects: The project would not result in the location of development on a geologic unit or soil that is unstable, or that would become unstable because as previously discussed, the potential for liquefaction and landslides associated with the project is less than significant. The Ontario Plan FEIR (Section 5.7) indicates that subsidence is generally associated with large decreases or withdrawals of water from the aquifer. The project would not withdraw water from the existing aquifer. Further, implementation of The Ontario Plan strategies, Uniform Building Code and Ontario Municipal code would reduce impacts to a less than significant level.

Mitigation: None required.

- d) **Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?**

Discussion of Effects: The majority of Ontario, including the project site, is located on alluvial soil deposits. These types of soils are not considered to be expansive. Therefore, no adverse impacts are anticipated.

Mitigation: None required.

- e) **Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?**

Discussion of Effects: The area is served by the local sewer system and the use of alternative systems is not necessary. There will be no impact to the sewage system.

Mitigation: None required.

7) **GREENHOUSE GAS EMISSIONS.** Would the project:

- a) **Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?**

Discussion of Effects: The impact of buildout of The Ontario Plan on the environment due to the emission of greenhouse gases ("GHGs") was analyzed in the Environmental Impact Report ("EIR")

for the Policy Plan (General Plan). According to the EIR, this impact would be significant and unavoidable. (Re-circulated Portions of the Ontario Plan Draft Environmental Impact Report, p. 2-118.) This EIR was certified by the City on January 27, 2010, at which time a statement of overriding considerations was also adopted for The Ontario Plan's significant and unavoidable impacts, including that concerning the emission of greenhouse gases.

Pursuant to Public Resources Code section 21083.3, this impact need not be analyzed further, because (1) the proposed project would result in an impact that was previously analyzed in The Ontario Plan EIR, which was certified by the City; (2) the proposed project would not result in any greenhouse gas impacts that were not addressed in The Ontario Plan EIR; (3) the proposed project is consistent with The Ontario Plan.

As part of the City's certification of The Ontario Plan EIR and its adoption of The Ontario Plan, the City adopted mitigation measures 6-1 through 6-6 with regard to the significant and unavoidable impact relating to GHG emissions. These mitigation measures, in summary, required:

MM 6-1. The City is required to prepare a Climate Action Plan (CAP).

MM 6-2. The City is required to consider for inclusion in the CAP a list of emission reduction measures.

MM 6-3. The City is required to amend its Municipal Code to incorporate a list of emission reduction concepts.

MM 6-4. The City is required to consider the emission reduction measures and concepts contained in MMs 6-2 and 6-3 when reviewing new development prior to adoption of the CAP.

MM 6-5. The City is required to evaluate new development for consistency with the Sustainable Communities Strategy, upon adoption by the Southern California Association of Governments.

MM 6-6. The City is required to participate in San Bernardino County's Green Valley Initiative.

While Public Resources Code section 21083.3 requires that relevant mitigation measures from a General Plan EIR be imposed on a project that is invoking that section's limited exemption from CEQA, these mitigation measures impose obligations on the City, not applicants, and hence are not directly relevant. However, the mitigation proposed below carries out, on a project-level, the intent of The Ontario Plan's mitigation on this subject.

Mitigation Required: The following mitigation measures shall be required:

- i) The City has reviewed the emission reduction measures and concepts in The Ontario Plan EIR's MM 6-2 and 6-3, and has determined that the following actions apply and shall be undertaken by the applicant in connection with the project:
 - ii) Evaluate existing landscaping and options to convert reflective and impervious surfaces to landscaping, and install or replace vegetation with drought-tolerant, low-maintenance native species or edible landscaping that can also provide shade and reduce heat-island effects;
 - iii) Require all new landscaping irrigation systems installed to be automated, high-efficient irrigation systems to reduce water use and require use of bubbler irrigation; low-angle, low-flow spray heads; or moisture sensors;
 - iv) Reduce heat gain from pavement and other similar hardscaping;
- b) **Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?**

Discussion of Effects: The proposed project is consistent with The Ontario Plan Goal ER 4 of improving air quality by, among other things, implementation of Policy ER4-3, regarding the reduction of greenhouse gas emissions in accordance with regional, state and federal regulations. In addition, the proposed project is consistent with the policies outlined in Section 5.6.4 of the Environmental Impact Report for The Ontario Plan, which aims to reduce the City's contribution of

greenhouse gas emissions at build-out by fifteen (15%), because the project is upholding the applicable City's adopted mitigation measures as represented in 6-1 through 6-6. Therefore, the proposed project does not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing emissions of greenhouse gases.

Mitigation Required: None required.

8) **HAZARDS & HAZARDOUS MATERIALS.** Would the project:

- a) **Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?**

Discussion of Effects: The project is not anticipated to involve the transport, use or disposal of hazardous materials during either construction or project implementation. Therefore, no adverse impacts are anticipated. However, in the unlikely event of an accident, implementation of the strategies included in The Ontario Plan will decrease the potential for health and safety risks from hazardous materials to a less than significant impact.

Mitigation: None required.

- b) **Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

Discussion of Effects: The proposed project does not include the use of hazardous materials or volatile fuels. In addition, there are no known stationary commercial or industrial land uses within close proximity to the subject site, which use/store hazardous materials to the extent that they would pose a significant hazard to visitors/occupants to the subject site, in the event of an upset condition resulting in the release of a hazardous material.

Mitigation: None required

- c) **Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of an existing or proposed school?**

Discussion of Effects: The proposed project does not include the use, emissions or handling of hazardous or acutely hazardous materials, substances or waste. Therefore, no impacts are anticipated.

Mitigation: None required.

- d) **Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**

Discussion of Effects: The proposed project site is not listed on the hazardous materials site compiled pursuant to Government Code Section 65962.5. Therefore, the project would not create a hazard to the public or the environment and no impact is anticipated.

Mitigation: None required.

- e) **For a project located within the safety zone of the airport land use compatibility plan for ONT or Chino Airports, would the project result in a safety hazard for people residing or working in the project area?**

Discussion of Effects: According to Land Use Element (Exhibit LU-06 Airport Environs) of the Policy Plan (General Plan), the proposed site is located within the airport land use plan. However, the project will not result in a safety hazard for people working or residing in the project area because it will not obstruct aircraft maneuvering because of the project's low elevation and the architectural style of the project. Additionally, the Land Use Compatibility Guidelines for Noise Impacts (Table LU-08) shows the proposed use as normally accepted in the 65 CNEL. The proposed use will comply with standards for mitigating noise. Therefore, any impacts would be reduced to a less than significant level.

Mitigation: None required.

- f) **For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?**

Discussion of Effects: The project site is not located within the vicinity of a private airstrip. Therefore, no impacts are anticipated.

Mitigation: None required.

- g) **Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

Discussion of Effects: The City's Safety Element, as contained within The Ontario Plan, includes policies and procedures to be administered in the event of a disaster. The Ontario Plan seeks interdepartmental and inter-jurisdictional coordination and collaboration to be prepared for, respond to and recover from everyday and disaster emergencies. In addition, the project will comply with the requirements of the Ontario Fire Department and all City requirements for fire and other emergency access. Because the project is required to comply with all applicable City codes, any impacts would be reduced to a less than significant level.

Mitigation: None required.

- h) **Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?**

Discussion of Effects: The project site is not located in or near wildlands. Therefore, no impacts are anticipated.

Mitigation: None required.

- 9) **HYDROLOGY & WATER QUALITY.** Would the project:

- a) **Violate any other water quality standards or waste discharge requirements or potential for discharge of storm water pollutants from areas of material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas?**

Discussion of Effects: The project site is served by City water and sewer service and will not affect water quality standards or waste discharge requirements. Discharge of storm water pollutants from areas of materials storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing, waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work) areas could result in a temporary increase in the amount of suspended solids, trash and debris, oil and grease, organic compounds, pesticides, nutrients, heavy metals and bacteria pathogens in surface flows during a concurrent storm event, thus resulting in surface water quality impacts. The site is required to comply with the statewide National Pollutant Discharge Elimination System (NPDES) General Industrial Activities Stormwater Permit, the San Bernardino County Area-Wide Urban Runoff Permit (MS4 permit) and the City of Ontario's Municipal Code (Title 6, Chapter 6 (Stormwater Drainage System)). This would reduce any impacts to below a level of significance.

Mitigation: None required.

- b) **Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?**

Discussion of Effects: No increases in the current amount of water flow to the project site are anticipated, and the proposed project will not deplete groundwater supplies, nor will it interfere with recharge. The water use associated with the proposed use of the property will be negligible. The development of the site will require the grading of the site and excavation is expected to be less than three feet and would not affect the existing aquifer, estimated to be about 230 to 250 feet below the ground surface. No adverse impacts are anticipated.

Mitigation: None required.

- c) **Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site or volume of storm water runoff to cause environmental harm or potential for significant increases in erosion of the project site or surrounding areas?**

Discussion of Effects: It is not anticipated that the project would alter the drainage pattern of the site or area, in a manner that would result in erosion, siltation or flooding on-or-off site nor will the proposed project increase the erosion of the subject site or surrounding areas. The existing drainage pattern of the project site will not be altered and it will have no significant impact on downstream hydrology. Stormwater generated by the project will be discharged in compliance with the statewide NPDES General Construction Activities Stormwater Permit and San Bernardino County MS4 permit requirements. With the full implementation of a Storm Water Pollution Prevention Plan developed in compliance with the General Construction Activities Permit requirements, the Best Management Practices included in the SWPPP, and a stormwater monitoring program would reduce any impacts to below a level of significance. No streams or streambeds are present on the site. No changes in erosion off-site are anticipated.

Mitigation: None required.

- d) **Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site or potential for significant changes in the flow velocity or volume of storm water runoff to cause environmental harm?**

Discussion of Effects: The proposed project is not anticipated to increase the flow velocity or volume of storm water runoff to cause environmental harm from the site and will not create a burden on existing infrastructure. Furthermore, with the implementation of an approved Water Quality Management Plan developed for the site, in compliance with the San Bernardino County MS4 Permit requirements, stormwater runoff volume shall be reduced to below a level of significance.

Mitigation: None required.

- e) **Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff (a&b) during construction and/or post-construction activity?**

Discussion of Effects: It is not anticipated that the project would create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or create or contribute stormwater runoff pollutants during construction and/or post-construction activity. Pursuant to the requirements of The Ontario Plan, the City's Development Code, and the San Bernardino County MS4 Permit's "Water Quality Management Plan" (WQMP), individual developments must provide site drainage and WQMP plans according to guidelines established by the City's Engineering Department. If master drainage facilities are not in place at the time of project development, then standard engineering practices for controlling post-development runoff may be required, which could include the construction of on-site storm water detention and/or retention/infiltration facilities. Therefore, no impacts are anticipated.

Mitigation: None required.

- f) **Otherwise substantially degrade water quality or potential for discharge of storm water to affect the beneficial uses of receiving water?**

Discussion of Effects: Activities associated with the construction period, could result in a temporary increase in the amount of suspended solids in surface flows during a concurrent storm event, thus resulting in surface water quality impacts. The site is required to comply with the statewide NPDES General Construction Permit and the City of Ontario's Municipal Code (Title 6, Chapter 6 (Stormwater Drainage System)) to minimize water pollution. Thus it is anticipated that there is no potential for discharges of stormwater during construction that will affect the beneficial uses of the receiving waters. However, with the General Construction Permit requirement and implementation

of the policies in The Ontario Plan, any impacts associated with the project would be less than significant.

Mitigation: None required.

- g) **Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?**

Discussion of Effects: The project site is not located within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map. Therefore, no impacts are anticipated.

Mitigation: None required.

- h) **Place within a 100-year flood hazard area, structures that would impede or redirect flood flows?**

Discussion of Effects: As identified in the Safety Element (Exhibit S-2) of the Policy Plan (General Plan), the site lies outside of the 100-year flood hazard area. Therefore, no adverse impacts are anticipated.

Mitigation: None required.

- i) **Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?**

Discussion of Effects: As identified in the Safety Element (Exhibit S-2) of The Ontario Plan, the site lies outside of the 100-year flood hazard area. No levees or dams are located near the project site. Therefore, no adverse impacts are anticipated.

Mitigation: None required.

- j) **Expose people or structures to inundation by seiche, tsunami or mudflow?**

Discussion of Effects: There are no lakes or substantial reservoirs near the project site; therefore, impacts from seiche are not anticipated. The City of Ontario has relatively flat topography, less than two percent across the City, and the chance of mudflow is remote. Therefore, no impacts are anticipated.

Mitigation: None required.

10) **LAND USE & PLANNING.** Would the project:

- a) **Physically divide an established community?**

Discussion of Effects: The project site is located in an area that is currently developed with urban land uses. This project will be of similar design and size to surrounding development. The project will become a part of the larger office and commercial community and will provide needed services to the area. No adverse impacts are anticipated.

Mitigation: None required.

- b) **Conflict with applicable land use plan, policy or regulation of agencies with jurisdiction over the project (including, but not limited to general plan, airport land use compatibility plan, specific plan, or development code) adopted for the purpose of avoiding or mitigation an environmental effect?**

Discussion of Effects: The proposed project is consistent with The Ontario Plan and does not interfere with any policies for environmental protection. As such, no impacts are anticipated.

Mitigation: None required.

- c) **Conflict with any applicable habitat conservation plan or natural community conservation plan?**

Discussion of Effects: There are no adopted habitat conservation plans in the project area. As such no conflicts or impacts are anticipated.

Mitigation: None required.

11) **MINERAL RESOURCES.** Would the project:

- a) **Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?**

Discussion of Effects: The project site is located within a mostly developed area surrounded by urban land uses. There are no known mineral resources in the area. Therefore, no impacts are anticipated.

Mitigation: None required.

- b) **Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?**

Discussion of Effects: There are no known mineral resources in the area. No impacts are anticipated.

Mitigation: None required.

12) **NOISE.** Would the project result in:

- a) **Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?**

Discussion of Effects: The project will not expose people to or generate noise levels in excess of standards as established in The Ontario Plan FEIR (Section 5.12). No additional analysis will be required at the time of site development review.

Mitigation: None required.

- b) **Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?**

Discussion of Effects: The uses associated with this project normally do not induce groundborne vibrations. As such, no impacts are anticipated.

Mitigation: None required.

- c) **A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?**

Discussion of Effects: The project will not be a significant noise generator and will not cause a substantial permanent increase in ambient noise levels because of the limited size and scope of the project. Moreover, the proposed use will be required to operate within the noise levels permitted for commercial development, pursuant to City of Ontario Development Code. Therefore, no increases in noise levels within the vicinity of the project are anticipated.

Mitigation: None required.

- d) **A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?**

Discussion of Effects: Temporary construction activities will minimally impact ambient noise levels. All construction machinery will be maintained according to industry standards to help minimize the impacts. Normal activities associated with the project are unlikely to increase ambient noise levels.

Mitigation: None required.

- e) **For a project located within the noise impact zones of the airport land use compatibility plan for ONT and Chino Airports, would the project expose people residing or working in the project area to excessive noise levels?**

Discussion of Effects: According to the Safety Element in The Ontario Plan, the proposed site is located within the airport land use plan. However, the project is located outside of the 65CNEL noise contour. Therefore, no impacts are anticipated.

Mitigation: None required.

- f) **For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?**

Discussion of Effects: The project site is not located within the vicinity of a private airstrip. Therefore, no impacts are anticipated.

Mitigation: None required.

13) **POPULATION & HOUSING.** Would the project:

- a) **Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of road or other infrastructure)?**

Discussion of Effects: The project is located in a developed area and will not induce population growth. Therefore, no impacts are anticipated.

Mitigation: None required.

- b) **Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?**

Discussion of Effects: The project site is currently undeveloped. Therefore, no impacts are anticipated.

Mitigation: None required.

- c) **Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?**

Discussion of Effects: The project site is currently undeveloped. Therefore, no impacts are anticipated.

Mitigation: None required.

14) **PUBLIC SERVICES.** Would the project:

- a) **Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:**

- i) **Fire protection?**

Discussion of Effects: The site is in a developed area currently served by the Ontario Fire Department. The project will not require the construction of any new facilities or alteration of any existing facilities or cause a decline in the levels of service, which could cause the need to construct new facilities. No impacts are anticipated.

Mitigation: None required.

- ii) **Police protection?**

Discussion of Effects: The site is in a developed area, currently served by the Ontario Police Department. The project will not require the construction of any new facilities or alteration of any existing facilities or cause a decline in the levels of service, which could cause the need to construct new facilities. No impacts are anticipated.

Mitigation: None required.

- iii) **Schools?**

Discussion of Effects: The project will be required to pay school fees as prescribed by state law prior to the issuance of building permits. No impacts are anticipated.

Mitigation: None required.

iv) **Parks?**

Discussion of Effects: The site is in a developed area, currently served by the City of Ontario. The project will not require the construction of any new facilities or alteration of any existing facilities or cause a decline in the levels of service, which could cause the need to construct new facilities. No impacts are anticipated.

Mitigation: None required.

v) **Other public facilities?**

Discussion of Effects: The site is in a developed area, currently served by the City of Ontario. The project will not require the construction of any new facilities or alteration of any existing facilities or cause a decline in the levels of service, which could cause the need to construct new facilities. No impacts are anticipated.

Mitigation: None required.

15) **RECREATION.** Would the project:

a) **Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?**

Discussion of Effects: This project is not proposing any significant new housing or large employment generator that would cause an increase in the use of neighborhood parks or other recreational facilities. No impacts are anticipated.

Mitigation: None required.

b) **Does the project include recreational facilities or require the construction or expansion of recreational facilities that have an adverse physical effect on the environment?**

Discussion of Effects: This project is not proposing any new significant housing or large employment generator that would require the construction of neighborhood parks or other recreational facilities. No impacts are anticipated.

Mitigation: None required.

16) **TRANSPORTATION/TRAFFIC.** Would the project:

a) **Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to?**

Discussion of Effects:

The project proposes to amend the Ontario Gateway Specific Plan (File No. PSPA17-001) to change Table 2.B: Permitted Land Uses by Planning Areas, to allow drive-thru quick serve restaurants as a conditionally permitted use within the Mixed-Use Planning Area land use designation. The project site is located at the southeast corner of Haven Avenue and Guasti Road. The proposed amendment would slightly increase the potential average number of trips generated by a quick serve restaurant with a drive-thru facility (1,000 SF GFA: 83.19 Average Rate for Weekday One Hour Peak A.M. and P.M. Peak Hours) versus a quick serve restaurant without a drive-thru facility (1,000 SF GFA: 70.02 Average Rate for Weekday One Hour Peak A.M. and P.M. Peak Hours) that equates to approximately 13 average total additional weekday trips for A.M. and P.M. Peak Hour trips per 1,000 Square Feet of Gross Floor Area.

The project site is located within Traffic Analysis Zone (TAZ) - 74 of the previously analyzed TOP EIR traffic study (*Ontario General Plan Update: Transportation Technical Report, Kimley-Horn and Associates, March 19, 2009*). When TOP was originally adopted in 2010, TAZ - 74 included approximately 50 acres of land that had a land use designation of Office Commercial (0.75 FAR: 1,639,054 SF), which was subsequently changed in November 2014 (Guasti Ponderosa File No. PGPA14-001) to Business Park (0.6 FAR: 1,311,243 SF). This change in land use reduced the overall potential building square footage by 327,811 SF within TAZ - 74. In addition, the average weekday trip generation rate for Weekday AM and PM Peak Hours Average Trips was reduced by

1,662 trips. Therefore, Staff analyzed the existing and proposed land use buildout trip generation scenarios to determine if the proposed amendment would have a greater impact than what was previously analyzed. The trip generation analyses relied upon the *Trip Generation, 8th Edition, Institute of Transportation Engineers (ITE) 2008* to determine the number of trips generated from the project site during Weekday A.M. and P.M. peak hours. The analyses concluded that the proposed Ontario Gateway Specific Plan Amendment, in conjunction with the previous 2014 Guasti Ponderosa GPA would result in 1,530 less trips during Weekday A.M. and P.M. Peak Hours (**Exhibit A – Land Use Traffic Analysis**). Therefore, the analysis concluded that the implementation of the Specific Plan Amendment would not conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system. Therefore, the proposed amendment would not result in a greater impact than what was previously analyzed in the adopted TOP FEIR traffic study. Additionally, the project is in an area that is mostly developed with all street improvements existing. The number of vehicle trips per day is not expected to increase significantly. Therefore, the project will not create a substantial increase in the number of vehicle trips, traffic volume or congestion at intersections. Less than significant impacts are anticipated.

Mitigation: None required.

- b) **Conflict with an applicable congestion management program, including, but not limited to, level of service standard and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?**

Discussion of Effects: The project proposes to amend the Ontario Gateway Specific Plan (File No. PSPA17-001) to change Table 2.B: Permitted Land Uses by Planning Areas, to allow drive-thru quick serve restaurants as a conditionally permitted use within the Mixed-Use Planning Area land use designation. The project site is located at the southeast corner of Haven Avenue and Guasti Road. The proposed amendment would slightly increase the potential average number of trips generated by a quick serve restaurant with a drive-thru facility (1,000 SF GFA: 83.19 Average Rate for Weekday One Hour Peak A.M. and P.M. Peak Hours) versus a quick serve restaurant without a drive-thru facility (1,000 SF GFA: 70.02 Average Rate for Weekday One Hour Peak A.M. and P.M. Peak Hours) that equates to approximately 13 average total additional weekday trips for A.M. and P.M. Peak Hour trips per 1,000 Square Feet of Gross Floor Area.

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Mitigation: None required.

- c) **Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?**

Discussion of Effects: The project will not create a substantial safety risk or interfere with air traffic patterns at Ontario International Airport as it [either is outside of areas with FAA-imposed height restrictions, or is under such height restrictions]. No impacts are anticipated.

Mitigation: None required.

- d) **Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?**

Discussion of Effects: The project is in an area that is mostly developed. All street improvements are complete and no alterations are proposed for adjacent intersections or arterials. The project will, therefore, not create a substantial increase in hazards due to a design feature. No impacts are anticipated.

Mitigation: None required.

- e) **Result in inadequate emergency access?**

Discussion of Effects: The project will be designed to provide access for all emergency vehicles and will therefore not create an inadequate emergency access. No impacts are anticipated.

Mitigation: None required.

- f) **Result in inadequate parking capacity?**

Discussion of Effects: The project is required to meet parking standards established by the Ontario Development Code and will therefore not create an inadequate parking capacity. No impacts are anticipated.

Mitigation: None required.

- g) **Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?**

Discussion of Effects: The project does not conflict with any transportation policies, plans or programs. Therefore, no impacts are anticipated.

Mitigation: None required.

17) UTILITIES AND SERVICE SYSTEMS. Would the project:

- a) **Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?**

Discussion of Effects: The proposed project is served by the City of Ontario sewer system, which has waste treated by the Inland Empire Utilities Agency at the RP-1 treatment plant. The project is required to meet the requirements of the Ontario Engineering Department regarding wastewater. No impacts are anticipated.

Mitigation: None required.

- b) **Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

Discussion of Effects: The proposed project is served by the City of Ontario sewer system and which has waste treated by the Inland Empire Utilities Agency at the RP-1 treatment plant. RP-1 is not at capacity and this project will not cause RP-1 to exceed capacity. The project will therefore not require the construction of new wastewater treatment facilities, or the expansion of existing facilities. No impacts are anticipated.

Mitigation: None required.

- c) **Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

Discussion of Effects: The proposed project is served by the City of Ontario. The project is required to meet the requirements of the Ontario Engineering Department regarding storm drain facilities. No impacts are anticipated.

Mitigation: None required.

- d) **Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? In making this determination, the City shall consider whether the project is subject to the water supply assessment requirements of Water Code Section 10910, et seq. (SB 610), and the requirements of Government Code Section 664737 (SB 221).**

Discussion of Effects: The project is served by the City of Ontario water system. There is currently a sufficient water supply available to the City of Ontario to serve this project. No impacts are anticipated.

Mitigation: None required.

- e) **Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

Discussion of Effects: The proposed project is served by the City of Ontario sewer system, which has waste treated by the Inland Empire Utilities Agency at the RP-1 treatment plant. RP-1 is not at capacity and this project will not cause RP-1 to exceed capacity. No impacts are anticipated.

Mitigation: None required.

- f) **Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?**

Discussion of Effects: City of Ontario serves the proposed project. Currently, the City of Ontario contracts with a waste disposal company that transports trash to a landfill with sufficient capacity to handle the City's solid waste disposal needs. No impacts are anticipated.

Mitigation: None required.

- g) **Comply with federal, state, and local statutes and regulations related to solid waste?**

Discussion of Effects: This project complies with federal, state, and local statutes and regulations regarding solid waste. Therefore, no impacts are anticipated.

Mitigation: None required.

18) MANDATORY FINDINGS OF SIGNIFICANCE

- a) **Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat or a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

Discussion of Effects: The proposed project does not have the potential to reduce wildlife habitat and threaten a wildlife species. Therefore, no impacts are anticipated.

Mitigation: None required.

- b) **Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?**

Discussion of Effects: The project does not have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

Mitigation: None required.

- c) **Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current project, and the effects of probable future projects.)**

Discussion of Effects: The project proposes to amend the Ontario Gateway Specific Plan (File No. PSPA17-001) to change Table 2.B: Permitted Land Uses by Planning Areas, to allow drive-thru quick serve restaurants as a conditionally permitted use within the Mixed-Use Planning Area land use designation. The project site is located at the southeast corner of Haven Avenue and Guasti Road. The proposed amendment would slightly increase the potential average number of trips generated by a quick serve restaurant with a drive-thru facility (1,000 SF GFA: 83.19 Average Rate for Weekday One Hour Peak A.M. and P.M. Peak Hours) versus a quick serve restaurant without a drive-thru facility (1,000 SF GFA: 70.02 Average Rate for Weekday One Hour Peak A.M. and P.M. Peak Hours) that equates to approximately 13 average total additional weekday trips for A.M. and P.M. Peak Hour trips per 1,000 Square Feet of Gross Floor Area.

The project site is located within Traffic Analysis Zone (TAZ) - 74 of the previously analyzed TOP EIR traffic study (*Ontario General Plan Update: Transportation Technical Report, Kimley-Horn and Associates, March 19, 2009*). When TOP was originally adopted in 2010, TAZ - 74 included approximately 50 acres of land that had a land use designation of Office Commercial (0.75 FAR: 1,639,054 SF), which was subsequently changed in November 2014 (Guasti Ponderosa File No. PGPA14-001) to Business Park (0.6 FAR: 1,311,243 SF). This change in land use reduced the overall potential building square footage by 327,811 SF within TAZ - 74. In addition, the average weekday trip generation rate for Weekday AM and PM Peak Hours Average Trips was reduced by 1,662 trips. Therefore, Staff analyzed the existing and proposed land use buildout trip generation scenarios to determine if the proposed amendment would have a greater impact than what was previously analyzed. The trip generation analyses relied upon the *Trip Generation, 8th Edition, Institute of Transportation Engineers (ITE) 2008* to determine the number of trips generated from the project site during Weekday A.M. and P.M. peak hours. The analyses concluded that the proposed Ontario Gateway Specific Plan Amendment, in conjunction with the previous 2014 Guasti Ponderosa GPA would result in 1,530 less trips during Weekday A.M. and P.M. Peak Hours (**Exhibit A – Land Use Traffic Analysis**). Therefore, the analysis concluded that the implementation of the Specific Plan Amendment would not conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system. Therefore, the proposed amendment would not result in a greater impact than what was previously analyzed in the adopted TOP FEIR traffic study. Additionally, the project is in an area that is mostly developed with all street improvements existing. The number of vehicle trips per day is not expected to increase significantly. Therefore, the project does not have impacts that are cumulatively considerable.

Mitigation: None required.

- d) **Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?**

Discussion of Effects: The project proposes to amend the Ontario Gateway Specific Plan (File No. PSPA17-001) to change Table 2.B: Permitted Land Uses by Planning Areas, to allow drive-thru quick serve restaurants as a conditionally permitted use within the Mixed-Use Planning Area land use designation. The project site is located at the southeast corner of Haven Avenue and Guasti Road. The proposed amendment would slightly increase the potential average number of trips generated by a quick serve restaurant with a drive-thru facility (1,000 SF GFA: 83.19 Average Rate for Weekday One Hour Peak A.M. and P.M. Peak Hours) versus a quick serve restaurant without a drive-thru facility (1,000 SF GFA: 70.02 Average Rate for Weekday One Hour Peak A.M. and P.M. Peak Hours) that equates to approximately 13 average total additional weekday trips for A.M. and P.M. Peak Hour trips per 1,000 Square Feet of Gross Floor Area.

The project site is located within Traffic Analysis Zone (TAZ) - 74 of the previously analyzed TOP EIR traffic study (*Ontario General Plan Update: Transportation Technical Report, Kimley-Horn and Associates, March 19, 2009*). When TOP was originally adopted in 2010, TAZ - 74 included approximately 50 acres of land that had a land use designation of Office Commercial (0.75 FAR:

1,639,054 SF), which was subsequently changed in November 2014 (Guasti Ponderosa File No. PGPA14-001) to Business Park (0.6 FAR: 1,311,243 SF). This change in land use reduced the overall potential building square footage by 327,811 SF within TAZ - 74. In addition, the average weekday trip generation rate for Weekday AM and PM Peak Hours Average Trips was reduced by 1,662 trips. Therefore, Staff analyzed the existing and proposed land use buildout trip generation scenarios to determine if the proposed amendment would have a greater impact than what was previously analyzed. The trip generation analyses relied upon the *Trip Generation, 8th Edition, Institute of Transportation Engineers (ITE) 2008* to determine the number of trips generated from the project site during Weekday A.M. and P.M. peak hours. The analyses concluded that the proposed Ontario Gateway Specific Plan Amendment, in conjunction with the previous 2014 Guasti Ponderosa GPA would result in 1,530 less trips during Weekday A.M. and P.M. Peak Hours (**Exhibit A – Land Use Traffic Analysis**). Therefore, the analysis concluded that the implementation of the Specific Plan Amendment would not conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system. Therefore, the proposed amendment would not result in a greater impact than what was previously analyzed in the adopted TOP FEIR traffic study. Additionally, the project is in an area that is mostly developed with all street improvements existing. The number of vehicle trips per day is not expected to increase significantly. Therefore, the project does not have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly.

Mitigation: None required.

EARLIER ANALYZES

(Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or Negative Declaration. Section 15063(c)(3)(D)):

- 1) Earlier analyzes used. Identify earlier analyzes used and state where they are available for review.
 - a) The Ontario Plan Final EIR
 - b) The Ontario Plan
 - c) City of Ontario Zoning
 - d) Ontario Gateway Specific Plan
 - e) Ontario Gateway Specific Plan EIR
 - f) Trip Generation, 8th Edition, Institute of Transportation Engineers (ITE) 2008

All documents listed above are on file with the City of Ontario Planning Department, 303 East "B" Street, Ontario, California 91764, (909) 395-2036.

- 2) Impacts adequately addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards.

Comments III.A and C were addressed in The Ontario Plan FEIR and considered a significant adverse effect that could not be mitigated. A statement of overriding considerations was adopted for The Ontario Plan FEIR.

MITIGATION MEASURES

(For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project):

- 1) **Air Quality**—The following fugitive dust mitigation measures shall be required:
 - a) Use of dust control during clearing, grading and construction. Fugitive dust generated during clearing, grading, earth moving or excavation shall be controlled by regular watering, paving of

construction roads, or other dust-preventative measures. If freshwater resources are too precious to waste on dust control, availability of brackish or reclaimed water sources shall be investigated. Soil disturbance shall be terminated when high winds (25 mph or greater) make dust control extremely difficult.

- b) Minimization of construction interference with regional non-project traffic movement. Impacts shall be reduced to below a level of significance by the following mitigation measures:
 - i) Scheduling receipt of construction materials to non-peak travel periods.
 - ii) Routing construction traffic through areas of least impact sensitivity.
 - iii) Limiting lane closures and detours to off-peak travel periods.
 - iv) Providing rideshare incentives for contractor and subcontractor personnel.
 - c) After clearing, grading or earth moving:
 - i) Seed and water until plant cover is established;
 - ii) Spread soil binders;
 - iii) Form and maintain a crust on the surface through repeated soaking that will prevent dust pickup by wind; and
 - iv) Reduce "spill-over" effects by washing vehicles entering public roadways from dirt off road project areas, and washing/sweeping project access to public roadways on an adequate schedule.
 - d) Emissions control from on-site equipment through a routine, mandatory program of low-emission tune-ups.
- 2) **Geology and Soils**—The following mitigation measures shall be implemented:
- a) Prior to issuance of grading permits, the applicant shall submit an erosion control plan to reduce wind erosion impacts.
 - b) Fugitive dust generated during cleaning, grading, earth moving or excavation shall be controlled by regular watering, paving of construction roads, or other dust-preventative measures.
 - c) After clearing, grading, or earth moving:
 - i) Seed and water until plant cover is established;
 - ii) Spread soil binders;
 - iii) Form and maintain a crust on the surface through repeated soaking that will prevent dust pickup by wind; and
- 3) Sweep streets if silt is carried to adjacent public thoroughfares.
- a) Obtain authorization to discharge storm water under an NPDES construction storm water permit and pay appropriate fees.
- 4) **Greenhouse Gas Emissions**—The following mitigation measures shall be implemented:
- a) The City has reviewed the emission reduction measures and concepts in The Ontario Plan EIR's MM 6-2 and 6-3, and has determined that the following actions apply and shall be undertaken by the applicant in connection with the project:
 - i) Evaluate existing landscaping and options to convert reflective and impervious surfaces to landscaping, and install or replace vegetation with drought-tolerant, low-maintenance native species or edible landscaping that can also provide shade and reduce heat-island effects;
 - ii) Require all new landscaping irrigation systems installed to be automated, high-efficient irrigation systems to reduce water use and require use of bubbler irrigation; low-angle, low-flow spray heads; or moisture sensors;
 - iii) Reduce heat gain from pavement and other similar hardscaping;

MITIGATION MONITORING AND REPORTING PROGRAM

Project File No.: PSPA17-001

Project Sponsor: Architecture Design Collaborative, 23231 South Pointe Dr, Laguna Hills, CA 92653

Lead Agency/Contact Person: Henry K. Noh, Senior Planner, City of Ontario, Planning Department, 303 East B Street, Ontario, California 91764, (909) 395-2036

<i>Mitigation Measures/Implementing Action</i>	<i>Responsible for Monitoring</i>	<i>Monitoring Frequency</i>	<i>Timing of Verification</i>	<i>Method of Verification</i>	<i>Verified (Initial/Date)</i>	<i>Sanctions for Non-Compliance</i>
1) AIR QUALITY						
a) Use of dust control during clearing, grading and construction. Fugitive dust generated during cleaning, grading, earth moving or excavation shall be controlled by regular watering, paving of construction roads, or other dust-preventative measures. If freshwater resources are too precious to waste on dust control, availability of brackish or reclaimed water sources shall be investigated. Soil disturbance shall be terminated when high winds (25 mph or greater) make dust control extremely difficult.	Building Dept & Planning Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading permit; or withhold building permit
b) Minimization of construction interference with regional non-project traffic movement. Impacts shall be reduced to below a level of significance by the following mitigation measures: i) Scheduling receipt of construction materials to non-peak travel periods. ii) Routing construction traffic through areas of least impact sensitivity. iii) Limiting lane closures and detours to off-peak travel periods. iv) Providing rideshare incentives for contractor and subcontractor personnel.	Building Dept & Planning Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading permit; or withhold building permit
c) After clearing, grading or earth moving: i) Seed and water until plant cover is established. ii) Spread soil binders. iii) Form and maintain a crust on the surface through repeated soaking that will prevent dust pickup by wind. iv) Reduce "spill-over" effects by washing vehicles entering public roadways from dirt off road project areas, and washing/sweeping project access to public roadways on an adequate schedule.	Building Dept & Planning Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading permit; or withhold building permit
d) Emissions control from on-site equipment through a routine, mandatory program of low-emission tune-ups.	Building Dept & Planning Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading

<i>Mitigation Measures/Implementing Action</i>	<i>Responsible for Monitoring</i>	<i>Monitoring Frequency</i>	<i>Timing of Verification</i>	<i>Method of Verification</i>	<i>Verified (Initial/Date)</i>	<i>Sanctions for Non-Compliance</i>
						permit; or withhold building permit
2) GEOLOGY & SOILS						
a) The applicant shall submit an erosion control plan to reduce wind erosion impacts.	Building Dept, Planning Dept & Engineering Dept	Grading Plan issuance	Prior to issuance of grading permits	Plan check		Withhold grading permit
b) Fugitive dust generated during cleaning, grading, earth moving or excavation shall be controlled by regular watering, paving of construction roads, or other dust-preventative measures.	Building Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading permit; or withhold building permit
c) After clearing, grading, or earth moving: i) Seed and water until plant cover is established. ii) Spread soil binders. iii) Form and maintain a crust on the surface through repeated soaking that will prevent dust pickup by wind. iv) Sweep streets if silt is carried to adjacent public thoroughfares	Building Dept & Planning Dept	Throughout construction	As necessary	On-site inspection		Stop work order; or withhold grading permit; or withhold building permit
d) Obtain authorization to discharge storm water under an NPDES construction storm water permit and pay appropriate fees.	Engineering Dept	Grading Plan issuance	Prior to issuance of grading permits	Plan check		Withhold grading permit
3) GREENHOUSE GAS EMISSIONS						
a) The City has reviewed the emission reduction measures and concepts in The Ontario Plan EIR's MM 6-2 and 6-3, and has determined that the following actions apply and shall be undertaken by the applicant in connection with the project: i) Evaluate existing landscaping and options to convert reflective and impervious surfaces to landscaping, and install or replace vegetation with drought-tolerant, low-maintenance native species or edible landscaping that can also provide shade and reduce heat-island effects. ii) Require all new landscaping irrigation systems installed to be automated, high-efficient irrigation systems to reduce water use and require use of bubbler irrigation; low-angle, low-flow spray heads; or moisture sensors. iii) Reduce heat gain from pavement and other similar hardscaping.	Building Dept & Planning Dept	Throughout construction	As necessary	Plan check/On-site inspection		Stop work order; or withhold building permit

Exhibit A – Land Use Traffic Analysis
 Project Traffic Generation Forecast Comparison

Weekday AM and PM Peak Hours Average Rate

Land Use Factors	Average Trip Generation Factors Rate	SF	+/- Total Trips Generated
933: Fast-Food Restaurant w/out Drive-Thru	70.02/1,000 SF	10,000 SF	-700 trips
934: Fast-Food Restaurant w/ Drive-Thru	83.19/1,000 SF	10,000 SF	832 trips
750: Office Park	3.19/1,000 SF	1,639,054 SF	-5,229 trips
770: Business Park	2.72/1,000 SF	1,311,243 SF	3,567 trips
Net Project Trip Generation Forecast			-1,530 trips

Notes:

- 1) TOP EIR assumed a 0.75 FAR for Office Commercial.
- 2) TOP EIR assumed a 0.60 FAR for Business Park.
- 3) The Guasti and Ponderosa GPA (File No. PGPA14-001) change approximately 50.17 acres of land from Office Commercial (0.75 FAR) to Business Park (0.6 FAR) within TAZ - 74.
- 4) Analysis assumed a total Square Footage of 10,000 SF for both Fast-Food Restaurants with and w/out Drive Thru.
- 5) The proposed project would result in 1,530 less trips during Weekday AM and PM peak hours for the project area.
- 6) Source: Trip Generation, 8th Edition, Institute of Transportation Engineers (ITE) 2008

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING OF AN ADDENDUM TO THE ONTARIO PLAN (TOP) CERTIFIED ENVIRONMENTAL IMPACT REPORT (SCH # 2008101140), FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, FOR FILE NO. PSPA17-001.

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study, and approved for attachment to the certified Environmental Impact Report, an addendum to The Ontario Plan (TOP) certified Environmental Impact Report (SCH # 2008101140) for File No. PSPA17-001 (hereinafter referred to as "Initial Study/Environmental Impact Report Addendum"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with State and local guidelines implementing said Act, all as amended to date (collectively referred to as "CEQA"); and

WHEREAS, File No. PSPA17-001 analyzed under the Initial Study/Environmental Impact Report Addendum, consists of an amendment to the Ontario Gateway Specific Plan to change Table 2.B: Permitted Land Uses by Planning Areas, to allow drive-thru quick serve restaurants as a conditionally permitted use within the Mixed-Use Planning Area land use designation. The project site is located at the southeast corner of Haven Avenue and Guasti Road, in the City of Ontario, California (hereinafter referred to as the "Project"); and

WHEREAS, the Initial Study/Environmental Impact Report Addendum concluded that implementation of the Project will not result in any new, increased or substantially different impacts, other than those previously considered and addressed in The Ontario Plan (TOP) certified Environmental Impact Report (SCH # 2008101140). No changes or additions to TOP EIR analyses are necessary, nor is there a need for any additional mitigation measures; and

WHEREAS, The Ontario Plan Environmental Impact Report (SCH No. 2008101140) was certified on January 27, 2010, in which development and use of the Project site was discussed; and

WHEREAS, pursuant to California Environmental Quality Act ("CEQA") Guidelines Section 15164(a), a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary to a project, but the preparation of a subsequent or supplemental EIR is not required; and

WHEREAS, the City determined that none of the conditions requiring preparation of a subsequent or supplemental EIR would occur from the Project, and that preparation of an addendum to the EIR was appropriate; and

WHEREAS, the City of Ontario is the lead agency on the Project, and the City Council is the approving authority for the Addendum, initial study, and the Project; and

WHEREAS, on April 25, 2017, the Planning Commission of the City of Ontario conducted a hearing to consider the Application and concluded the hearing on that date. Upon conclusion of the public hearing, the Planning Commission approved Resolution No. PC17-021 finding that there is no substantial evidence that the Project will constitute substantial changes to the certified EIR and recommended the City Council adopt the Addendum to the certified EIR; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Environmental Impact Report Addendum for the Project, has concluded that none of the conditions requiring preparation of a subsequent or supplemental EIR have occurred, and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Environmental Impact Report Addendum for the Project are on file in the Planning Department, located at 303 East B Street, Ontario, CA 91764, are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the City Council of the City of Ontario, as follows:

SECTION 1. *Environmental Determination and Findings.* As the approving body for the Project, the City Council has reviewed and considered the information contained in the Initial Study/Environmental Impact Report Addendum and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the Initial Study/Environmental Impact Report Addendum and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. The City Council has independently reviewed and analyzed the Initial Study/Environmental Impact Report Addendum and other information in the record, and has considered the information contained therein, prior to acting upon or approving the Project;

b. The Initial Study/Environmental Impact Report Addendum prepared for the Project has been completed in compliance with CEQA and is consistent with State and local guidelines implementing CEQA; and

c. The Initial Study/Environmental Impact Report Addendum represents the independent judgment and analysis of the City of Ontario, as lead agency for the

Project. The City Council designates the Planning Department, located at 303 East B Street, Ontario, CA 91764, as the custodian of documents and records of proceedings on which this decision is based.

SECTION 2. *Additional Environmental Review Not Required.* Based upon the Addendum and all related information presented to the City Council, the City Council finds that the preparation of a subsequent or supplemental EIR is not required for the Project, as the Project:

a. Does not constitute substantial changes to the certified EIR that will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

b. Does not constitute substantial changes with respect to the circumstances under which the certified EIR was prepared, that will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

c. Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, that shows any of the following:

1. The project will have one or more significant effects not discussed in the certified EIR; or

2. Significant effects previously examined will be substantially more severe than shown in the certified EIR; or

3. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

4. Mitigation measures or alternatives considerably different from those analyzed in the certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

SECTION 3. *City Council Action.* The City Council does hereby find that based upon the entire record of proceedings before it, and all information received, that there is no substantial evidence that the Project will constitute substantial changes to the certified EIR, and hereby APPROVES the Addendum to the certified EIR.

SECTION 4. *Indemnification.* The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 5. *Custodian of Records.* The Initial Study/Environmental Impact Report Addendum, and all other documents and materials that constitute the record of proceedings on which these findings have been based, are on file at the City of Ontario City Hall, 303 East B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario. The records are available for inspection by any interested person, upon request.

SECTION 6. *Certification to Adoption.* The City Clerk shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSPA17-001, AN AMENDMENT TO THE ONTARIO GATEWAY SPECIFIC PLAN TO CHANGE TABLE 2.B: PERMITTED LAND USES BY PLANNING AREAS, TO ALLOW DRIVE-THRU QUICK SERVE RESTAURANTS AS A CONDITIONALLY PERMITTED USE WITHIN THE MIXED-USE PLANNING AREA LAND USE DESIGNATION, LOCATED AT THE SOUTHEAST CORNER OF HAVEN AVENUE AND GUASTI ROAD, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0210-212-57.

WHEREAS, Reddy Development ("Applicant") has filed an Application for the approval of an Amendment to the Ontario Gateway Specific Plan, File No. PSPA17-001, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 11.22 acres of land located southeast corner of Haven Avenue and Guasti Road within the Mixed Use land use designation of the Ontario Gateway Specific Plan and is presently vacant; and

WHEREAS, the properties to the north of the project site are developed with an existing Fletcher Jones Mercedes Benz auto dealer and an Embassy Suites hotel, a Springhill Suites hotel that is currently under construction. These properties are located within the Entertainment and Auto Planning Areas of the Ontario Gateway Specific Plan. The property to the east is currently vacant and located within the Office Planning Area 2 of the Ontario Gateway Specific Plan. The properties to the south are constructed with a Park-N-Fly airport parking lot and an existing industrial warehouse development and are located within the Commercial/Food/Hotel land use district of the California Commerce Center Specific Plan. The property to the west is currently vacant and is located within the Office land use designation of the Centrelake Specific Plan; and

WHEREAS, on January 27, 2010, the City Council adopted The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) and a related Mitigation Monitoring and Reporting Program in conjunction with File No. PGPA06-001; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport (ONT), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the ONT Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts; and

WHEREAS, as the first action on the Project, on April 25, 2017, the Planning Commission approved Resolution No. PC 17-021, recommending City Council approve a resolution adopting an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010, in conjunction with File No. PGPA06-001. The Addendum finds that the proposed project introduces no new significant environmental impacts, and all previously adopted mitigation measures are incorporated into the Project by reference; and

WHEREAS, on April 25, 2017, the Planning Commission of the City of Ontario conducted a hearing and approved Resolution PC17-022 recommending the City Council approve an Amendment to the Ontario Gateway Specific Plan: and

WHEREAS, on May 16, 2017, the City Council of the City of Ontario conducted a hearing to consider the use of the Addendum, initial study, and the Project, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the City Council of the City of Ontario, as follows:

SECTION 1. *Environmental Determination and Findings.* As the approving body for the Project, the City Council has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. The environmental impacts of this project were reviewed in conjunction with an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140), certified by the Ontario City Council on January 27, 2010, in conjunction with File No. PGPA06-001.

b. The Addendum and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

c. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This Application introduces no new significant environmental impacts.

d. All previously adopted mitigation measures shall be a condition of project approval, as they are applicable to the Project, and are incorporated herein by this reference.

e. The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the City Council; and

f. There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and

SECTION 2. *Additional Environmental Review Not Required.* Based on the Addendum, all related information presented to the City Council, and the specific findings set forth in Section 1, above, the City Council finds that the preparation of a subsequent or supplemental The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) is not required for the Project, as the Project:

a. Does not constitute substantial changes to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) that will require major revisions to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

b. Does not constitute substantial changes with respect to the circumstances under which The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) was prepared, that will require major revisions to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and.

c. Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) was certified/adopted, that shows any of the following:

1. The project will have one or more significant effects not discussed in The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140); or

2. Significant effects previously examined will be substantially more severe than shown in The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140); or

3. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

4. Mitigation measures or alternatives considerably different from those analyzed in The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

SECTION 3. *Housing Element Consistency.* Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the approving body for the Project, the City Council finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

SECTION 4. *Airport Land Use Compatibility Plan (ALUCP) Consistency.* As the approving body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 5. *Concluding Facts and Reasons.* Based upon the substantial evidence presented to the City Council during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 4 above, the City Council hereby concludes as follows:

a. The proposed Specific Plan amendment thereto, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. The proposed amendment to the Ontario Gateway Specific Plan will amend Table 2.B: Permitted Land Uses by Planning Areas, to allow drive-thru quick serve restaurants as a conditionally permitted use within the Mixed Use Planning Area land use designation. The proposed amendment is consistent with the following Policy Plan (General Plan) goals and policies. In order to take advantage opportunities or remove impediments to achieving our Vision, we need the ability to quickly respond to changing market needs. TOP Policy LU3-3 TOP *Land Use Flexibility*, encourages the consideration of uses not typically permitted within a land use category if doing so improves the livability, gathering places and activity nodes.

b. The proposed Specific Plan, or amendment thereto, would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. With the proposed amendments to the Ontario Gateway Specific Plan, the proposed land use will be in conformance with The Ontario Plan (TOP) Policy Plan Land Use Plan and will comply with the Policy Plan goals and policies applicable to the Specific Plan. The proposed amendment to the Ontario Gateway Specific Plan will not be detrimental to the public interest, health, safety, convenience, or general welfare of the City because it will provide commercial, retail and food services to the surrounding area that is surrounded by uses that include hospitality, auto and office uses and has limited commercial, retail and food uses to serve the project site area (north and south of the I-10 Freeway along Haven Avenue).

c. In the case of an application affecting specific property(ies), the proposed Specific Plan, or amendment thereto, will not adversely affect the harmonious relationship with adjacent properties and land uses. The project site is located in an area that will be developed with commercial and office land uses that will be complimentary

and harmonious to the surrounding area. Furthermore, the project site will provide additional commercial, retail and food opportunities to the surrounding area (north and south of the I-10 Freeway along Haven Avenue) that currently has limited commercial, retail and food uses.

d. In the case of an application affecting specific property(ies), the subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development. The proposed amendment to the Ontario Gateway Specific Plan will conditionally permit quick serve restaurants with a drive-thru facilities within the Mixed Use Planning Area land use designation. With the approval of the proposed amendment, the proposed project areas will be developed with adequate lot size, access and utilities to serve the project.

SECTION 6. *City Council Action.* Based upon the findings and conclusions set forth in Sections 1 through 5, above, the City Council hereby APPROVES an Amendment to the Ontario Gateway Specific Plan, as described herein and included as Attachment A of this Resolution.

SECTION 7. *Indemnification.* The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 8. *Custodian of Records.* The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 9. *Certification to Adoption.* The Secretary shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

Exhibit A: Revised Permitted Land Use Table



Table 2.B: Permitted Land Uses by Planning Areas

Uses	Mixed Use Planning Area	Entertainment Planning Area ¹	Office Planning Area 1	Office Planning Area 2 ²	Auto Planning Area
Food Establishments					
<p><i>Eating Establishments.</i> Activities typically include, but are not limited to, the retail sale from the premises of food or beverages prepared for on-premises consumption. Uses typically include, but are not limited to:</p> <ul style="list-style-type: none"> ▪ Full-service restaurants, serving ready-to-eat food and beverages for on-site consumption. 	P	P	P	—	—
<ul style="list-style-type: none"> ▪ Cafes/Delicatessen/Sandwich Shop serving food that is usually quickly prepared and beverages for on-site or off-site consumption, with no drive-through facilities. 	P	P	P	—	—
<ul style="list-style-type: none"> • Quick serve restaurants with drive-through 	C	—	—	—	—
<ul style="list-style-type: none"> ▪ Mini-Marts 	P	A	A	—	—
<ul style="list-style-type: none"> ▪ Ice Cream/Yogurt/Juice/Coffee shop 	P	P	P	—	—
<ul style="list-style-type: none"> ▪ Catering establishments, preparing ready-to-eat food for delivery to an off-site location for consumption. 	P	A	P	—	—
<ul style="list-style-type: none"> ▪ Banquet Facilities, facilities catering on-site meals to large groups. 	P	P	A	—	—
<p><i>Bar/Cocktail Lounge.</i> Activities typically include, but are not limited to, the preparation and retail sale from the premises of alcoholic beverages prepared for on-premises consumption. Uses typically include, but are not limited to, taverns, bars, and brew-pubs.</p>	C	C	C	—	—
<ul style="list-style-type: none"> ▪ Health Club/Gymnasium 	P	A	P	—	—

Exhibit "B"

FILE NO. PSPA17-001
DEPARTMENTAL CONDITIONS OF APPROVAL

(Departmental conditions of approval to follow this page)



City of Ontario
Planning Department
303 East B Street
Ontario, California 91764
Phone: 909.395.2036
Fax: 909.395.2420

Planning Department
Land Development Division
Conditions of Approval

Meeting Date: April 25, 2017

File No: PSPA17-001

Related Files: N/A

Project Description: An Amendment to the Ontario Gateway Specific Plan (File No. PSPA17-001) to change Table 2.B: Permitted Land Uses by Planning Areas, to allow drive-thru quick serve restaurants as a conditionally permitted use within the Mixed-Use Planning Area land use designation. The project site is located at the southeast corner of Haven Avenue and Guasti Road. (APN: 0210-212-57); **submitted by Architecture Design Collaborative.**

Prepared By: Henry K. Noh, Senior Planner
Phone: 909.395.2429 (direct)
Email: hnoh@ontarioca.gov

The Planning Department, Land Development Section, conditions of approval applicable to the above-described Project, are listed below. The Project shall comply with each condition of approval listed below:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2010-021 on March 16, 2010. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or City Clerk/Records Management Department.

2.0 Special Conditions of Approval. In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

2.1 Specific Plan Amendment. The following shall be submitted to the Planning Department within 30 days following City Council approval of the Specific Plan Amendment:

- (a) Six copies of the final Specific Plan document;
- (b) One complete, unbound copy of the final Specific Plan document;
- (c) One CD containing a complete Microsoft Word, PDF and Adobe InDesign copy of the final Specific Plan document, including all required revisions;

2.2 Environmental Review.

(a) The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts. On the basis of the initial study, which indicated that all potential environmental impacts from the Project were less than significant and an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) prepared in conjunction with File No. PGPA06-001 and adopted by City Council on January 27, 2010 was prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines. This Application introduces no new

significant environmental impacts. All previously adopted mitigation measures are to be a condition of project approval and are incorporated herein by reference.

2.3 Indemnification. The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

2.4 Additional Fees.

(a) Within 5 days following final application approval, the Notice of Determination (NOD) filing fee shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which shall be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in a 180-day extension to the statute of limitations for the filing of a CEQA lawsuit.

AIRPORT LAND USE COMPATIBILITY PLANNING CONSISTENCY DETERMINATION REPORT



Project File No.: PSPA17-001
 Address: Ontario Gateway Specific Plan
 APN: 0210-212-57
 Existing Land Use: Vacant
 Proposed Land Use: Amend Table 2.B and allow drive-thru quick serve restaurants as a conditionally permitted use within the Mixed-Use Planning Area land use designation.
 Site Acreage: 11.22 ac Proposed Structure Height: n/a
 ONT-IAC Project Review: N/A
 Airport Influence Area: ONT

Reviewed By: Lorena Mejia
 Contact Info: 909-395-2276
 Project Planner: Henry Noh
 Date: 4/13/17
 CD No.: 2017-010
 PALU No.: n/a

The project is impacted by the following ONT ALUCP Compatibility Zones:

- | Safety | Noise Impact | Airspace Protection | Overflight Notification |
|-------------------------------|---|---|--|
| <input type="radio"/> Zone 1 | <input type="radio"/> 75+ dB CNEL | <input type="radio"/> High Terrain Zone | <input type="radio"/> Avigation Easement Dedication |
| <input type="radio"/> Zone 1A | <input type="radio"/> 70 - 75 dB CNEL | <input checked="" type="checkbox"/> FAA Notification Surfaces | <input checked="" type="checkbox"/> Recorded Overflight Notification |
| <input type="radio"/> Zone 2 | <input type="radio"/> 65 - 70 dB CNEL | <input checked="" type="checkbox"/> Airspace Obstruction Surfaces | <input type="radio"/> Real Estate Transaction Disclosure |
| <input type="radio"/> Zone 3 | <input checked="" type="checkbox"/> 60 - 65 dB CNEL | <input type="radio"/> Airspace Avigation Easement Area | |
| <input type="radio"/> Zone 4 | | Allowable Height: <u>110 ft</u> | |
| <input type="radio"/> Zone 5 | | | |

The project is impacted by the following Chino ALUCP Safety Zones:

- Zone 1 Zone 2 Zone 3 Zone 4 Zone 5 Zone 6

Allowable Height: _____

CONSISTENCY DETERMINATION

This proposed Project is: Exempt from the ALUCP Consistent Consistent with Conditions Inconsistent

The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

Airport Planner Signature: _____

CITY OF ONTARIO MEMORANDUM

TO: PLANNING DEPARTMENT, Henry Noh
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: March 21, 2017
SUBJECT: PSPA17-001

1. The plan **does** adequately address the departmental concerns at this time.
No comments.

KS:lm



CITY OF ONTARIO

MEMORANDUM

TO: "Vacant", Development Director
Scott Murphy, Planning Director (Copy of Memo only)
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khoi Do, Assistant City Engineer
Carolyn Bell, Landscape Planning Division
Sheldon Yu, Municipal Utility Company
Doug Sorel, Police Department
Art Andres, Deputy Fire Chief/Fire Marshal
Tom Danna, T. E., Traffic/Transportation Manager
Lorena Mejia, Associate Planner, Airport Planning
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director
Jimmy Chang, IT Department
David Simpson, Development/IT (Copy of memo only)

FROM: Henry Noh, Senior Planner

DATE: March 16, 2017

SUBJECT: FILE #: PSPA17-001

Finance Acct#: SA171

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Thursday, March 30, 2017**.

- Note:
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - ~~DAB~~, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A Specific Plan Amendment to add "drive thru" facilities as a permitted land use within the Mixed Use land use district of the Ontario Gateway Specific Plan, located at the southeast corner of Guasti Road and Haven Avenue (APN: 0210-212-57).

The plan does adequately address the departmental concerns at this time.

- No comments
- Report attached (1 copy and email 1 copy)
- Standard Conditions of Approval apply

The plan does not adequately address the departmental concerns.

- The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Building
Department

Signature

Title

Date



CITY OF ONTARIO

MEMORANDUM

TO: "Vacant", Development Director
Scott Murphy, Planning Director (Copy of Memo only)
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khoi Do, Assistant City Engineer
Carolyn Bell, Landscape Planning Division
Sheldon Yu, Municipal Utility Company
Doug Sorel, Police Department
Art Andres, Deputy Fire Chief/Fire Marshal
Tom Danna, T. E., Traffic/Transportation Manager
Lorena Mejia, Associate Planner, Airport Planning
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director
Jimmy Chang, IT Department
David Simpson, Development/IT (Copy of memo only)

FROM: Henry Noh, Senior Planner

DATE: March 16, 2017

SUBJECT: FILE #: PSPA17-001

Finance Acct#: SA171

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Thursday, March 30, 2017**.

- Note:
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A Specific Plan Amendment to add "drive thru" facilities as a permitted land use within the Mixed Use land use district of the Ontario Gateway Specific Plan, located at the southeast corner of Guasti Road and Haven Avenue (APN: 0210-212-57).

- The plan does adequately address the departmental concerns at this time.
 - No comments
 - Report attached (1 copy and email 1 copy)
 - Standard Conditions of Approval apply
- The plan does not adequately address the departmental concerns.
 - The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

POULE
Department

DOUGLAS SOREL
Signature

MANAGEMENT
ANALYST
Title

3/21/17
Date

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER A DEVELOPMENT CODE AMENDMENT, FILE NO. PDCA17-001, PROPOSING VARIOUS CLARIFICATIONS TO THE ONTARIO DEVELOPMENT CODE, INCLUDING MODIFICATIONS TO CERTAIN PROVISIONS OF DIVISION 1.02 (DEVELOPMENT CODE INTERPRETATION AND ENFORCEMENT), DIVISION 2.02 (APPLICATION, FILING AND PROCESSING), DIVISION 4.02 (DISCRETIONARY PERMITS AND ACTIONS), DIVISION 5.02 (LAND USE), DIVISION 5.03 (STANDARDS FOR CERTAIN LAND USES, ACTIVITIES AND FACILITIES), DIVISION 6.01 (DISTRICT STANDARDS AND GUIDELINES), 6.02 (WALLS, FENCES AND OBSTRUCTIONS), 6.03 (OFF-STREET PARKING AND LOADING), DIVISION 7.01 (HISTORIC PRESERVATION), AND DIVISION 9.01 (DEFINITIONS)

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance approving a Development Code Amendment, File No. PDCA17-001, proposing certain clarifications to Ontario Development Code Division 1.02 (Development Code Interpretation and Enforcement), Division 2.02 (Application, Filing and Processing), Division 4.02 (Discretionary Permits and Actions), Division 5.02 (Land Use), Division 5.03 (Standards for Certain Land Uses, Activities and Facilities), Division 6.01 (District Standards and Guidelines), 6.02 (Walls, Fences and Obstructions), 6.03 (Off-Street Parking and Loading), Division 7.01 (Historic Preservation), and Division 9.01 (Definitions).

COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: None.

BACKGROUND: In December 2015, the City Council approved a comprehensive update to the Ontario Development Code (Ordinance No. 3028), which became effective in January 2016. Since its approval,

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Charles Mercier
Department: Planning

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

20

staff has identified several minor alterations to the Development Code which are needed to adjust and clarify the comprehensive update including the following:

[1] Amend Section 1.02.015 (Enforcement) revising the Development Code violation provisions to be fully consistent with the City’s Municipal Code;

[2] Amend Table 2.02-1 (Review Matrix) clarifying the approval procedure for hotels, motels and residence inns to clearly show that Planning Commission Recommendation and City Council approval are required;

[3] Amend Section 4.02.020 Departures from Development Standards (Administrative Exceptions, Minor Variances, and Variances) to allow up to 10 percent reduction from off-street parking standards through the Administrative Exception process (Variance approval is currently required). This provision was unintentionally removed from the Development Code with the comprehensive Development Code update;

[4] Amend Section 4.02.025 (Development Plans) to delete provisions requiring Development Plan approval for the expansion of off-street parking and loading areas (7,500 SF of affected site area within commercial zoning districts and 15,000 SF of affected site area within industrial zoning districts, allowing parking and loading area expansions to be approved through Building Department plan check);

[5] Amend Table 5.02-1 (Land Use Matrix) to divide the “Technical and Trade Schools” and “Other Schools and Institutions” land uses, which are currently combined into a single group. This revision will establish consistency with current NAICS (North American Industrial Classification Standards) classifications.

Additionally, “Boat Repair and Maintenance Services” and “Motorcycle Repair and Maintenance Services” are currently grouped with “Other Personal and Household Goods Repair and Maintenance,” such as garment alteration and repair, jewelry repair, key duplicating, musical instrument repair and tailor shops. While boat and motorcycle repair and maintenance and the other uses listed within the “Other Personal and Household Goods Repair and Maintenance” industry group have similar operational processes, there are certain activities that are dissimilar which necessitate splitting out boat and motorcycle repair and maintenance as separate land uses. The land use requirements for each zoning designation have been made consistent with other motor vehicle repair land use classifications listed in the Land Use Matrix;

[6] Amend Section 5.03.245 (Hookah Lounges), adding e-cigarette, smoking/vaping lounge and smoking/vaping retailer definitions and a 1,000-foot spacing requirement from sensitive land uses (hospitals and other healthcare facilities; senior citizen care facilities; preschools; daycare facilities; public or private elementary, middle (junior high) or high schools; public parks; recreation centers; sports parks; or any similar facility where minors (persons under 18 years of age) regularly congregate), as well as from other hookah establishments and smoking/vaping retailers to ensure that an undue concentration of tobacco-related uses is not established;

[7] Amend Section 5.03.250 (Hotels, Motels, Residence Inns, and Other Similar Travel Accommodation) revising the minimum required amenity package for hotels, motels, residence inns, and other similar traveler accommodations to permit flexibility in the minimum required amenity package and

address the needs of smaller (less than 75 guest rooms) boutique-type hotels, allowing the required swimming pool to be replaced with other types of amenities, such as a full-service restaurant or café; highly amenitized guest rooms; meeting spaces exceeding the minimum requirements; highly detailed architectural features; or other amenities acceptable to the Approving Authority.

In addition, due to the hotel industry's health concerns regarding the requirement for a whirlpool/spa, flexibility has been provided for all hotels, motels, residence inns, and other similar traveler accommodations, to allow replacement of whirlpools/spas with a fully amenitized outdoor lounge area;

[8] Amend Section 6.01.035 (Overlay Zoning Districts) to incorporate Agricultural Overlay provisions that were unintentionally removed from the Development Code with the comprehensive update that went into effect in January 2016;

[9] Amend Division 6.02 (Walls, Fences and Obstructions), adding Section 6.02.035 (Temporary Security or Construction Fencing) to address the installation of temporary security and construction fences, based on past City policy;

[10] Amend Section 6.03.065 (Prohibition of Parking on Landscaped or Unpaved Areas of a Lot) revising the violation provisions for parking on landscaped on unpaved areas of a lot to be consistent with the City's Municipal Code, stating that failure to comply with the provisions is subject to fines and civil penalties set forth and amended by resolution of the City Council;

[11] Amend Section 7.01.060 (Enforcement Penalties) of the Historic Preservation provisions which currently bases building valuation on assessor valuation data and does not accurately reflect the true value of the historic resource in terms of construction replacement cost. This Code provision has been revised to base building valuation data on International Code Council (ICC) data, which would make the basis for valuation data consistent with Penalties and Mitigation Fees (the Tier Mitigation Fee is also based on ICC valuation data); and

[12] Amend Section 9.01.010 (Terms and Phrases) establishing a definition for the "Restaurant" land use and for the various types (classifications) of restaurants. The definitions are consistent with those used in the surrounding region.

On April 25, 2017, the Planning Commission conducted a public hearing to consider the above-described Development Code Amendment and concluded the hearing on that date. Upon conclusion of the public hearing, the Planning Commission voted unanimously (6-0) to approve a resolution recommending that the City Council approve the Development Code Amendment.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, and Policy Plan (General Plan) components of The Ontario Plan (TOP). More specifically, TOP goals and policies furthered by the proposed project are noted in the Planning Commission staff report (attached).

HOUSING ELEMENT COMPLIANCE: The Project will be consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project does not specifically affect the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

AIRPORT LAND USE COMPATIBILITY PLAN COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

ENVIRONMENTAL REVIEW: The proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA17-001, A DEVELOPMENT CODE AMENDMENT FOR THE PURPOSE OF CLARIFYING CERTAIN PROVISIONS OF DIVISION 1.02 (DEVELOPMENT CODE INTERPRETATION AND ENFORCEMENT), DIVISION 2.02 (APPLICATION, FILING AND PROCESSING), DIVISION 4.02 (DISCRETIONARY PERMITS AND ACTIONS), DIVISION 5.02 (LAND USE), DIVISION 5.03 (STANDARDS FOR CERTAIN LAND USES, ACTIVITIES AND FACILITIES), DIVISION 6.01 (DISTRICT STANDARDS AND GUIDELINES), 6.02 (WALLS, FENCES AND OBSTRUCTIONS), 6.03 (OFF-STREET PARKING AND LOADING), DIVISION 7.01 (HISTORIC PRESERVATION), AND DIVISION 9.01 (DEFINITIONS), AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, The City of Ontario ("Applicant") has initiated an Application for the approval of a Development Code Amendment, File No. PDCA17-001, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Development Code (Ontario Municipal Code Title 9) provides the legislative framework for the implementation of The Ontario Plan, which states long-term principles, goals, and policies for guiding the growth and development of the City in a manner that achieves Ontario's vision and promotes and protects the public health, safety, comfort, convenience, prosperity, and welfare of its citizens; and

WHEREAS, on December 1, 2015, the City Council approved a comprehensive update to the Ontario Development Code (Ordinance No. 3028), which became effective on January 1, 2016; and

WHEREAS, the Ontario Planning Department has initiated alterations to the Development Code for the purpose of clarifying various provisions of Division 1.02 (Development Code Interpretation and Enforcement), Division 2.02 (Application, Filing and Processing), Division 4.02 (Discretionary Permits and Actions), Division 5.02 (Land Use), Division 5.03 (Standards For Certain Land Uses, Activities and Facilities), Division 6.01 (District Standards and Guidelines), 6.02 (Walls, Fences and Obstructions), 6.03 (Off-Street Parking and Loading), Division 7.01 (Historic Preservation), and Division 9.01 (Definitions); and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport (ONT), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the ONT Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, on April 25, 2017, the Planning Commission of the City of Ontario conducted a public hearing to consider the proposed Development Code Amendment and concluded the hearing on that date. Upon conclusion of the public hearing, the Planning Commission voted unanimously (6-0) to approve Resolution No. PC17-027, recommending that the City Council approve the Application; and

WHEREAS, on May 16, 2017, the City Council of the City of Ontario conducted a public hearing to consider the proposed Development Code Amendment and concluded said hearing on that date. Upon conclusion of the public hearing, the City Council approved the introduction (first reading) of this Ordinance, and waived further reading of the Ordinance; and

WHEREAS, all legal prerequisites to the adoption of this ordinance have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDAINED by the City Council of the City of Ontario, as follows:

SECTION 1. *Development Code Amendment - Chapter 1.0 (Development Code Enactment and General Provisions).* Chapter 1.0 (Development Code Enactment and General Provisions) of the Ontario Development Code is hereby amended, revising Division 1.02 (Development Code Interpretation and Enforcement) to amend Subsection C (Violations) of Section 1.02.015 (Enforcement), to read as follows:

“Any person or entity violating and provision, or failing to comply with any regulation, of this Development Code, shall be subject to the penalty provisions prescribed in OMC Title 1 (General Provisions), Chapter 2 (Penalty Provisions), and the citation provisions prescribed in OMC Title 1 (General Provisions) Chapter 5 (Administrative Citations). Fine amounts shall be as set forth by resolution of the Ontario City Council, which may be amended from time-to-time.”

SECTION 2. *Development Code Amendment - Chapter 2.0 (Administration and Procedures).* Chapter 2.0 (Administration and Procedures) of the Ontario Development Code is hereby amended, revising Division 2.02 (Application Filing and Processing) to amend Subcategory B.3 (Conditional Use Permits) of Table 2.02-1 (Review Matrix), adding “Hotels, Motels and Residence Inns” as classification a, which requires recommendation by the Planning Commission and approval by the City Council, and renumbering all existing classifications, in correct alphanumeric order, as follows:

Applications, Actions, Decisions and Processes	Reviewing Authorities [4]								
	Planning Director	City Engineer	Building Official	Zoning Administrator [2]	Development Advisory Board	Historic Preservation Subcommittee [2]	Historic Preservation Commission	Planning Commission	City Council
B. DISCRETIONARY PERMITS AND ACTIONS									
3. Conditional Use Permits (Ref: ODC Section 4.02.015)									
a. Hotels, Motels and Residence Inns [1]								R	X
b. Use established in conjunction with a Development Plan [1]								X	A
c. Use established within an existing structure [1]				X				A	A
d. Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1]								X	A
e. Revocation due to abandonment of use per ODC Division 2.05 (City Initiated Modification or Revocation) [1]				X				A	A

SECTION 3. Development Code Amendment - Chapter 4.0 (Permits, Actions, and Decisions). Chapter 4.0 (Permits, Actions, and Decisions) of the Ontario Development Code is hereby amended as follows:

a. Revise Division 4.02 (Discretionary Permits and Actions) to amend Subparagraph C.2.b of Section 4.02.020 (Departures from Development Standards (Administrative Exceptions, Minor Variances, and Variances), to read as follows:

“b. Administrative Exceptions may be approved for reductions of up to 10 percent from [i] minimum setback and separation requirements, excepting nonresidential setback requirements from property lines that are common with any residentially zoned property; and, [ii] off-street parking required for nonresidential land uses pursuant to Table 6.03-1 (Off-Street Parking Requirements). An Administrative Exception shall not be approved for reductions from minimum lot size, lot dimensions, landscape coverage, or parking requirements, or for an increase in maximum density, floor area ratio, or the height of a structure.”

b. Amend Subparagraph B.2 of Section 4.02.025 (Development Plans), revising the list of development activities that require Development Plan approval (paragraphs o and p), to read as follows:

“o. An addition to a previously developed site within a commercial zoning district, which does not exceed 25 percent of the original structure GFA or 2,000 SF (cumulative), whichever is less.

p. An addition to a previously developed site within an industrial zoning district, which does not exceed 25 percent of the original structure GFA or 10,000 SF (cumulative), whichever is less.”

SECTION 4. *Development Code Amendment - Chapter 5.0 (Zoning and Land Use).* Chapter 5.0 (Zoning and Land Use) of the Ontario Development Code is hereby amended as follows:

a. Revise Division 5.02 (Land Use) to amend Table 5.02-1 (Land Use Matrix) of Division 5.02 (Land Use), adding certain land use classifications as shown on Exhibit A of this Ordinance, attached.

b. Revise Division 5.03 (Standards for Certain Land Uses, Activities, and Facilities) to amend Section 5.03.245 (Hookah Lounges) of Division 5.05 (Standards for Certain Land Uses, Activities, and Facilities), adding additional provisions addressing hookah establishments, smoking/vaping lounges, and smoking/vaping retailers, to read as follows:

“5.03.245: Hookah Establishments, Smoking/Vaping Lounges, and Smoking/Vaping Retailers.

A. Purpose. The purpose of this Section is to help mitigate negative impacts associated with smoking and vaping uses, in order to serve the public health, safety, and welfare of City residence, and City businesses and their patrons. Furthermore, this Section is specifically intended to reduce the impact of smoking and vaping uses on minors, as an abundance of such uses increases the potential for minors to associate smoking and vaping with a normative lifestyle.

B. Applicability. All smoking and vaping businesses throughout the City shall comply with the regulations and requirements of this Section.

C. Definitions. For the purposes of this Section, the words or phrases listed below, in correct alphabetical order, shall have the meanings hereafter specified:

1. Electronic Cigarette (E-Cigarette). An electronic device, which is typically battery-operated, designed to deliver a nicotine-based liquid, or other substance, that is vaporized and then inhaled (called "vaping"), simulating the experience of smoking tobacco. Such devices are manufactured to resemble traditional tobacco cigarettes, cigars, pipes, or even everyday items, such as pens or USB memory sticks. The term includes any such device manufactured, distributed, marketed, or sold as an electronic cigarette or e-cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. The term does not include any medical inhaler prescribed by a licensed physician.

2. Hookah Establishments. Any facility or location whose business operation, whether a primary or accessory use, is characterized as a commercial establishment where patrons gather to share in the smoking of flavored tobacco (shisha) from a communal hookah, including, but not limited to, establishments known variously as a hookah lounge or bar, or shisha bar or den.

3. Hookah. A single or multi-stemmed instrument for smoking flavored tobacco (or shisha), whose vapor or smoke is passed through a water basin before inhalation.

4. Smoking/Vaping Lounge. Any facility or location whose business operation, whether a primary or accessory use, is characterized by the sale, offering, and/or preparation of smoking tobacco, cigars, electronic cigarettes, or similar products, including, but not limited to, establishments known variously as smoking lounges, vaping lounges, or cigar bars.

5. Smoking/Vaping Retailer. A smoke shop, tobacco store, electronic cigarette retailer, or any other retail business where more than 25 percent of the gross floor area is dedicated to the sale of tobacco or tobacco products, electronic cigarettes, or related products, for consumption off the premises.

D. Operating Requirements. Hookah establishments, smoking/vaping lounges, and smoking/vaping retailers shall comply with the following operating standards:

1. Hookah Establishments. The following standards shall govern the establishment and operation of hookah establishments:

a. A hookah establishment may be established **[i]** as a standalone establishment; **[ii]** in conjunction with a sit-down restaurant, within an outside open patio area; or **[iii]** in conjunction with an ABC-licensed bona fide eating establishment;

b. A hookah establishment shall not be established in conjunction with live entertainment;

c. A hookah establishment shall not be established in conjunction with a bar or nightclub;

d. A hookah establishment shall operate in compliance with all applicable State laws and regulations pertaining to smoking facilities (limitation on numbers of paid staff shall meet CAL-OSHA requirements for air filtration and circulation, and meet fire standards for smoking lounges);

e. A hookah establishment shall dispose of ash and coals pursuant to the requirements of the Ontario Fire Department;

f. A hookah establishment shall be located a minimum of 1,000 FT, as measured in a straight line from any point along the outer boundaries of the property or lease space containing the use, from any residentially zoned property or sensitive land use, including hospitals and other healthcare facilities; senior citizen care facilities; preschools; daycare facilities; public or private elementary, middle (junior high) or high schools; public parks; recreation centers; sports parks; or any similar facility where minors (persons under 18 years of age) regularly congregate; and

g. A hookah establishment shall be located a minimum of 1,000 FT, as measured in a straight line from any point along the outer boundaries of the property or lease space containing the use, from any other hookah establishment, or a smoking/vaping lounge or smoking/vaping retailer.

2. Smoking/Vaping Lounges. The establishment and operation of smoking/vaping lounges shall be prohibited, excepting hookah establishments established pursuant to Paragraph D.1 (Hookah Establishments) of this Section.

3. Smoking/Vaping Retailers. The following standards shall govern the establishment and operation of smoking/vaping retailers:

a. A smoking/vaping retailer shall be located a minimum of 1,000 FT, as measured in a straight line from any point along the outer boundaries of the property or lease space containing the use, from any residentially zoned property or sensitive land use, including hospitals and other healthcare facilities; senior citizen care facilities; preschools; daycare facilities; public or private elementary, middle (junior high) or high schools; public parks; recreation centers; sports parks; or any similar facility where minors (persons under 18 years of age) regularly congregate; and

b. A smoking/vaping retailer shall be located a minimum of 1,000 FT, as measured in a straight line from any point along the outer boundaries of the property or lease space containing the use, from any other smoking/vaping retailer, or a hookah establishment or smoking/vaping lounge.

c. No smoking/vaping shall be permitted in conjunction a smoking/vaping retailer.”

c. Revise Division 5.03 (Standards for Certain Land Uses, Activities, and Facilities) to amend Subsection D (Minimum Amenity Package) of Section 5.03.250 (Hotels, Motels, Residence Inns, and Other Similar Travel Accommodation), revising the minimum requirement for recreational facilities contained in Paragraph 3, as follows:

“3. The following minimum active and passive leisure amenities shall be provided:

a. A swimming pool, except that the Approving Authority may approve smaller boutique hotels, motels, residence inns, or other similar travel accommodations having fewer than 75 rooms, with alternate amenities, such as, but not limited to:

(1) A full-service restaurant or café;

(2) Highly amenitized guest rooms, which exceed the minimum amenities required by Paragraph D.1, above;

(3) Meeting space, which substantially exceeds the minimum requirements of Paragraph D.2, above;

(4) Highly detailed architectural features that reflect an established architectural style identified in Reference C (Architectural Styles) of this Development Code; and/or

(5) Other amenities acceptable to the Approving Authority; and

b. A whirlpool/spa; or a furnished cabana containing items such as lighting, ceiling fans, tables, chairs, sofas, and lounge chairs; and

c. A fitness room; and”

SECTION 5. *Development Code Amendment - Chapter 6.0 (Development and Subdivision Regulations).* Chapter 6.0 (Development and Subdivision Regulations) of the Ontario Development Code is hereby amended as follows:

a. Revise Division 6.01 (District Standards and Guidelines) to amend Paragraph C.1 (AG (Agricultural) Overlay District) of Section 6.01.035 (Overlay Zoning Districts) to read as follows:

“1. AG (Agricultural) Overlay District.

(a) *Purpose.* The purpose of the AG Overlay District is to accommodate the continuation of agricultural uses within the City, on an interim basis, until such time that the Overlay District is developed consistent with the goals and policies of The Ontario Plan. The transition of the AG Overlay District will be gradual, requiring the establishment of regulations intended to guide agricultural-related development activities for the interim period. It is the intent of the AG Overlay District to allow for the continuation of agricultural uses and related support uses as defined herein. The AG Overlay District is further intended to protect vital agricultural uses by limiting land use activity to those uses which are compatible and supportive of agriculture and related uses, and/or their products.

(b) *Applicability.*

(1) The herein established rights and responsibilities applicable to the AG Overlay District shall apply to all property located within the boundary of the Overlay District, as shown on the official Zoning Map of the City. The AG Overlay District provisions established herein, shall apply to all existing and new building construction, additions, remodels, or reallocations, whether or not a building permit is required, or other similar entitlement by the City.

(2) Any new building construction, excepting buildings to accommodate agricultural uses or agricultural-related activities, and single-family homes and buildings ancillary thereto on lots 10 acres or more in area, shall first require the adoption of a Specific Plan pursuant to Section 4.01.035 (Specific Plans and Amendments) of this Development Code, which prescribes the allowed land uses, development regulations and guidelines, and sign regulations applicable to the project.

(3) All rights pertaining to the AG Overlay District established herein, shall run with the land and shall be transferable to any future owner(s) of property within the AG Overlay district, and their assigns.

(c) *Definitions.* For the purposes of this Section, the words or phrases listed below, in correct alphabetical order, shall have the meanings hereafter specified:

Agricultural Support Services. These uses are supportive of the farm community and are fully compatible with agricultural uses. Agricultural support services are uses which directly support, or which are accessory or incidental to, established agricultural uses within the AG Overlay District. These include, but are not limited to the following:

- 1) Agricultural chemicals, fuel and fuel oil, nonflammable bottled gas;
- 2) Animal husbandry services veterinary services for large and small animals, and horseshoeing;
- 3) Farm machinery equipment and supplies, sale and repair;
- 4) Farm produce sales and supply (feed, hay, grain and grain products, fertilizer);
- 5) Farm products packaging and processing;
- 6) Feed storage, farm products warehousing and storage (except stockyards); and
- 7) Waste management facilities and fertilizer operations in accordance with applicable local, State and Federal regulations.

Animal Confinement Facility. Where used, the term “animal confinement facility” includes animal barns, corrals, or pens.

Commercial Kennels and Catteries. The keeping of more than 5 dogs or 5 cats over the age of 4 months for breeding, boarding, training or sale on a lot minimum 2.5 acres in area.

Cow and Goat Dairies. Any premises where milk is produced for wholesale distribution and where 10 or more cows or goats are in lactation.

Crop Production. A primary use of the land which includes cultivation of open field or greenhouse crops, fruits, vegetables, grain, fibers, flowers, ornamental and nursery plant materials for wholesale or retail sales and ultimate consumption by others.

Expanded Use. An expanded use consists of a building expansion or new construction in excess of 5,000 square feet.

Trade of Livestock. Sale of livestock to general public (e.g. animal auctions).

(d) Uses Generally. No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, or enlarged, except for the purposes set out in this Paragraph C.1 (AG (Agricultural) Overlay District) of this Section.

(e) Permitted Land Uses. In addition to the land uses permitted in the AG Overlay District pursuant to Table 5.02-1 (Land Use Matrix) of this Development Code, the following land uses are permitted by right of being within the correct zoning district:

(1) Row, field, tree, and crop production;

(2) Plant nurseries (retail and wholesale);

(3) Single dwelling unit on a lot not less than 10 acres in area; a specific plan is required for any subdivision or master planned development; and

(4) Animal keeping activities, excepting household pets, shall comply with the following:

(a) Animal keeping must be on a legally recognized lot no less than 2 acres in area. Lot area used to qualify one animal type shall not be reused to qualify another animal type;

(b) Proper management of animal waste shall be carried out in accordance with all requirements of the State Regional Water Quality Control Board or regulating agency;

(c) Small animal keeping. Aviary or similar small animal ranches or farms (excluding chicken and hog ranches) shall be permitted on lots that are at least one-half acre in area. Fish raising shall be limited to one pond per acre, with a maximum of 4 ponds per parcel. Each pond shall not exceed one-half acre in area; and

(d) Refer to Table 6.01-11 (Animal Types and Densities), below, for animal density requirements and Section 5.03.410 (Urban Agriculture) of this Development Code, for animal separation/setback requirements.

Table 6.01-11: Animal Types and Densities

Animal Type	Maximum Animal Density	Additional Regulations
A. Dairy Cow	As permitted by Approving Authority	Note 1
B. Non-dairy Cattle/Buffalo	1/6,000 SF of lot area	
C. Horses	1/6,000 SF of lot area	
D. Swine (5 maximum)	1/12,000 SF of lot area	
E. Sheep, female goats and similar livestock	1/3,000 SF of lot area	
F. Male adult goats		
1. Parcel < 10 acres	One maximum	
2. 10 acres and above	1/5 acres of lot area (not to exceed 4 maximum)	
G. Rabbits and chinchillas (200 maximum)	50/10,000 SF of lot area	
H. Ostriches	1/6,000 SF of lot area	
I. Emus and rheas	1/6,000 SF of lot area	
J. Poultry		
1. Female		
a. Parcel < 10 acres	25 maximum	
b. 10 acres and above	25/ 10 acres of lot area (50 maximum)	
2. Male (9 maximum)		
a. Parcel < 10 acres	2 species/parcel	
b. 10 acres and above	2 species/5 acres	

Notes:

1. *New or expansions to existing dairy or other animal confinement facilities shall be considered on a case-by-case basis, subject to the approval of a Conditional Use Permit pursuant to Section 4.02.015 (Conditional Use Permits) of this Development Code. Animal density shall be as determined by the appropriate approving authority (i.e. Regional Water Quality Control Board) which may impose special operational conditions, requirements or standards deemed necessary to insure the public health, safety and general welfare. Animal density shall be based on measures to prevent the unacceptable nitrification or salt pollution of soils, and the pollution of groundwater by nitrates and salts emanating from the facility, as defined by the Regional Water Quality Control Board.*

(f) Conditionally Permitted Uses. The following uses shall be permitted subject to the approval of a Conditional Use Permit pursuant to the requirements of Section 4.02.015 (Conditional Use Permits) of this Development Code.

(1) Agricultural Support Services;

(2) Animal raising of densities greater than or the raising of animal types different than those specified by this Paragraph C.1 (AG (Agricultural) Overlay District), subject to review by the appropriate Approving Authority (such as Regional Water Quality Control Board); and fish raising using ponds or lakes that are of greater surface area or number than those specified by this Paragraph C.1 (AG (Agricultural) Overlay District).

- (3) Animal hospitals and veterinary clinics;
- (4) Antennas and wireless telecommunications facilities;
- (5) Apiaries;
- (6) Calf growing ranches (lots shall be 5 or more acres in area);
- (7) Places of worship within an existing building, and expansions to existing facilities (establishment of new places of worship in new structures shall only be permitted as part of a specific plan);
- (8) Dairies, including expansions to existing dairies;
- (9) Educational facilities and institutions;
- (10) Fertilizer operations;
- (11) Kennels (requires a 2.5-acre minimum lot size);
- (12) Mushroom farms (the use of manure as a planting/growing medium is prohibited);
- (13) Rodeos;
- (14) Trade of livestock; and
- (15) Waste management facilities.

(g) Time Limit. Conditionally permitted uses may be subject to a 5-year time limit through an agreement with the applicant, in order to assess potential impacts from the conditional use upon surrounding land uses. Under such time limit, a time extension application may be filed at least 6 months prior to the end of the 5-year period. Approval of a time extension request shall be based on the continued compatibility of the project with surrounding land uses.

(h) Temporary Uses. The following temporary uses are permitted, subject to the requirements of Section 5.03.395 (Temporary and Interim Land Uses, Buildings and Structures) of this Development Code:

- (1) Christmas tree and Halloween pumpkin sales, or other similar seasonal sales authorized by the City, not to exceed a period of 30 days, each;
- (2) Temporary produce stands in conjunction with an Urban Farm established pursuant to Section 5.03.410.F (Urban Farms) of this Development Code; and

(3) Temporary Wireless Telecommunications Facilities.

(i) *Accessory Uses.* The following accessory uses and structures are permitted when customarily associated with, and subordinate to, a permitted use on the same lot:

(1) Barns, stables, storage tanks, and other farm buildings;

(2) Accessory dwelling unit or guesthouse, not to exceed one per lot, pursuant to the requirements of Section 5.03.030 (Accessory Residential Structures) of this Development Code. Any guesthouse or accessory dwelling unit shall meet the setbacks of the main structure as listed in Table 6.01-12 (AG (Agricultural) Overlay District Development Standards);

(3) Accessory building(s) not usable as a guesthouse or accessory dwelling unit. There shall be no maximum size for accessory structures in the AG Overlay District. Accessory Structures in the AG Overlay District in excess of 650 SF shall not require the approval of a Conditional Use Permit;

(4) Office unit in conjunction with row, field, tree, plant nursery, or crop production operation, not to exceed 1,500 SF in area (maximum one building per lot). An office unit shall meet the setbacks of the main structure as listed in Table 6.01-12 (AG (Agricultural) Overlay District Development Standards);

(5) Caretaker's unit, not to exceed 650 SF in area (maximum one building per lot). Any caretaker's unit shall meet the setbacks of the main structure as listed in Table 6.01-12 (AG (Agricultural) Overlay District Development Standards);

(6) Garages and carports;

(7) Fences and walls;

(8) Patio covers;

(9) Swimming pools;

(10) Stands for the sale of agricultural products grown or produced on the same premises (excluding milk and meat products), subject to the following conditions:

(a) Stand shall be permitted only on lots containing a minimum of 10,000 SF;

(b) The floor area of the stand shall not exceed 100 SF;

(c) The stand shall not have a permanent foundation;

(d) The owner(s) shall remove such stand at their expense when the use has terminated;

(e) Stands shall be located a minimum of twenty (20) feet from the right-of-way line of any street or highway;

(f) Adequate provision for traffic circulation, off-street parking, and pedestrian safety shall be provided to the satisfaction of the Planning Director; and

(11) Accessory uses and structures which the Planning Director finds to be consistent with the purposes of this Paragraph C.1 (AG (Agricultural) Overlay District).

(j) *Prohibited Uses.* Notwithstanding Subparagraphs d through f of this Paragraph C.1 (AG (Agricultural) Overlay District), the following uses shall be specifically prohibited:

- (1) Animal slaughter operations;
- (2) Commercial poultry ranches;
- (3) Commercial hog ranches; and

(k) *Uses Not Specifically Listed.* The Zoning Administrator may make a land use determination pursuant to Section 1.02.010 (Interpretations and Land Use Determinations) of this Development Code, for those uses not specifically listed herein as permitted or conditionally permitted uses, based on the similarity of the subject use to one of the categories listed in Subparagraphs d through f of this Paragraph C.1 (AG (Agricultural) Overlay District), and the herein stated purpose of the AG Overlay District.

(l) *Nonconforming Uses and Structures.* Nonconforming uses and structures within the AG Overlay District shall be governed by Division 3.01 (Nonconforming Lots, Land Uses, and Structures) of this Development Code, except as follows:

(1) **Abandonment.** Whenever a nonconforming use or structure has been abandoned, the nonconforming use or structure shall not be reestablished, and the use of the structure and the site thereafter shall be in conformity with the regulations of the AG Overlay District. For the purposes of this Paragraph C.1 (AG (Agricultural) Overlay District), discontinuance of the nonconforming use for a continuous period of 180 days shall be conclusive evidence of abandonment of such nonconforming use regardless of the landowner's intent.

(2) **Special Hardship Circumstances.** The Zoning Administrator may extend the 180-day period for up to an additional 180 days. To receive such consideration, the property owner shall request an extension, in writing, prior to the

expiration of the initial 180-day period, including a full explanation of the reason why the extension should be granted.

(m) *Animal Keeping/Separation Standards.* The following site development standards shall apply to the keeping of animals, except household pets:

(1) Animals shall be restrained a distance of at least 40 FT, measured in a straight line, from any habitable structure or structure used for public assembly located on adjoining property. For dairies, refer to Subparagraph n of this Paragraph C.1 (AG (Agricultural) Overlay District), for separation requirements;

(2) Animals shall be restrained a distance of at least 5 FT from interior side and rear property lines, and 15 feet from street side property lines;

(3) Animals shall be secured by a fence or wall at least 5 FT in height, made of chain link, wood with horizontal members no less than 6 inches apart, solid masonry or other appropriate solid confining material. Property line walls and fences may be used to secure animals, provided the appropriate restraint distances are maintained;

(4) Animals shall be kept a minimum of 100 FT from any domestic water well;

(5) For new dairies/feed lots, a separation of 500 FT shall be required between an animal feed trough, corral/pen from new development and/or from property with a residential or nonresidential tract map recorded after January 1, 2000, as measured from the building setback line; and

(6) A reduction in animal separation requirements may also be considered for facilities with proven means of reducing odors, such as covering lagoons, substituting concrete-lined pits for lagoons, and employing recommended ventilation systems for animal confinement buildings. Consideration of alternative setbacks shall be subject to consultation with qualified agricultural engineers to ensure that the measure will reliably accomplish the intended purpose.

(n) *Separation Requirements for New Development.* The following separation requirements from existing dairies/feed lots shall apply to new residential, commercial, and/or industrial development or structures used for public assembly purposes from existing dairies/feed lots:

(1) A minimum 100-FT separation shall be required between a new residential, commercial or industrial development or structure used for public assembly and an existing animal feed trough, corral/pen or an existing dairy/feed lot including manure stockpiles and related wastewater detention basins. The 100-FT separation requirement may be satisfied by an off-site easement acceptable to the Planning Director with adjacent properties, submitted with the initial final map and recorded prior to or concurrent with the final map; and

(2) Separation requirements between dairies within a proposed specific plan area and new development will be addressed through the specific plan

review procedure which may include buffers, expanded parkways, open space, and other approved measures to mitigate potential impacts.

(o) *Permanent Structures.* A Development Plan is required pursuant to Section 4.02.025 (Development Plans) of this Development Code, for all new, altered, or expanded structures/uses, including all new structures in excess of 5,000 SF in area.

(p) *Development Standards and Guidelines.*

(1) The development of buildings to accommodate agricultural uses or agricultural-related activities, and single-family homes and buildings ancillary thereto, on lots 10 acres or more in area, shall be designed and constructed pursuant to the standards contained in Table 6.01-12 (AG (Agricultural) Overlay District Development Standards), below.

Table 6.01-12: AG (Agricultural) Overlay District Development Standards

<i>Requirements</i>	<i>Standards</i>	<i>Additional Regulations</i>
A. SITE DEVELOPMENT STANDARDS		
1. Minimum Lot Size	10 acres	Note 1
2. Maximum Lot Coverage		
3. Allowed Density Range	One dwelling per 10 acres	
4. Minimum Lot Dimensions		
a. Ratio (lot width to lot depth)	1:4	
b. Lot Width	300 FT	Note 1
c. Lot Depth	300 FT	Note 1
5. Equestrian Trails Required	No	
6. Walls, Fences, and Obstructions	Refer to Section 6.02.020 (Design Standards for Residential Zoning Districts) of this Development Code	
7. Off Street Parking	Refer to Division 6.03 (Off-Street Parking and Loading) of this Development Code.	
8. Landscaping	Refer to Division 6.05 (Landscaping) of this Development Code.	
9. Property Appearance and Maintenance	Refer to Division 6.10 (Property Appearance and Maintenance) of this Development Code.	
10. Historic Preservation	Certain portions of residential zoning districts are identified as historic or potentially historic, and are listed on the City's Historic Resources Eligibility List. Development regulations set forth in Division 7.01 (Historic Preservation), and application processing and permitting regulations set forth in Division 4.02 (Discretionary Permits and Actions) and of this Development Code, shall apply in these instances.	
11. Signs	Refer to Subparagraph q (Sign Standards) of this Paragraph C.1 (AG (Agricultural) Overlay District) and Division 8.1 (Sign Regulations) of this Development Code.	
12. Security Standards	Refer to Ontario Municipal Code Title 4, Chapter 11 (Security Standards for Buildings).	
13. Noise	Habitable structures shall be designed and constructed to mitigate noise levels from exterior sources. Refer to OMC, Title 5 (Public Welfare, Morals, and Conduct), Chapter 29 (Noise).	

Table 6.01-12: AG (Agricultural) Overlay District Development Standards

<i>Requirements</i>	<i>Standards</i>	<i>Additional Regulations</i>
14. Airport Safety Zones	Properties within the Airport Influence Area (AIA) established by the Ontario International Airport Land Use Compatibility Plan (ALUCP) shall be subject to the requirements and standards of the ALUCP.	
B. BUILDING DEVELOPMENT STANDARDS		
1. Minimum Building Setbacks		
a. From Front Property Line	25 FT	
b. From Street Side Property Line	25 FT	
c. From Interior Side Property Line	15 FT	
d. From Rear Property Line	15 FT	
2. Minimum Building Separations	6 FT	
3. Maximum Building Height	35 FT	Note 2

Notes:

1. An existing lot of record that is substandard as to minimum "lot" area and/or dimension(s) shall be granted all development rights of the zoning district in which it is located (refer to Subsection 3.01.010.B of this Development Code).
2. The maximum building height and FAR may be restricted pursuant to the Ontario International Airport Land Use Compatibility Plan (ALUCP). Refer to the ALUCP for properties affected by airport safety zones.

(2) Development within the AG Overlay District shall be consistent with the Residential Design Guidelines established by resolution of the City Council, which are intended as a reference to assist the designer in understanding the City's goals and objectives for residential development. Such guidelines shall be enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

(q) *Sign Standards.* Notwithstanding the sign regulations contained in Division 8.1 (Sign Regulations) of this Development Code, signs installed within the AG Overlay District shall comply with the following:

(1) **Freestanding Signs.** One unlighted single or double faced sign shall be permitted, not to exceed 6 FT in height and 12 SF in area, for each 60 FT of street frontage, and shall be placed behind the street property line.

(2) **Wall Mounted Signs.** One wall-mounted sign shall be permitted on each building elevation facing a street, not to exceed one SF of sign area for each lineal foot of building elevation length, not to exceed 50 SF."

b. Revise Division 6.01 (District Standards and Guidelines) to amend Paragraph C.2 (EA (Euclid Avenue) Overlay District) of Section 6.01.035 (Overlay Zoning Districts), deleting subparagraph c(2) (Medical Offices and Clinics).

c. Revise Division 6.02 (Walls, Fences and Obstructions), adding Section 6.02.035 to read as follows:

“6.02.035: Temporary Security or Construction Fencing

A. Purpose. Temporary security or construction fences are typically used to secure vacant property from theft, vandalism and/or trespass; or to secure a construction site from the theft or vandalism of construction equipment and/or materials, protect work in progress, and to protect the public from injury while construction is underway. The herein stated regulations are intended to establish procedures and standards regarding the use of temporary security and construction fencing on sites with construction activity, on undisturbed land, around vacant buildings, on vacant sites, and for special events.

B. Applicability. Temporary security or construction fencing may be installed as follows:

1. Temporary construction fencing may be installed in conjunction with: **[i]** a building permit for the construction of a vacant property, **[ii]** the vacant portion of a partially developed property, or **[iii]** exterior improvements to an existing occupied or unoccupied building.

2. Temporary security fencing may be installed in conjunction with: **[i]** a vacant/unimproved property, **[ii]** a vacant building, or **[iii]** the vacant/unimproved portion of a partially developed property.

C. Temporary Security or Construction Fencing Design Requirements.

1. Temporary security or construction fencing shall not include barbed wire, razor wire, or any other material or application considered by the Planning Director to be unsafe.

2. Temporary security or construction fencing shall be built and maintained in good order, in full compliance with applicable Building Code and Development Code provisions.

3. The maximum height of temporary security or construction fencing shall be 6 FT within residential zoning districts, and 8 FT within nonresidential zoning districts, measured on the exterior side of the fence, from the top of the fence to the lowest adjacent finished grade.

4. All temporary security or construction fencing shall include a green fabric mesh screen or other view-obstructing material approved by the Planning Director, which shall be maintained in a neat and undamaged condition, and shall include emergency identification and proper safety identification.

5. Fence openings for pedestrian access shall be provided, which consists of a lockable gate that swings into the property.

6. Fence openings for vehicular access shall be provided with a lockable rolling gate. The opening shall be no wider than the adjacent driveway approach.

7. Fencing shall not be installed in a manner that prohibits the safe and continued operation of a building pursuant to the Building Code. Required exits, existing structural elements, fire protection devices, and sanitary safeguards shall be maintained at all times, pursuant to Building Code requirements.

8. Existing streets, public transportation stops, fire hydrants, and/or public sidewalks shall not be enclosed by temporary security or construction fencing, unless the Building Official determines that the facilities are required to be fenced to protect the public health, safety, or welfare, and an encroachment permit has been obtained from the City.

9. The installation of temporary security or construction fencing shall not result in a diversion of water onto a separately owned parcel, tract, right-of-way, right-of-way easement, roadway easement, and/or private street.”

d. Revise Division 6.03 (Off-Street Parking and Loading) to amend Subsection C (Violations) of Section 6.03.065 (Prohibition of Parking on Landscaped or Unpaved Areas of a Lot), to read as follows:

“Any person or entity violating and provision, or failing to comply with any regulation, of this Section, shall be subject to fines and civil penalties set forth and amended by resolution of the City Council.”

SECTION 6. *Development Code Amendment - Chapter 7.0 (Historic Preservation).* Chapter 7.0 (Historic Preservation) of the Ontario Development Code is hereby amended, revising Division 7.01 (Historic Preservation) to amend Paragraph D.2 of Section 7.01.060 (Enforcement Penalties) to read as follows:

“2. In the case of demolition (including partial demolition), the civil penalty to be assessed shall be equal to one-half the assessed value of the historic resource prior to the demolition. The assessed valuation prior to demolition shall be determined using the most recently published International Code Council (ICC) Building Valuation Data. In the case of alteration, the civil penalty shall be equal to one-half the cost of restoration of the altered portion of the historic resource. The cost of restoration shall be determined by the Building Official.”

SECTION 7. *Development Code Amendment - Chapter 9.0 (Definitions and Glossary).* Chapter 9.0 (Definitions and Glossary) of the Ontario Development Code is hereby amended, revising Division 9.01 (Definitions) to amend Subsection R of Section 9.01.010 (Terms and Phrases), adding the following definitions in correct alphanumeric order:

“Restaurant. A business establishment that prepares and serves food and drinks to customers in exchange for money. The classifications of restaurant are described as follows:

1) Full-Service Restaurant. A sit down eatery where food is served directly to the customers' table. These establishments may sell alcoholic beverages. Food and drink may be consumed on the premises, taken out, or delivered to customers' locations.

2) Limited Service Restaurants. An establishment whose patrons generally order or select items and pay prior to eating. Food and drink may be consumed on the premises, taken out, or delivered to customers' locations.

3) Cafeterias. A restaurant or dining room in a school or a business in which customers serve themselves or are served from a counter and pay before eating.”

SECTION 8. *Environmental Determination and Findings.* As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. The administrative record have been completed in compliance with CEQA the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

b. The proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

c. The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

d. The determination of the CEQA exemption reflects the independent judgment of the City Council.

SECTION 9. *Housing Element Consistency.* Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the City Council finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the Project will be consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project does not specifically affect the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

SECTION 10 *Airport Land Use Compatibility Plan (ALUCP) Consistency.* As the decision-making body for the Project, the City Council has reviewed and considered

the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ALUCP for Ontario International Airport.

SECTION 11. *Concluding Facts and Reasons.* Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth in Section 1 through 9 above, the City Council hereby concludes as follows:

a. The proposed Development Code Amendment is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan; and

b. The proposed Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

SECTION 12. *City Council Action.* Based upon the findings and conclusions set forth in Sections 1 through 10 above, the City Council hereby APPROVES the subject Development Code Amendment, File No. PDCA17-001.

SECTION 13. *Indemnification.* The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 14. *Custodian of Records.* The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 15. *Severability.* If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 16. *Effective Date.* This Ordinance shall become effective 30 days following its adoption.

SECTION 17. *Publication and Posting.* The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario,

California within 15 days following the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held _____ and adopted at the regular meeting held _____, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. _____ duly passed and adopted by the Ontario City Council at their regular meeting held _____ and that Summaries of the Ordinance were published on _____ and _____, in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A — Proposed Amendment to Table 5.02-1 (Land Use Matrix)

Portion of Table 5.02-1: Land Use Matrix

2012 NAICS Code	Land Uses, Activities, and Facilities	Residential Zoning Districts				Commercial Zoning Districts							Mixed-Use Zoning Districts			Industrial Zoning Districts					Specialized Use & Overlay Zoning Districts						Additional Regulations		
		AR-2 & RE-2	RE-4 & LDR-5	MDR-11, 18 & 25	HDR-45	CS	CN	CC	CR	CCS	OL	OH	MU-1	MU-2	MU-11	BP	IP	IL	IG	IH	AG	CIV	MHP	ONT	OS-C	OS-R		RC	UC
6115	Technical and Trade Schools	---	---	---	---	---	---	C	C	---	---	C	C	C	C	C	C	C	---	---	---	C	---	C	---	---	---	---	
6116	Other Schools and Instruction																												
611610	Fine Arts Schools (nonacademic instruction, including music, dance, performing arts, drama, photography, ceramics, painting and sculpture)																												
	• GFA less than 2,000 SF	---	---	---	---	---	P	P	P	P	---	P	P	P	P	P	P	---	---	---	---	---	---	P	---	---	---	---	
	• GFA 2,000 SF or more	---	---	---	---	---	C	C	C	P	---	C	C	C	C	C	C	C	C	---	---	---	---	C	---	---	---	---	
611620	Sports and Recreation Instruction (cheerleading, gymnastics, and martial arts)																												
	• GFA Less than 10,000 SF	---	---	---	---	---	P	P	P	P	---	P	P	P	P	P	P	---	---	---	---	---	---	P	---	---	---	---	
	• GFA 10,000 or More SF	---	---	---	---	---	C	C	C	P	---	C	C	C	C	C	C	C	C	---	---	---	---	C	---	---	---	---	
611691	Exam Preparation and Tutoring Services	---	---	---	---	---	---	P	P	---	P	P	P	P	P	---	---	---	---	---	---	---	---	---	---	---	---	---	
611692	Automobile Driving School	---	---	---	---	---	---	C	C	---	---	C	C	C	C	C	C	---	---	---	---	C	---	---	---	---	---	---	
611699	Other Schools of Instruction (public speaking, survival training, and speed reading)	---	---	---	---	---	---	C	C	---	---	C	C	C	C	C	C	---	---	---	---	C	---	---	---	---	---	---	
811490	Boat Repair and Maintenance Services (no retailing of new boats)	---	---	---	---	---	---	C	C	---	---	---	---	---	---	C	P	P	P	---	---	---	---	P	---	---	---	---	
811490	Motorcycle Repair and Maintenance Services (no retailing of new motorcycles)	---	---	---	---	---	---	C	C	---	---	---	---	---	---	C	P	P	P	---	---	---	---	P	---	---	---	---	

CITY OF ONTARIO

Agenda Report
May 16, 2017

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER A PLANNED UNIT DEVELOPMENT, FILE NO. PUD17-001, TO ESTABLISH DEVELOPMENT STANDARDS AND GUIDELINES TO FACILITATE THE FUTURE DEVELOPMENT OF A HIGH DENSITY RESIDENTIAL APARTMENT PROJECT AT A DENSITY OF 25.4 DWELLING UNITS PER ACRE ON 2.95 ACRES OF LAND BORDERED BY HOLT BOULEVARD ON THE NORTH, FERN AVENUE ON THE EAST, EMPORIA STREET ON THE SOUTH, AND VINE AVENUE ON THE WEST, WITHIN THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT (APNS: 1049-051-01, 1049-051-02, 1049-051-03, 1049-052-03, 1049-052-04, 1049-052-05, 1049-052-06, 1049-052-07, 1049-052-08, 1049-052-09 AND 1049-052-10)

RECOMMENDATION: That the City Council adopt an Addendum to The Ontario Plan Environmental Impact Report and introduce and waive further reading of an ordinance approving a Planned Unit Development, File No. PUD17-001, establishing development standards and guidelines to facilitate the development of a high density residential apartment project.

COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: None.

BACKGROUND: The project site is comprised of two city blocks totaling approximately three acres of land bordered by Holt Boulevard on the north, Fern Avenue on the east, Emporia Street on the south, and Vine Avenue on the west, and lies within the Center City Redevelopment Project Area. The Center City Redevelopment Project Area Plan envisions revitalization of the City's downtown area, in part, by infusing high-density residential and mixed-use developments into the downtown core. The Ontario Plan furthers this vision through establishment of the Downtown Mixed Use District, with the intention to create an intensive mixture of retail, office, and residential uses within the City's original downtown, in a

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Charles Mercier
Department: Planning

City Manager
Approval: 

Submitted to Council/O.H.A. 05/16/2017

Approved: _____

Continued to: _____

Denied: _____

21

pedestrian friendly atmosphere, ensuring the historic character of the district is enhanced and concentrating the most intense/dense development along Holt Boulevard and Euclid Avenue.

The Ontario Plan specifies that the MU-1 (Downtown Mixed Use) zoning district is to be implemented through the approval of an Area Plan or Planned Unit Development (PUD) prior to any development occurring. In compliance with this requirement, Related California (Applicant) has submitted a PUD document that is consistent with this vision and the goals and policies of The Ontario Plan.

The PUD establishes standards and guidelines for the development of apartment units (75 units in total) in townhouse and stacked-flat configurations. Consistent with The Ontario Plan vision, the project is pedestrian friendly and designed with higher density, three-story buildings focused along the Holt Boulevard frontage. The project density lessens across the site to the south, with smaller two-story residential buildings proposed along the project's Emporia Street frontage. The resulting overall residential density of the project is 25.4 dwelling units per acre, which is consistent with the density range of 25 to 75 dwelling units per acre required on the project site by The Ontario Plan.

In order to create a single development site, Transit Street, which bisects the site in an east/west direction, will be vacated. However, to accommodate the existing storm drains, easements will be reserved along the vacated street. The street vacation and easement area, along with several north-south pedestrian walkways, provide pedestrian promenades through the project site connecting residential units, parking, and community spaces throughout the development.

The PUD utilizes a combination of on-site and on-street parking to provide an adequate parking supply to meet the anticipated parking demand for the project. All resident parking will be provided on site, while guest parking spaces will be provided on-street. The parking ratios proposed in the PUD are the same as those used for the Town Center Apartments, located south of City Hall, between Lemon and Plum Avenues.

The PUD establishes an architectural theme consisting of a modern interpretation of the Craftsman style, exemplified through the use of exposed beams, gabled roofs and overhead trellises. Significant areas of masonry and wood siding with stucco accents will also be provided to help enhance the architectural theme. Buildings along Emporia Avenue will be designed in a cottage-architectural style.

The PUD contains properties that are currently or were once notably historic, including the Casa Blanca Hotel and an area known as "Developer's Row," which consisted of several homes constructed along Emporia Avenue by prominent city pioneers that have since been razed or relocated. In 2007, a Certificate of Appropriateness Deferral was approved for the demolition of buildings located at 205 and 205 ½ South Vine Avenue. A Certificate of Appropriateness must be approved by the Historic Preservation Commission in conjunction with the Planning Commission approval of a Development Plan on properties within the PUD area. This will ensure a compatible project that will not adversely affect the historic site or adjacent historic properties.

On April 25, 2017, the Planning Commission conducted a public hearing to consider the above-described PUD and concluded the hearing on that date. Upon conclusion of the public hearing, the Planning Commission voted unanimously (6-0) to approve resolutions recommending that the City Council adopt an Addendum to The Ontario Plan Environmental Impact Report and approve the PUD document.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site contains three properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (75 low income dwelling units proposed, and 46 low income dwelling units required) and density (25.4 DU/Acre proposed, and a minimum of 25.1 DU/Acre required) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

ENVIRONMENTAL REVIEW: As supported by the analysis presented in the Addendum to The Ontario Plan Environmental Impact Report (EIR), the potential environmental effects of the Emporia Family Housing Project, and associated required discretionary actions, have been adequately addressed in The Ontario Plan EIR (SCH No. 2008101140), prepared pursuant to the Environmental Quality Act (CEQA) and the CEQA Guidelines promulgated thereunder, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines. The Ontario Plan EIR was originally prepared in conjunction with General Plan Amendment No. PGPA06-001, and was certified by the City of Ontario City Council on January 27, 2010, by Resolution No. 2010-003. The proposed project does not introduce any new environmental impacts.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ADDENDUM TO THE ONTARIO PLAN ENVIRONMENTAL IMPACT REPORT, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, FOR FILE NO. PUD17-001, A PLANNED UNIT DEVELOPMENT TO ESTABLISH DEVELOPMENT STANDARDS AND GUIDELINES TO FACILITATE THE FUTURE DEVELOPMENT OF A HIGH DENSITY RESIDENTIAL APARTMENT PROJECT AT A DENSITY OF 25.4 DWELLING UNITS PER ACRE ON 2.95 ACRES OF LAND BORDERED BY HOLT BOULEVARD ON THE NORTH, FERN AVENUE ON THE EAST, EMPORIA STREET ON THE SOUTH, AND VINE AVENUE ON THE WEST, WITHIN THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT — APNS: 1049-051-01, 1049-051-02, 1049-051-03, 1049-052-03, 1049-052-04, 1049-052-05, 1049-052-06, 1049-052-07, 1049-052-08, 1049-052-09 and 1049-052-10.

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study, and approved for attachment to the certified Environmental Impact Report, an addendum to The Ontario Plan Environmental Impact Report for File No. PUD17-001 (hereinafter referred to as "Initial Study/Environmental Impact Report Addendum"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with State and local guidelines implementing said Act, all as amended to date (collectively referred to as "CEQA"); and

WHEREAS, File No. PUD17-001, analyzed under the Initial Study/Environmental Impact Report Addendum, consists of a Planned Unit Development to establish development standards and guidelines to facilitate the future development of a high density residential apartment project, at a density of 25.4 dwelling units per acre, on 2.95 acres of land bordered by Holt Boulevard on the north, Fern Avenue on the east, Emporia Street on the south, and Vine Avenue on the west, within the MU-1 (Mixed Use Downtown) zoning district, in the City of Ontario, California (hereinafter referred to as the "Project"); and

WHEREAS, the Initial Study/Addendum to The Ontario Plan Environmental Impact Report concluded that implementation of the Project could result in a number of significant effects on the environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

WHEREAS, The Ontario Plan Environmental Impact Report (SCH No. 2008101140) was certified on January 27, 2010, in which development and use of the Project site was discussed; and

WHEREAS, pursuant to California Environmental Quality Act ("CEQA") Guidelines Section 15164(a), a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary to a project, but the preparation of a subsequent or supplemental EIR is not required; and

WHEREAS, the City determined that none of the conditions requiring preparation of a subsequent or supplemental EIR would occur from the Project, and that preparation of an addendum to the EIR was appropriate; and

WHEREAS, the City of Ontario is the lead agency on the Project, and the Planning Commission is the Recommending Authority and the City Council is the Approving Authority for the request to construct and otherwise undertake the Project; and

WHEREAS, on April 25, 2017, the Planning Commission of the City of Ontario conducted a duly noticed public hearing to consider the Application and concluded the hearing on that date. Upon conclusion of the public hearing, the Planning Commission approved Resolution No. PC17-019, finding that there is no substantial evidence that the Project will constitute substantial changes to the certified EIR, and recommended the City Council adopt the Addendum to the certified EIR; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Environmental Impact Report Addendum for the Project, has concluded that none of the conditions requiring preparation of a subsequent of supplemental EIR have occurred, and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Environmental Impact Report Addendum for the Project is on file in the Planning Department, located at 303 East B Street, Ontario, CA 91764, is available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the City Council of the City of Ontario, as follows:

SECTION 1. *Environmental Determination and Findings.* As the approving body for the Project, the City Council has reviewed and considered the information contained in the Initial Study/Environmental Impact Report Addendum and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the Initial Study/Environmental Impact Report Addendum and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. The City Council has independently reviewed and analyzed the Initial Study/Environmental Impact Report Addendum and other information in the record, and has considered the information contained therein, prior to acting upon or approving the Project;

b. The Initial Study/Environmental Impact Report Addendum prepared for the Project has been completed in compliance with CEQA and is consistent with State and local guidelines implementing CEQA; and

c. The Initial Study/Environmental Impact Report Addendum represents the independent judgment and analysis of the City of Ontario, as lead agency for the Project. The City Council designates the Planning Department, located at 303 East B Street, Ontario, CA 91764, as the custodian of documents and records of proceedings on which this decision is based.

SECTION 2. *Additional Environmental Review Not Required.* Based upon the Addendum and all related information presented to the City Council, the City Council finds that the preparation of a subsequent or supplemental EIR is not required for the Project, as the Project:

a. Does not constitute substantial changes to the certified EIR that will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

b. Does not constitute substantial changes with respect to the circumstances under which the certified EIR was prepared, that will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

c. Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, that shows any of the following:

1. The project will have one or more significant effects not discussed in the certified EIR; or

2. Significant effects previously examined will be substantially more severe than shown in the certified EIR; or

3. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

4. Mitigation measures or alternatives considerably different from those analyzed in the certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

SECTION 3. *City Council Action.* The City Council does hereby find that based upon the entire record of proceedings before it, and all information received, that there is no substantial evidence that the Project will constitute substantial changes to the certified EIR, and hereby APPROVES the Addendum to the certified EIR.

SECTION 4. *Indemnification.* The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 5. *Custodian of Records.* The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. *Certification to Adoption.* The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 16, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held May 16, 2017.

SHEILA MAUTZ, CITY CLERK

(SEAL)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PUD17-001, A PLANNED UNIT DEVELOPMENT (ATTACHMENT 1) TO ESTABLISH DEVELOPMENT STANDARDS AND GUIDELINES TO FACILITATE THE FUTURE DEVELOPMENT OF A HIGH DENSITY RESIDENTIAL APARTMENT PROJECT AT A DENSITY OF 25.4 DWELLING UNITS PER ACRE ON 2.95 ACRES OF LAND BORDERED BY HOLT BOULEVARD ON THE NORTH, FERN AVENUE ON THE EAST, EMPORIA STREET ON THE SOUTH, AND VINE AVENUE ON THE WEST, WITHIN THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 1049-051-01, 1049-051-02, 1049-051-03, 1049-052-03, 1049-052-04, 1049-052-05, 1049-052-06, 1049-052-07, 1049-052-08, 1049-052-09 AND 1049-052-10.

WHEREAS, Related California ("Applicant") has filed an Application for the approval of a Planned Unit Development, File No. PUD17-001, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 2.95 acres of land bordered by Holt Boulevard on the north, Fern Avenue on the east, Emporia Street on the south, and Vine Avenue on the west, within the MU-1 (Mixed Use Downtown) zoning district, and is presently improved with a vacant commercial building and a dog park, and includes vacant properties; and

WHEREAS, land uses surrounding the project site are characterized by a mixture of legal nonconforming residential uses and conforming residential and commercial uses across Vine Street to the west, which are zoned MU-1 (Downtown Mixed Use). Nonconforming single-family residential and light industrial uses and vacant property are located across Emporia Street to the south and are zoned MU-1 (Downtown Mixed Use). A mix of vacant commercial buildings, office uses, and vacant property are located across Fern Avenue to the east and are zoned MU-1 (Downtown Mixed Use). Religious assembly and commercial uses are located across Holt Boulevard to the north and are zoned MU-1 (Downtown Mixed Use); and

WHEREAS, the project site is located within the Center City Redevelopment Project Area, established in 1983. The Center City Redevelopment Project Area Plan encourages the development of a high intensity, multi-use central business district. In addition, The Ontario Plan ("TOP") contains goals and policies for the City's original downtown and the Downtown Mixed Use District which further support the goals of the Center City Redevelopment Project Area Plan; and

WHEREAS, the Center City Redevelopment Project Area Plan envisions revitalization of the City's downtown area, in part, by infusing high-density residential and mixed-use developments into the downtown core. TOP was established to further this vision and is intended to create an intensive mixture of retail, office, and residential uses

in a pedestrian friendly atmosphere, ensure the historic character of the district is enhanced, and concentrate the most intense/dense development along Euclid Avenue and Holt Boulevard. Furthermore, TOP specifies a residential density range of 25 to 75 units per acre and a maximum floor area ratio of 2.0 for commercial office and retail developments within the Downtown Mixed Use District; and

WHEREAS, TOP specifies that the Downtown Mixed Use District is to be implemented through the approval of an Area Plan or Planned Unit Development (PUD) prior to the development of properties within the District. In compliance with this requirement, the Applicant has submitted a PUD document that is consistent with this vision and the goals and policies of TOP; and

WHEREAS, the specific purpose of the PUD is to secure a fuller realization of TOP Policy Plan than would result from the strict application of present zoning district regulations and to promote high standards in urban design; encourage the development of exceptionally high quality, mixed-use, high intensity projects, while establishing regulations and standards for uses with unique regulatory and design needs; and, ensure harmonious relationships with surrounding land uses; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport (ONT), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the ONT Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts; and

WHEREAS, on April 25, 2017, the Planning Commission conducted a public hearing and approved Resolution No. PC17-019 recommending the City Council approve a Resolution adopting an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140), adopted by City Council on January 27, 2010, in conjunction with File No. PGPA06-001. The Addendum finds that the proposed project introduces no new significant environmental impacts, and all previously adopted mitigation measures are incorporated into the Project by reference; and

WHEREAS, on April 25, 2017, the Planning Commission conducted a public hearing and approved Resolution No. PC17-020 recommending the City Council approve an Ordinance approving the Project; and

WHEREAS, on May 16, 2017, the City Council of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDAINED by the City Council of the City of Ontario, as follows:

SECTION 1. *Environmental Determination and Findings.* As the approving body for the Project, the City Council has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. The environmental impacts of this project were reviewed in conjunction with an Addendum to The Ontario Plan Environmental Impact Report, certified by the Ontario City Council on January 27, 2010, in conjunction with File No. PGPA06-001.

b. The Addendum and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

c. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This Application introduces no new significant environmental impacts.

d. All previously adopted mitigation measures shall be a condition of project approval, as they are applicable to the Project, and are incorporated herein by this reference.

e. The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the City Council; and

f. There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and

SECTION 2. *Additional Environmental Review Not Required.* Based on the Addendum, all related information presented to the City Council, and the specific findings set forth in Section 1, above, the City Council finds that the preparation of a subsequent or supplemental Environmental Impact Report is not required for the Project, as the Project:

a. Does not constitute substantial changes to the Environmental Impact Report that will require major revisions to the Environmental Impact Report due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

b. Does not constitute substantial changes with respect to the circumstances under which the Environmental Impact Report was prepared, that will require major revisions to the Environmental Impact Report due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and.

c. Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Environmental Impact Report was certified/adopted, that shows any of the following:

1. The project will have one or more significant effects not discussed in the Environmental Impact Report; or

2. Significant effects previously examined will be substantially more severe than shown in the Environmental Impact Report; or

3. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

4. Mitigation measures or alternatives considerably different from those analyzed in the Environmental Impact Report would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

SECTION 3. *Housing Element Consistency.* Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending body for the Project, the City Council finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site contains three properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix and the proposed project is consistent with the number of dwelling units (75 low income dwelling units proposed, and 46 low income dwelling units required) and density (25.4 DU/Acre proposed, and a minimum of 25.1 DU/Acre required) specified in the Available Land Inventory.

SECTION 4. *Airport Land Use Compatibility Plan (ALUCP) Consistency.* As the approving body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ALUCP for Ontario International Airport.

SECTION 5. *Concluding Facts and Reasons.* Based upon the substantial evidence presented to the City Council during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 4 above, the City Council hereby concludes as follows:

a. The proposed Planned Unit Development (PUD) is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. The proposed PUD is consistent with the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, in that the PUD contributes toward the legislative framework for the implementation of The Ontario Plan components, guiding growth and development within the project area to achieve optimum results from the City's physical, economic, environmental, and human resources.

b. The proposed PUD would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The development standards and guidelines established by the proposed PUD have been created with the intent to safeguard and further the public interest, health, safety, convenience, and/or general welfare, and to ensure that the purposes of The Ontario Plan and the Development Code, are maintained.

c. The proposed PUD will not adversely affect the harmonious relationship with adjacent properties and land uses. The proposed location of the PUD, and the proposed conditions under which it will be constructed and maintained, is consistent with the Policy Plan component of The Ontario Plan and the City's Development Plan, and, therefore, will not adversely affect the harmonious relationship with adjacent properties and land uses.

d. The subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development. The proposed PUD includes has been reviewed by all City departments, which have established that the PUD is consistent with City requirements for the development of high density residential development projects; therefore, the project site is physically suitable for the anticipated development in terms of parcel size, shape, access, and availability of utilities.

e. The proposed PUD is superior to that which could be obtained through the application of the Development Code or a specific plan. The specific purpose of the PUD is to secure a fuller realization of TOP Policy Plan than would result from the strict application of present zoning district regulations and to promote high standards in urban design; encourage the development of exceptionally high quality projects, while establishing regulations and standards for uses with unique regulatory and design needs; and, ensure harmonious relationships with surrounding land uses. The proposed PUD has been established consistent with these purposes; therefore, providing a project that is superior to that which could be obtained through the standard application of the City's Development Code.

SECTION 6. *City Council Action.* Based upon the findings and conclusions set forth in Sections 1 through 5, above, the City Council hereby APPROVES the Emporia Family Housing Planned Unit Development, as described herein and included as Exhibit A of this Ordinance.

SECTION 7. *Indemnification.* The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 8. *Custodian of Records.* The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 9. *Severability.* If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 10. *Effective Date.* This Ordinance shall become effective 30 days following its adoption.

SECTION 11. *Publication and Posting.* The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within 15 days following the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2017.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held _____ and adopted at the regular meeting held _____, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. _____ duly passed and adopted by the Ontario City Council at their regular meeting held _____ and that Summaries of the Ordinance were published on _____ and _____, in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A:

THE EMPORIA FAMILY HOUSING
PLANNED UNIT DEVELOPMENT

(Attachment A follows this page)

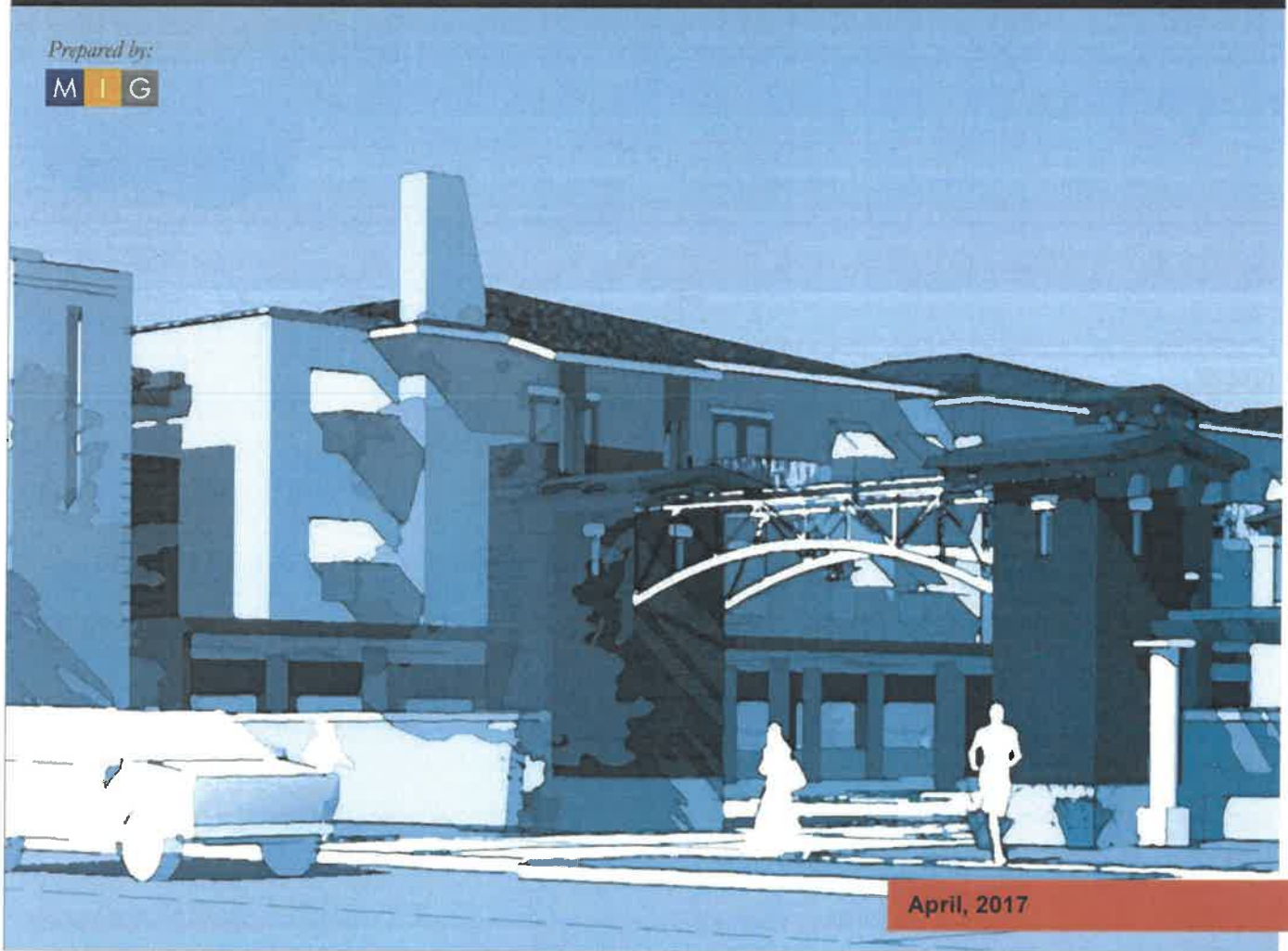
Attachment A

EMPORIA FAMILY HOUSING

Planned Unit Development

Ontario, California

Prepared by:



April, 2017

Related Emporia Planned Unit Development

Table of Contents

1 – Introduction	1
2 – Objectives	3
2.1 – The Ontario Plan Objectives.....	3
2.2 – Center City Redevelopment Plan Objectives	6
2.3 – Related Emporia Project Objectives	6
3 – Allowable Uses	7
3.1 – Residential Use.....	8
3.2 – Permitted Use Table/List.....	8
4 – Development Regulations	9
4.1 – Residential Density.....	9
4.2 – Building Height	9
4.3 – Setbacks	10
4.4 – Open Space.....	12
4.5 – Parking Supply and Demand	15
4.6 – Vehicular Access	17
4.7 – Service Facilities	17
4.8 – Landscaping	18
4.9 – Screening.....	22
5 – Circulation	23
5.1 – Site Accessibility	23
5.2 – Vehicular Circulation	23
5.3 – Pedestrian Circulation.....	23
5.4 – Access to Mass Transit	24

TABLE OF CONTENTS

6 – Design Guidelines25

- 6.1 – Building Orientation 25
- 6.2 – Architectural Character 25
- 6.3 – Massing and Scale 27
- 6.4 – Architectural Details 27
- 6.5 – Materials and Color 27
- 6.6 – On-Site Streetscapes and Pedestrian Walkways 27
- 6.7 – On-Site Lighting 29
- 6.8 – Signs 29
- 6.9 – Off-Site Improvements..... 29

7 – Infrastructure and Utilities.....30

- 7.1 – Infrastructure 30
- 7.2 – Street Improvements..... 30
- 7.3 – Public Utilities 33
- 7.4 – Street Dedication, Vacation & Easements..... 33

8 – Historic Preservation35

- 8.1 – Historic Background 35
- 8.2 – Existing Historic Structures 35
- 8.3 – Certificate of Appropriateness 35
- 8.4 – Rock Curb 38

9 – CEQA Compliance40

- 9.1 – Environmental Performance Standards..... 40

10 – Administration43

- 10.1 – Items Not Addressed in PUD..... 43
- 10.2 – Development Applications..... 43
- 10.3 – Administrative Exceptions..... 43
- 10.4 – Severability 43

Exhibits

Exhibit 1-1: Project Location Map	2
Exhibit 3-1: Land Use Plan	7
Exhibit 4-1: Height Diagram	9
Exhibit 4-2: Setback Diagram.....	11
Exhibit 4-3: Projection Diagram.....	12
Exhibit 4-4: Private Open Space Diagram	13
Exhibit 4-5: Common Open Space	14
Exhibit 4-6: On-Street Parking Locations.....	16
Exhibit 4-7: Existing Trees Plan	22
Exhibit 5-1: Circulation Plan:	25
Exhibit 7-1: Easement & Dedication Locations	32
Exhibit 7-2: Street Sections.....	33
Exhibit 8-1: Historic Resources Map.....	37

Tables

Table 4-1: Minimum Building Setbacks	10
Table 4-2: Maximum Encroachments into Building Setbacks.....	11
Table 4-3: Private Open Space.....	13
Table 4-4: Minimum Parking Requirements.....	16
Table 4-5: Planting Palette.....	19

Figures

Figure 5-1: Bus Shelter	24
Figure 6-1: Architectural Rendering	26
Figure 6-2: Architectural Examples	26
Figures 6-3: Streetscape Examples	28

1 – Introduction

This document has been prepared to establish development regulations for the Emporia Ontario Family Project site located in the City of Ontario. The project site is approximately 2.95 acres of land, containing a two-block area bordered by Holt Boulevard to the north, Fern Avenue to the east, Emporia Street to the south, and Vine Avenue to the west. Additionally, Transit Street bisects the project site in an east-west direction, (see Exhibit 1-1: Project Location Map).

The project site is located within the Ontario Plan Downtown Mixed Use District, which requires the establishment of a Planned Unit Development (PUD) prior to development. The PUD fulfills the requirements of a Downtown Mixed Use District Planned Unit Development ("PUD"), as set forth in Ontario Development Code Section 4.01.030 (Planned Unit Developments (PUD) and Amendments). Upon approval, this PUD will establish the land use and development standards for the project site. Unless otherwise defined herein, definitions and interpretations contained in the Development Code shall apply to this PUD.

City staff and private developers shall rely upon this PUD to determine whether precise plans for development ("Development Plans") will adequately meet the City's land use and design objectives for this key part of Downtown Ontario. These objectives, defined over the last 20+ years in the Redevelopment Plan for the Center City Redevelopment Project (1983) and The Ontario Plan (2010), are summarized in the proceeding chapters.

Exhibit 1-1: Project Location Map



Not to Scale 

2 – Objectives

2.1 – The Ontario Plan Objectives

The Ontario Plan, which includes the City's General Plan, designates the project area as part of the Downtown Mixed Use District. The Downtown Mixed Use District designation requires approval of an Area Plan or Planned Unit Development to develop the property. Additionally, the designation specifies a residential density range of 25 to 75 units per acre and a maximum floor area ratio (FAR) of 2.0 for office and retail uses.

The intent of this designation is to:

- Create “an intensive vertical and horizontal mixture of retail, office, and residential uses in a pedestrian friendly atmosphere;
- Ensure the historic character is enhanced; and
- Concentrate the most intensive uses along Euclid and Holt Avenues.

The Ontario Plan goals and policies furthered by this Planned Unit Development are as follows:

2.1.1 – Land Use Element Goals & Policies

- LU1 A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.
 - ❖ LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

2.1.2 – Community Design Element Goals & Policies

- CD1 A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.
 - ❖ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.
 - ❖ CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

- CD2 A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.
 - ❖ CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:
 - building volume, massing, and height to provide appropriate scale and proportion;
 - a true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
 - exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.
 - ❖ CD2-5 Streetscapes. We design new and, when necessary, retrofit existing streets to improve walkability, bicycling and transit integration, strengthen connectivity, and enhance community identity through improvements to the public right of way such as sidewalks, street trees, parkways, curbs, street lighting and street furniture.
 - ❖ CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.
- CD3 Vibrant urban environments that are organized around intense buildings, pedestrian and transit areas, public plazas, and linkages between and within developments that are conveniently located, visually appealing and safe during all hours.
 - ❖ CD3-1 Design. We require that pedestrian, vehicular, bicycle and equestrian circulation on both public and private property be coordinated and designed to maximize safety, comfort and aesthetics. (Link to Bicycle and Pedestrians Section of the Mobility Element and Policies M2-3 and M2-4)
- CD4 Historic buildings, streets, landscapes and neighborhoods, as well as the story of Ontario's people, businesses, and social and community organizations, that have been preserved and serve as a focal point for civic pride and identity.

2.1.3 – Housing Element Goals & Policies

- H2 Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.
 - ❖ H2-1 Corridor Housing. We revitalize transportation corridors by encouraging the production of higher density residential and mixed-uses that are architecturally, functionally and aesthetically suited to corridors.
 - ❖ H2-2 Historic Downtown. We foster a vibrant historic downtown through facilitating a wide range of housing types and affordability levels for households of all ages, housing preferences, and income levels.
 - ❖ H2-5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.
 - ❖ H2-6 Infill Development. We support the revitalization of neighborhoods through the construction of higher-density residential developments on underutilized residential and commercial sites.
- H4 Increased opportunities for low and moderate income households and families to afford and maintain quality ownership and rental housing opportunities, including move-up opportunities
 - ❖ H4-3 Rental Assistance. We support the provision of rental assistance for individuals and families earning extremely low, very low, and low income with funding from the state and federal government.
- H5 A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age or other status.
 - ❖ H5-2 Family Housing. We support the development of larger rental apartments that are appropriate for families with children, including, as feasible, the provision of services, recreation and other amenities

2.1.4 – Community Economics Element Goals & Policies

- CE1 A complete community that provides for all incomes and stages of life
 - ❖ CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every

stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

2.2 – Center City Redevelopment Plan Objectives

The Center City Redevelopment Plan was established to provide a framework and process to guide the development of projects within the study area of the Redevelopment Plan. The following objectives have been identified from the Redevelopment Plan as pertaining to the Planned Unit Development:

- Create a healthy and exciting urban variety, the ability to work, live, shop and play within a small area, combine daytime and nighttime use, and conserve energy and resources through mixed-use land development;
- Create an attractive and pleasant environment in the Project Area through the use of proper design, open space, and other amenities to enhance the aesthetic quality;
- Encourage and facilitate medium and high-density development, including, but not limited to, condominiums, townhouses, apartments and similar compatible uses.
- Maximize the housing opportunities of the residential areas; and
- Provide improvements necessary for the elimination of blight, and provide for the orderly development of commercial, industrial and residential areas within the redevelopment project area.

2.3 – Related Emporia Project Objectives

This Planned Unit Development provides guidelines for development of the project area. The following objectives are intended to provide a general framework for establishing development standards to ensure proper development of the project area:

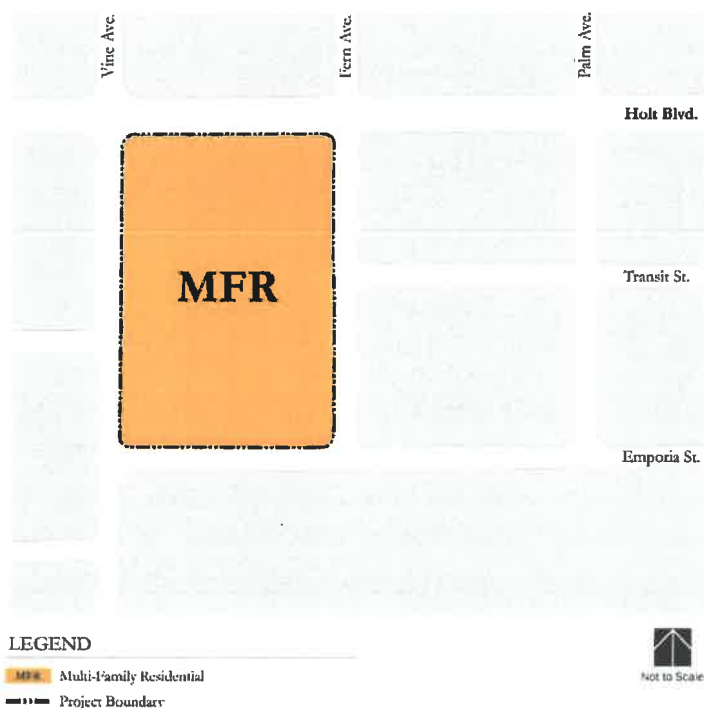
- Develop high quality, affordable rental housing;
- Establish appropriate relationships among new residential neighborhoods as well as with existing adjacent land use; and
- Provide new housing designed for families with children

3 – Allowable Uses

The project site is located within the Downtown Mixed Use Area Policy Plan (General Plan) land use district, and the MU-1 (Downtown Mixed-Use) zoning district, which implements the Downtown Mixed Use Area. The MU-1 zoning district is established to accommodate an intensive mixture of vertical and horizontal retail and office uses at a development intensity of up to 2.0 FAR, and residential uses at a density of 25 to 75 dwelling units per acre. Development projects within the MU-1 zoning district are intended to maintain a pedestrian friendly atmosphere, while at the same time enhancing the historic character of the area. The most intensive uses within this district are envisioned along Euclid Avenue and Holt Boulevard.

Consistent with the intent of the Downtown Mixed Use Area and the MU-1 zoning district, the project site is designated for Multiple-Family Residential (MFR) land uses. Exhibit 3-1 (Land Use Plan), below, depicts the Planned Unit Development boundary and land use designation.

Exhibit 3-1: Land Use Plan



3.1 – Residential Use

The project site will be developed with high quality, attached housing units, with either two or three levels. The buildings will be a combination of podium-style stacked flat units, with parking beneath, and townhome style units, with first floor garage access.

3.2 – Permitted Use Table/List

The permitted land uses within the Emporia Family Housing PUD are as follows:

- Multiple-family dwellings;
- Recreation facilities ancillary to multiple-family residential development projects, for use by project residents and their guests, including, but not limited to, pools, spas, tennis courts, clubhouse or recreation building, playgrounds or tot lots, and other similar amenities appropriate to serve a multiple-family residential development project;
- Temporary uses (as permitted within the residential districts of the City of Ontario Development Code subject to an Administrative Permit);
- Leasing/Administrative Office (for on-site property and facilities management only);
- Motor vehicle parking ancillary to a multiple-family residential development project; and
- Other land use compatible with multiple-family residential development projects, as determined appropriate by the Zoning Administrator.

Uses may be prohibited through rental contracts/agreements as provided by the project management, unless prohibited by Federal, State, or local laws.

4 – Development Regulations

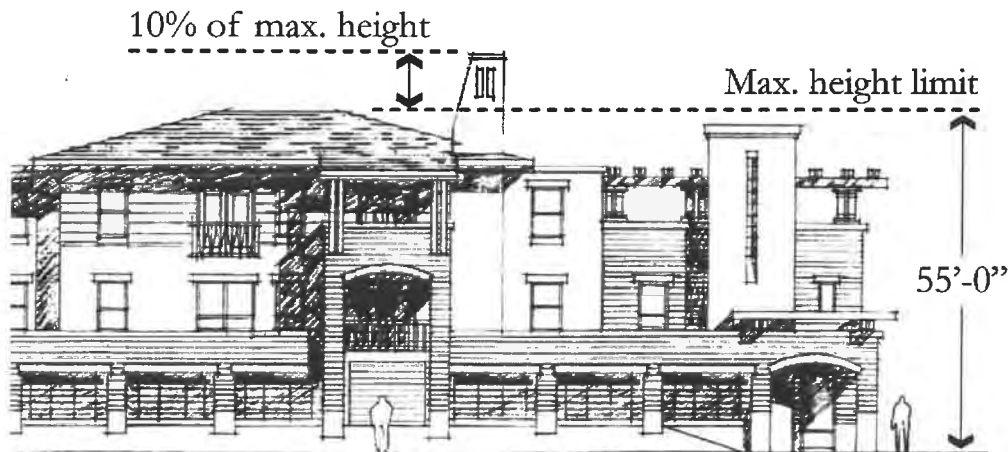
4.1 – Residential Density

Residential density shall range from a minimum of 25.1 dwelling units per acre, to a maximum of 75.0 dwelling units per acre.

4.2 – Building Height

No structure shall exceed 55 feet in height, except that the maximum height may be exceeded by roof mounted equipment, architectural projections, chimneys, elevator towers, parapet walls and any other roof top structures, by up to 10% of the allowed building height. No rooftop equipment shall be visible from anywhere on the project site, public streets, or adjacent properties, and shall be fully screened with appropriate architectural parapet walls or appropriate roof treatments. Roof-mounted equipment shall not exceed the height of the structures and appurtenances used to screen the equipment.

Exhibit 4-1: Height Diagram



4.3 – Setbacks

Building setbacks shall be as set forth in Table 4-1 (Minimum Building Setbacks), and shall comply with Exhibit 4-2 (Setback Diagram).

Table 4-1: Minimum Building Setbacks

<i>Setback</i>	<i>Distance</i>
Minimum Street Setbacks:	
▪ Holt	9 feet
▪ Emporia	5 feet
▪ Vine	5 feet
▪ Fern	5 feet
Minimum Easement Setback **	2 feet
Minimum Building Separation	9 feet

** 30 foot wide storm drain easement located along vacated Transit Street

Certain types of features and equipment are allowed to encroach into the required setback areas in accordance with Table 4-2 (Encroachments into Setbacks) including but not limited too architectural projections, balconies, and underground utility structures such as electrical transformer vaults. Utility structures may encroach into the public right-of-way and/or public utility easement, subject to the approval of the City Engineer.

Exhibit 4-2: Setback Diagram

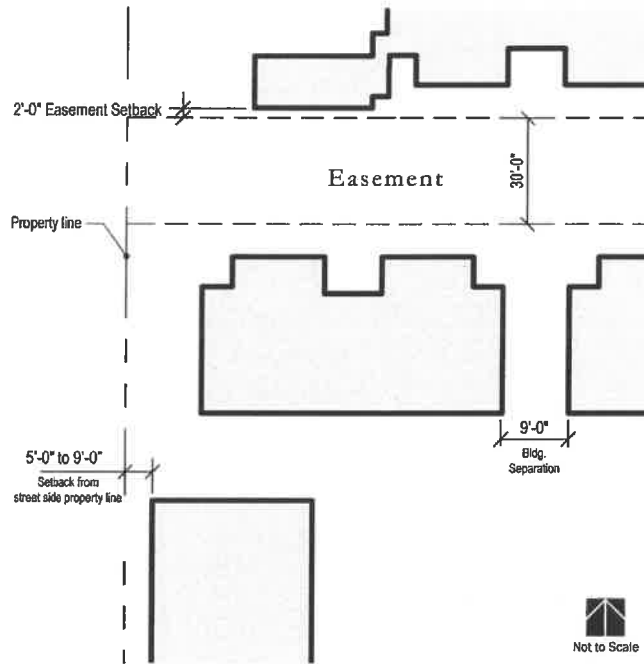
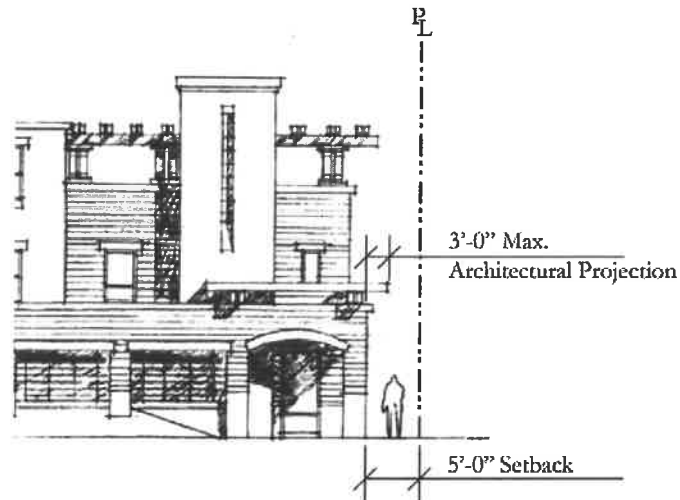


Table 4-2: Maximum Encroachments into Building Setbacks

<i>Projection</i>	<i>Encroachment</i>
Architectural Features **	3 feet
Patios **	3 feet
Balconies/Decks **	3 feet
Porches **	3 feet

** No projection may encroach into the storm drain easement

Exhibit 4-3: Projection Diagram



4.4 – Open Space

Open space shall be provided for passive and active recreation opportunities within the project site. Two types of open space are required, private and common open space. These open space areas are for the use of the on-site residents and their guests. Required street setback areas are not counted towards common open space requirements.

4.4.1 – Private Open Space

Private open space shall be provided for each residential unit in order to provide private outdoor areas which can be enjoyed for the exclusive use by the occupant of the residential unit and their guests. Types of areas considered private open space include balconies, decks, and enclosed patios and yards.

Private open space shall be provided for all residential units, and shall have direct access from each residential unit. Residential units shall have a minimum size of private open space as defined in Table 4-3 (Private Open Space). The space may be provided in multiple areas (e.g. two balconies, a yard and a balcony, etc.), as long as the total area of the spaces meets the minimum private open space requirement for

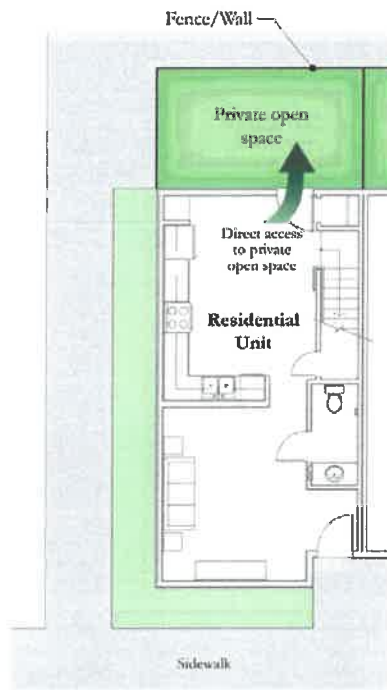
the unit. The minimum dimension for private open space shall be no less than 6 feet in any direction.

Table 4-3: Private Open Space

<i>Number of Bedrooms</i>	<i>Open Space (SF)</i>
1	0 **
2	50
3	100
4	160

** 20 square feet for one-bedroom units with balconies fronting on to Holt Boulevard, and 50 square feet for one-bedroom units fronting on to Vine Avenue.

Exhibit 4-4: Private Open Space Diagram

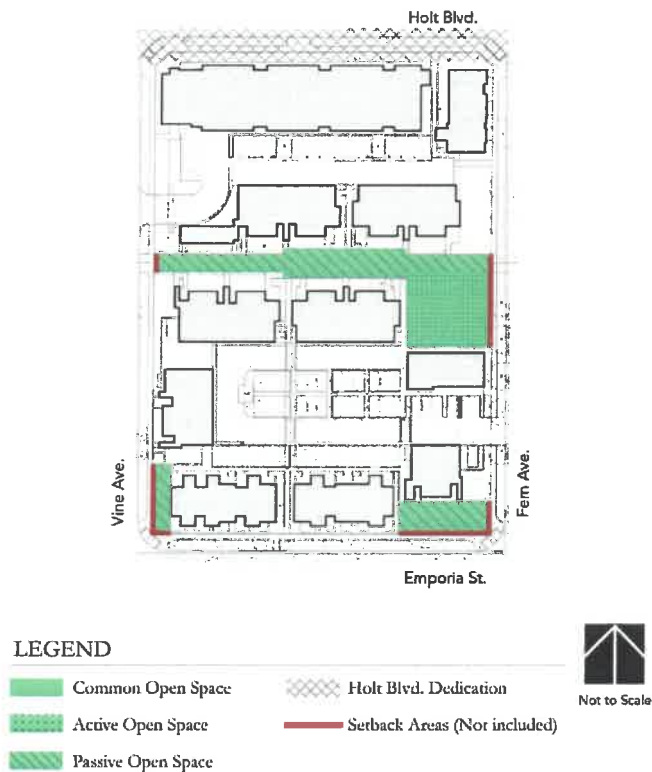


4.4.2 – Common Open Space

Common open space shall be provided to allow for both passive and active types of recreation, along with site landscape amenities. These areas are for use by project residents and their guests, and may include indoor recreational facilities. Recreational facilities provided pursuant to Section 4.4.3 shall be provided in common open space areas. The amount of required common open space is based on the number of dwellings developed, and shall be provided at the rate of 235 square feet of common open space for each dwelling unit.

Areas not considered common open space include: [1] parking lots; [2] walkways along or between buildings; [3] parking lot landscaping; [4] street setback areas; and [5] other areas not intended for active or passive recreation.

Exhibit 4-5: Common Open Space



4.4.3 – Recreational Facilities

Access to recreational facilities is important in multiple-family residential projects, as they provide needed facilities for the residents of the community. These facilities shall be centrally located on the site, making the facilities accessible to all project residents. A total of at least three recreational facilities (indoor or outdoor) shall be provided on-site. The facilities can be comprised of a combination of both similar and different recreational facilities to meet the recreational facilities requirement (e.g. two pools and one playground or one clubhouse, one pool, and one tot lot, etc.). Recreational facilities may be indoor or outdoor, and may include: [1] clubhouses; [2] pools; [3] community buildings; [4] playgrounds or tot lots; and [5] other indoor or outdoor recreational facilities deemed appropriate by the City. All recreational facilities shall be for the exclusive use of project residents and their guests.

4.5 – Parking Supply and Demand

4.5.1 – On-Site Resident Parking Requirements

The number of parking spaces provided is based on the number of bedrooms contained within each dwelling unit, and is subject to the following requirements:

- All required resident parking spaces shall be provided on-site;
- Each dwelling shall have at least one reserved parking space that is clearly marked;
- Reserved parking spaces shall be located within 150 feet of the dwelling it serves;
- At least one covered parking space shall be provided for each dwelling. This can be achieved through use of garages, carports, or tuck-under parking;
- Resident’s assigned parking space(s) shall be used for the parking of occupant’s operable automobile(s), only;
- Tandem parking is prohibited;
- Required guest parking spaces shall provide the necessary parking for the project leasing office. No separate parking is required for the leasing office; and
- Each dwelling is intended for occupancy by one family, regardless of the bedroom size(s) provided. Parking for dwellings shall be provided on-site, pursuant to the requirements of Table 4-4 (Minimum Parking Requirements), below, except that guest parking may be provided on-street, pursuant to Section 4.5.2 (On-Street Guest Parking Requirements) of this PUD.

Table 4-4: Minimum Parking Requirements

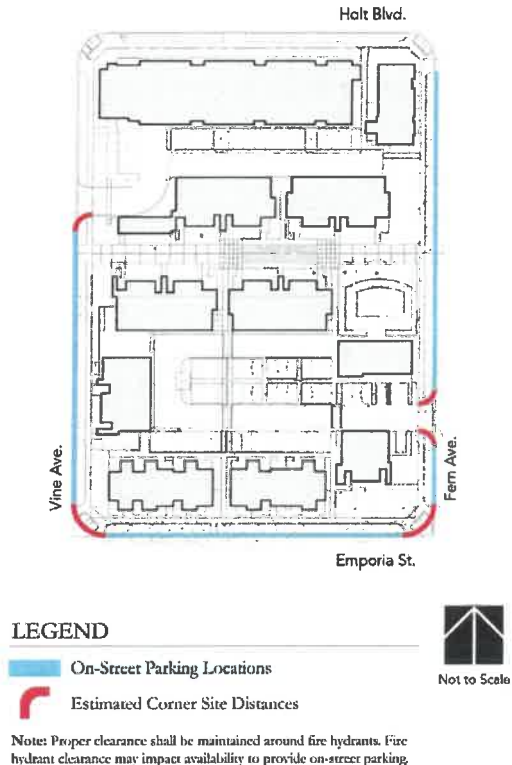
<i>Use</i>	<i>Parking Spaces</i>
Multiple-Family Dwellings: <ul style="list-style-type: none"> ▪ One-Bedroom Unit ▪ Two or more Bedroom Unit 	1.75 spaces per dwelling (at least one space shall be in a garage or carport) 2.0 spaces per dwelling (at least one space shall be in a garage or carport)
Guest Parking	1 space per 5 dwellings

4.5.2 – On-Street Guest Parking Requirements

On-street parking may be utilized to satisfy guest-parking requirements, subject to the following:

- On-street parking may be used to satisfy guest parking requirements only, and shall not be used for required resident parking;
- On-street parking shall only be counted along the public streets surrounding the project site, on the side of the street adjoining the project, excluding Holt Boulevard and any other areas deemed necessary by the City Engineer, for corner sight distance, as shown in Exhibit 4-6 (On-Street Parking Locations Map), right;
- All on-street parking locations shall be subject to approval by the City Engineer; and
- On-street parallel parking spaces shall be calculated by the length of unobstructed curb adjacent to the project site.

Exhibit 4-6: On-Street Parking Locations Map



4.5.3 – Parking Standards

All parking space size and location requirements shall conform to the standards set forth in Section 6.03.045 (Off-Street Parking Standards) of the Ontario Development Code.

4.6 – Vehicular Access

Vehicular access to the site from Holt Boulevard is prohibited. All points of access shall be approved by the City.

4.7 – Service Facilities

- Loading/unloading for residential uses and trash pickup service shall be limited to on-site private drive aisles. Location, signage, and any hourly restrictions to be imposed on such areas, shall be subject to approval by the City.
- On-street loading shall be prohibited.
- The number of enclosures, and their precise locations, dimensions, and design shall be provided consistent with City standards.
- Trash enclosures shall be designed to contain separate containers for the collection of refuse and recyclable materials, with an adequate number of containers provided to allow for the collection of both refuse and recyclable materials generated by the development, pursuant to standards established by the Ontario Municipal Utilities Company.
- Trash enclosures shall meet the minimum design standards depicted in the standard drawings adopted by the City, which shall include: [1] a minimum 6-FT high decorative masonry wall, with appropriate view-obstructing gates for container access, [2] separate pedestrian access that is designed to screen the interior of the enclosure from view from the exterior and prevent refuse dispersion, and [3] a decorative overhead roof structure to protect bins containing recyclable materials from adverse environmental conditions, which might render the collected materials unusable, and screen trash bins from view of the upper floors of adjacent dwellings. Furthermore, trash enclosures shall be architecturally enhanced, and shall be consistent with the architectural design of adjacent buildings.
- Trash enclosure dimensions shall be of adequate size to accommodate containers consistent with the City's current methods of collection within the area in which the project is located.

- Signs clearly identifying all recycling and refuse collection areas, and the materials accepted for recycling shall be posted adjacent to all points of access to each trash enclosure.
- Trash enclosures shall be located a minimum of 10 feet from the interior project boundary/property line.
- Particular care shall be given when placing trash enclosures immediately adjacent to dwelling units; however, no trash enclosure shall be located within 10 feet of the livable portion of a structure.
- Trash enclosures shall be bordered by a minimum 5-foot wide planter, and shall be screened with landscaping on all exposed sides, excluding the side with bin access gates.
- All service facilities shall be screened in accordance with the Section 4.9 (Screening) of this Planned Unit Development.

4.8 – Landscaping

4.8.1 – Site Landscaping

A conceptual landscape and irrigation plan shall be submitted along with the Development Plan for this Planned Unit Development. The plan shall specify all landscaping and hardscape for the entire project site. Detailed Landscape and Irrigation Plans shall be required prior to the issuance of building permits. The detailed plans shall show location of ground mounted utility boxes and equipment, along with the methods of screening for these items from the public right-of-way and adjacent residences where possible. The irrigation system shall be designed to utilize recycled water pursuant to State and local codes, ordinances, and laws, and applicable building and plumbing codes.

The landscape and irrigation plan shall be designed with water conservation in mind, utilizing “California friendly” species and drought tolerant planting materials. The landscaping and irrigation shall comply with AB 1881, and all other laws and regulations related to planting materials.

All trees that are to remain on-site shall be properly protected in place during construction to ensure tree health is preserved.

Tree plantings along the Transit Street storm drain easement shall be restricted to those species allowed by the San Bernardino Flood Control District.

4.8.2 – Planting Palette

The planting palette shall be comprised of “California friendly” drought tolerant planting materials compatible with the overall architectural style of the Planned Unit Development. The following palette has been established to meet the needs of this Planned Unit Development:

Table 4-5: Planting Palette

<i>Botanical Name</i>	<i>Common Name</i>	<i>Size</i>	<i>Comments</i>
TREES			
Vine Street			
Cedrus deodara		Existing	Preserve in Place
Lagerstroemia indica 'Watermelon Red'	Crape Myrtle	24" Box	Matching Standards
Washingtonia filifera	California Fan	18 FT BT	Skinned Trunk
Emporia Street			
Washingtonia filifera		Existing	Preserve in Place
Grevillea		Existing	Preserve in Place
Oak		Existing	Preserve in Place
Grevillea robusta	Silk Oak	24" Box	Matching Standards
Washingtonia filifera	California Fan	18 FT BT	Skinned Trunk
Fern Avenue			
Cinnamomum camphora	Camphor Tree	48" Box	Matching Standards
Holt Boulevard			
Frainus o. 'Raywood'	Raywood Ash	24" Box	Matching Standards
Pedestrian Promenade			
Chitalpa tashkentensis	Chitalpa	24" Box	Matching Standards
Magnolia grandiflora 'Samuel Sommer'	Samuel Sommer Southern Magnolia	36" Box	Matching Standards
Lagerstroemia hybrid 'Tuscarora'	Crape Myrtle	36" Box	Multi Branch
Auto Courts			

DEVELOPMENT REGULATIONS

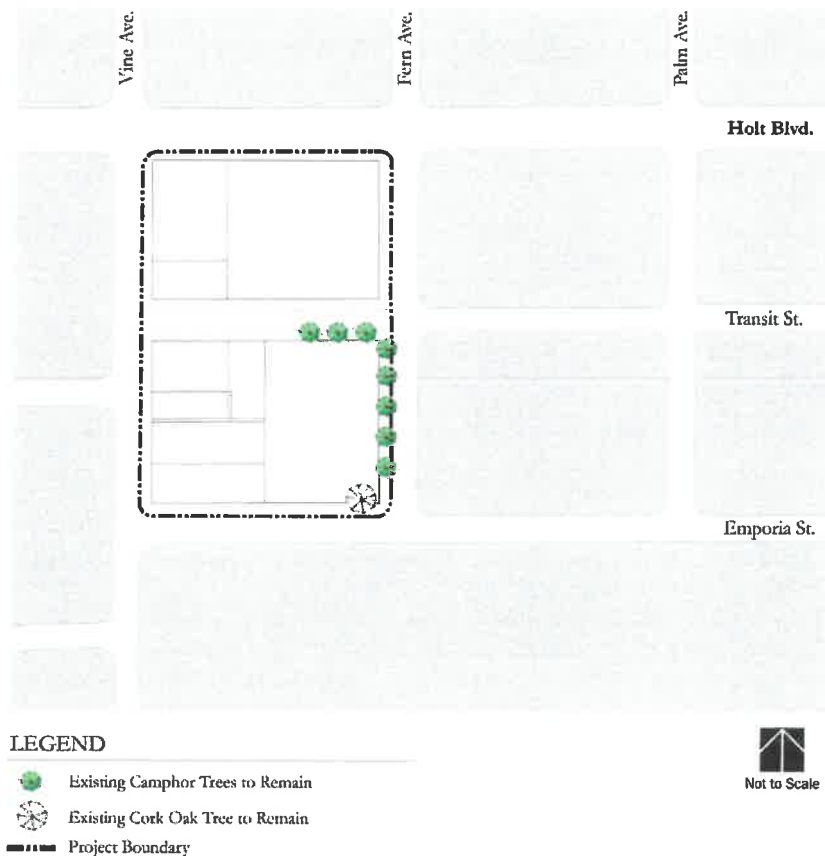
<i>Botanical Name</i>	<i>Common Name</i>	<i>Size</i>	<i>Comments</i>
Quercus virginiana	Southern Live Oak	36" Box	Matching Standards
Platanus acerifolia 'Bloodgood'	London Plane Tree	36" Box	Matching Standards
Accent Trees			
Cercidium 'Azt' (Thornless)	Hybrid Desert Museum	48" Box	Multi Branch
Cupressus sempervirens	Italian Cypress	24" Box	Match Height
Schinus molle	California Pepper	36" Box	Multi Branch
Tipuana tipu	Tipu Tree	48" Box	Matching Standards
Olea europaea 'Swan Hill'	Swan Hill Olive	48" Box	Multi Branch
Phoenix dactylifera	Date Palm	20 FT BT	Diamond Cut trunk

Patio Areas			
Langerstroemia indica	Grape Myrtle	24" Box	Matching Standards
Prosopis chilensis	Chilean Mesquite	24" Box	Matching Standards
Pyrus calleryana 'Bradford'	Ornamental Pear	24" Box	Matching Standards
Building Perimeter			
Tristania conferta	Brisbane Box	15 Gallon	Matching Standards
Pinus eldarica	Afghan Pine	15 Gallon	Matching Standards
Washingtonia robusta	Mexican Fan	18 FT BT	Skinned Trunk
Parking Lot			
Rhus lancea	African Sumac	24" Box	Matching Standards
VINES			
Parthenocissus tricuspidata	Boston Ivy	1 Gallon	None
Disticus buccinatoria	Blood Red Trumpet Vine	1 Gallon	None
Jasminum polyanthum	Pink Jasmine	1 Gallon	None
Macfadyena unguis-cati	Cat's Claw "Yellow Trumpet Vine"	1 Gallon	None

4.8.3 – Tree Removal

Eight mature Camphor trees and one mature Cork Oak tree on site shall remain and be incorporated into the overall design of the development plan. The Camphor trees are currently located in the right-of-way on Fern Street and Transit Street and the Cork Oak is located at the northwest corner of Emporia Street and Fern Street. Approximate location of trees is shown in Exhibit 4-7 (Existing Trees Plan). These trees have been in place prior to the demolition of the Casa Blanca hotel and have been preserved in accordance with the Casa Blanca Hotel Demolition Environmental Impact Report. An arborist report shall be prepared on all other existing trees to determine the health, and where feasible, existing healthy trees in the project area shall be preserved in place.

Exhibit 4-7: Existing Trees Plan



4.8.4 – Parking Lot Landscaping

Parking lot landscaping shall be provided pursuant to Subsection D (Landscaping of Off-Street Parking Facilities) of Ontario Development Code Section 6.05.030 (Required Landscape Areas).

4.8.5 – Compliance with State and Federal Laws

Provide landscaping and an irrigation system, which promotes the conservation of water as required by the Water Conservation in Landscaping Act of 2006 (AB 1881), commencing with California Government Code Section 65591.

4.9 – Screening

- All roof and ground mounted mechanical equipment shall be screened pursuant to the requirements of the Ontario Development Code.
- Trash enclosures shall be screened with enclosures that are architecturally compatible with the surrounding buildings.
- Screening shall include plant and building materials compatible with the project design so it is well integrated and hidden within the project area.
- Building and plant materials used for screening shall be compatible with the architectural style and planting palette used on the project area.
- All ground level screening shall comply with the requirements of Ontario Development Code Section 6.02.030 (Protection of Intersection Visibility).

4.9.1 – Fences, Walls, and Hedges

Fences, walls, and hedges shall comply with Section 6.02.030 (Protection of Intersection Visibility) of the Ontario Development Code, Engineering Department corner sight distance standards, and all other applicable city standards. Fences and walls shall be made of decorative materials that are compatible with, or enhance, the overall architectural character of the project. All fences, walls, and hedges shall be in scale with the development, and shall be used for screening, site enhancement, and creating a safer living environment for residents and their guests. All decorative walls, monuments, and/or other similar features, shall not encroach in to the public street right-of-way.

5 – Circulation

5.1 – Site Accessibility

The site shall be designed to promote safety for residents by only allowing limited vehicular and pedestrian access into and across the site. This can be done through building orientation and placement, to minimize the use of gates and fencing; however, amenities shall be properly gated, limiting access to residents and their guests.

5.2 – Vehicular Circulation

The project site should be designed to reduce the number of dead end aisles in the parking lot areas, and provide all guest parking outside of gated areas (on or off-site) to ensure accessibility. Location of drive aisles and entries shall be approved by the City Engineer. Vehicular circulation shall be designed in a way that promotes pedestrian safety and proper access to all parking areas.

5.3 – Pedestrian Circulation

Site design must provide for safe pedestrian circulation across the project site by separating pedestrian areas from areas with vehicular access. This includes, but is not limited to, accessibility from parking lot areas to unit entries, site amenities, and perimeter sidewalk areas. Fencing and gates may be used to limit public access to resident-only areas.

The vacation of Transit Street provides a unique opportunity to create a pedestrian promenade that will connect residential foot traffic between residential units, parking, and community spaces throughout the site. The space should be welcoming and designed with landscape features that help define the walking path across the project area. Since no vehicular traffic will be allowed on this promenade, it is expected that children will be able to play safely throughout the site. Lighting and visibility for enhanced security shall be taken into consideration in designing this area, and shall be compatible with the architectural theme. Buildings should have windows that look on to this open space area to enhance the views of the residences and help create defensible spaces.

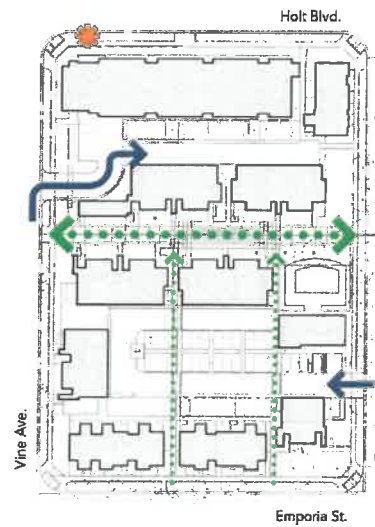
5.4 – Access to Mass Transit

An existing bus stop is located on the south side Holt Boulevard just east of Vine Avenue. A new decorative bus shelter with seating and lighting shall be installed at this location at time of project development. The bus shelter design shall be consistent with the design of other shelters in the downtown area (see Figure 5-1 (Bus Shelter)) and shall meet ADA access requirements per City of Ontario and/or OmniTrans Standards, and to the satisfaction of the City Engineer. Additionally, a concrete bus pad for this bus stop shall be incorporated into the public improvements required for the development of the project site.





Figure 5-1: Bus Shelter



Exhibit 5-1: Circulation Plan



LEGEND

-  Vehicular Circulation
-  Pedestrian Circulation
-  Pedestrian Circulation (Secondary)
-  Bus Shelter



Not to Scale

6 – Design Guidelines

The project area is located within Ontario's historic downtown area, and shall comply with the Downtown Ontario Design Guidelines. The Downtown Ontario Design Guidelines were adopted in 1998 to guide the physical revitalization of Ontario's historic downtown. The Guidelines provide architectural and design principals, as well as design concepts for downtown districts. The project area is located within the Educational District, a mixed-use area with an educational theme. The Guidelines do not provide specific architectural or design guidance within the Educational District, but do require that development be context sensitive.

The design guidelines provided in this section are designed to be compatible with the Downtown Ontario Design Guidelines, and provide site specific guidance for the development of the project site.

6.1 – Building Orientation

Building orientation shall be designed to minimize noise impacts, aide in providing property site safety, create proper accessibility to site amenities and parking, and to maximize views from residential units. Design should also be done in a way to create defensible spaces improving site safety.

- **Exterior:** Orientation towards the exterior of the project area shall be carefully evaluated to ensure a proper relationship.
- **Interior:** Buildings should be clustered in a way that creates defensible spaces providing views of interior open spaces and amenities. For units without garage spaces buildings shall be oriented to create minimal distances from assigned parking spaces to primary or secondary residential unit entries.

6.2 – Architectural Character

The architectural design leans toward a current interpretation of the Craftsman style. The design will make use of open ended beams, gabled roofs and trellis construction throughout the site. Large areas of masonry and wood siding with plaster accents will be provided to help enhance this overall architectural theme. Buildings along Holt Blvd will have a linear design with enhanced areas of design and color to differentiate units along this street. Street fronting podium parking will be shielded from view by intensified landscaping and podium walls with screened openings running alongside the north boundary of the site. Buildings along Emporia Avenue will be built with a cottage-style feel. A sample rendering and photographic examples

of the architectural style are provided in Figure 6-1 and Figure 6-2, on the preceding page.

Figure 6-1: Architectural Rendering



Figure 6-2: Architectural Examples



6.3 – Massing and Scale

All buildings shall be in scale with the surrounding development, with a majority of the building placement to occur toward the boundary of the project site. A prominent building edge shall face Holt Boulevard. Buildings should be 2 to 3 stories in height, containing a varied amount of units in each building, with varying façade planes so as not to create a “monotonous” look.

Amenities and site design shall be developed with the pedestrian scale in mind.

6.4 – Architectural Details

Architectural variations should occur between buildings to help distinguish each building and create variety within the proposed contemporary craftsman style. Architectural details should be consistent with the architectural style of each individual building. Details should complement and enhance openings, and accentuate the overall design of each building. Detailing can be achieved through the use of different colors and materials (brick, siding, etc.) to create interesting elevations.

Awnings should be placed where feasible, over south facing windows, and adequate shade should be provided for outdoor spaces. Coverings should use materials compatible with the building roofing and façade materials, in creating a comprehensive building design. Exposed rafter beams should be integrated into the building design, along with trellises, to help define outdoor spaces.

6.5 – Materials and Color

Materials and colors shall be compatible with, and complementary to; the overall architectural style of the development project. Larger building masses should use a combination of dark and light colors to break up building planes, and use light colored trim to help accentuate roof features. All colors should be complementary and utilize primarily “earth tone” type colors. Materials should be a mixture of stucco, wood, and brick siding, in a variety of complementary colors, and a concrete tile roof material should be used.

6.6 – On-Site Streetscapes and Pedestrian Walkways

Street furniture and decorative paving should be used throughout the project area to enhance architectural design. The use of complementary materials and textures should be used to create a continuity and consistency that is desired throughout the

project area. A variety of decorative elements should be incorporated into the design of the project area, including, but not limited to, benches, tree grates, bike racks, enhanced paving, trash receptacles, and decorative bollards.

A selection of appropriate elements shall consider sidewalk widths, size and spacing of street trees, importance of the pedestrian path, and the requirement to maintain a minimum 4-foot wide walkway for pedestrian movement in all areas. All streetscape features shall comply with the Americans with Disabilities Act (ADA), along with accessibility requirements for public services, such as police and fire.

Figure 6-3: Streetscape Examples



6.7 – On-Site Lighting

Decorative light fixtures compatible with the architectural style of the buildings shall be provided on-site.

A minimum of one footcandle of light shall be provided within parking areas and 0.5 footcandles of light within pedestrian pathways, in compliance with the City of Ontario Police Department standards.

6.8 – Signs

Signs within the project area shall comply with the Division 8.01 (Sign Regulations) of the Ontario Development Code.

6.9 – Off-Site Improvements

All off-site improvements shall be installed in accordance with City standards, and to the satisfaction of the City Engineer.

7 – Infrastructure and Utilities

7.1 – Infrastructure

All improvements and alterations to public infrastructure (sewer, water, recycled water, storm drain, etc.) shall obtain approval from all appropriate agencies. Public sewer and water lines within the project area, on Transit Street, that will only serve the project area once the street is vacated, will not be the maintenance responsibility of the City.

If infiltration is deemed permissible by a licensed geotechnical engineer, on-site storm water drainage facilities shall be provided for capture and infiltration of a 2-yr, 24-hour storm event, consistent with the San Bernardino County Storm Water Program's Water Quality Management Plan (WQMP) requirements for new residential development. Storm water capture and infiltration facilities may include the utilization of pervious concrete pavers in enhanced paving areas and MaxWell Drywells or underground storm water infiltration chambers, for the remainder of the site.

Upon development of the project site, existing waterlines smaller than 8 inches in diameter fronting the project site along Emporia Street and Vine Avenue shall be upgraded to a minimum of 8 inches. Upon water line upgrade, the existing water line in Transit Street through the project area may be abandoned. An 8 inch water line shall be installed within Fern Avenue from Transit Street, north, to Holt Boulevard.

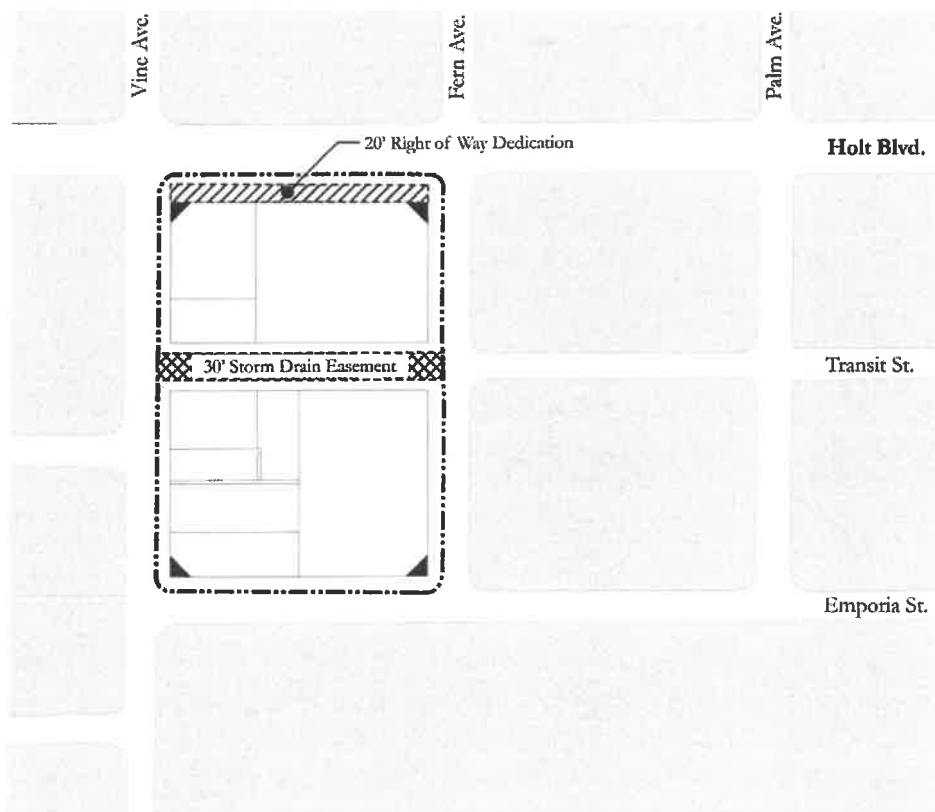
Any connection into the existing storm drain located within Transit Street shall require approval from the County of San Bernardino Flood Control District. See Exhibit 7-1 (Easement & Dedication Locations) for the approximate storm drain location.

7.2 – Street Improvements

Street improvements (street, sidewalk, parkway, curb, gutter, traffic signal, street lights, etc.) shall be constructed with the development of the project site. Improvements will be required on the streets adjacent to the project area including Holt Boulevard, Emporia Street, Fern Avenue, and Vine Avenue. Design and construction of street improvements shall be in accordance with the City standards, and to the satisfaction of the City Engineer. Exhibit 7-2 (Street Sections) identifies the improvements for each street adjacent to the project site.

King standard lighting (City of Ontario Standard Drawing No. 5103) shall be required within the public right-of-way. Upon development of the project site, traffic signal alterations will need to occur to allow for safe and proper traffic movement. Traffic signal modifications shall be required at the intersection of Holt Boulevard and Vine Avenue.

Exhibit 7-1: Easement & Dedication Locations



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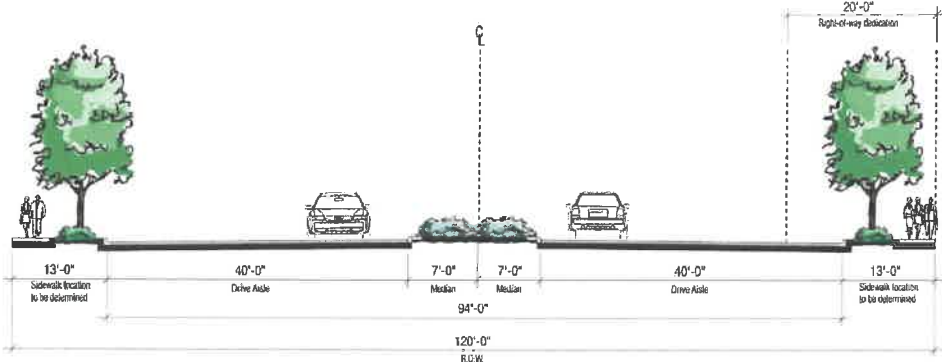
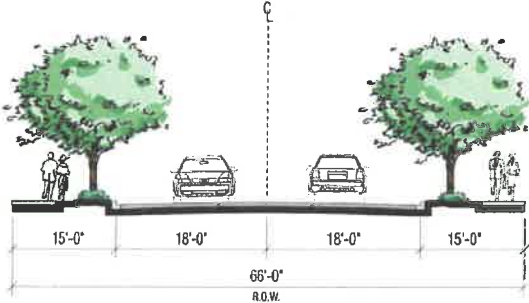
-  Right of Way Dedication
-  Proposed Storm Drain Easement
-  Corner Cut Back Dedication
-  Project Boundary



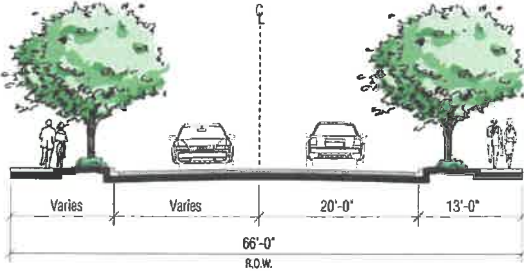
Exhibit 7-2: Street Sections



Divided Arterial Section
Holt Boulevard
not to scale



Local Street Section
Fern Avenue and Emporia Street
not to scale



Local Street Section
Vine Avenue
not to scale

Upon development of the project site, the developer shall construct the right-of-way improvements adjacent to the project site, to the centerline of the street (street, curb, gutter, parkway, sidewalk, etc.). Curb returns adjacent to the project site on Holt Boulevard, Vine Avenue, and Fern Avenue, shall be designed and constructed with a minimum 25-foot radius.

Vine Avenue has a varying right-of-way width, in all cases the width shall be 20 feet from centerline to the east curb. The street width variation on Vine Avenue should take place west of the centerline. On Vine Avenue from Emporia Street to Brooks Street the width shall be 36 feet from curb-to-curb, from Brooks Street to Transit Street the width shall be 38 feet from curb-to-curb, and from Transit Street to Holt Boulevard the width shall be 40 feet from curb-to-curb.

Street improvements shall not be required on Transit Street, as the street will be vacated for the consolidation of the project site.

7.3 – Public Utilities

All existing dry utilities (electricity, cable, telephone, gas, etc.) along Transit Street shall be relocated and re-routed to the streets bounding the project area, as required and approved by the affected utility agencies/companies. In the event that relocation of a utility is not feasible, a Public Utility Easement (PUE) shall be reserved for the existing utility(ies) prior to the vacation of Transit Street.

7.4 – Street Dedication, Vacation & Easements

In order to create a single developable project site for the proposed Planned Unit Development, the street that bisects the project site in an east-west direction (Transit Street) will be required to be vacated. The existing sewer lines located within the section of Transit Street to be vacated, may be abandoned upon vacation of the street.

The ultimate Holt Boulevard right-of-way is 60 feet, measured from centerline, and will require an additional 20 feet of street dedication. Corner cut-off areas within the project site will require dedication at the intersection of Holt Boulevard and Fern Avenue, Fern Avenue and Emporia Street, Emporia Street and Vine Avenue, and Vine Avenue and Holt Boulevard, pursuant to Engineering Standard Drawing #1301. The general locations of the street dedications and corner cut-off areas are shown on Exhibit 7-1 (Easement & Dedication Locations).

The proposed 30-foot wide storm drain easement runs along Transit Street to facilitate an existing 7.5-foot by 8-foot reinforced concrete box (RCB). Furthermore, a 30-foot wide storm drain easement, which runs along Fern Avenue, north of Transit

INFRASTRUCTURE AND UTILITIES

Street, is required to facilitate a reinforced concrete pipe (RCP). The easements will be reserved and accommodated with the development of the project site. The easement locations are shown on Exhibit 7-2: Easement & Dedication Locations.

8 – Historic Preservation

All historic structures are subject to the requirements of Ontario Development Code Sections 4.02.040 through 4.02.065, and Division 7.01 (Historic Preservation) of the Ontario Development Code, as applicable.

8.1 – Historic Background

The two-block area that comprises this Planned Unit Development, was once home to the Casa Blanca Hotel and Developer’s Row. During Ontario’s early settlement period, several homes were constructed for prominent city pioneers along Emporia Avenue. This stretch of development was referred to as “Developer’s Row.” All of the homes from this development have been demolished, with the exception of the Ford-Collins House which was moved to its current location at 227 West Main Street sometime after 1915, to facilitate the construction of the Casa Blanca Hotel. An Environmental Impact Report was certified by City Council in 1998 for the demolition of the Casa Blanca Hotel.

In 2007, the property at 205 and 205 ½ was acquired by the City’s Redevelopment Agency. A Mitigated Negative Declaration was prepared for the demolition of both buildings. A request to defer the Certificate of Appropriateness (File No. PHP07-012) for the replacement structure was approved by the Historic Preservation Commission on September 25, 2007. Development of the project site will require both Development Plan approval pursuant to Ontario Development Code Section 4.02.025 (Development Plans) and the approval of a Certificate of Appropriateness pursuant to the requirements of Ontario Development Code Section 4.02.050 (Historic Preservation – Certificates of Appropriateness and Demolition of Historic Resources).

8.2 – Existing Historic Structures

Remaining within the area of the project site are historic properties located at 201 through 215 South Fern Avenue, The Fallis House, and 310 West Emporia Avenue (American Legion Hall). Location of these properties is shown on Exhibit 8-1 (Historic Resources Map).

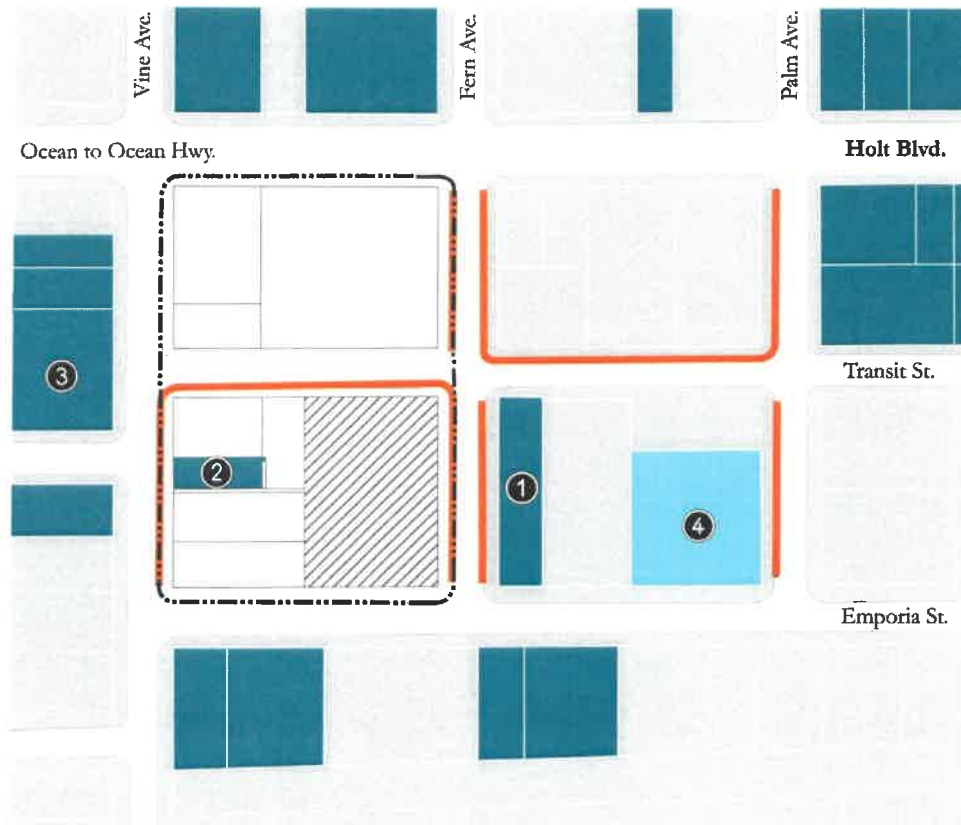
8.3 – Certificate of Appropriateness

As mentioned in Section 8.1 (Historic Background), above, a Certificate of Appropriateness is required to be submitted along with a Development Plan, to implement this Planned Unit Development. Approval of a Certificate of

HISTORIC PRESERVATION

Appropriateness is to ensure a compatible project that does not detract from the historic site nor adversely affect adjacent historic properties, such as the Fallis House (Local Landmark No. 1), located at 122 South Vine Avenue, across the street to the west. Locations of adjacent historic properties are shown on Exhibit 8-1 (Historic Resources Map).

Exhibit 8-1: Historic Resources Map



LEGEND

- | | | | |
|---|-------------------------------|---|---|
|  | Historic Sites |  | 201 - 215 S. Fern Avenue |
|  | Potential Historic Sites |  | 205 - 205 1/2 S. Vine Avenue |
|  | Former Casa Blanca Hotel Site |  | The Fallis House |
|  | Existing Rock Face Curb |  | 310 W. Emporia Avenue (American Legion) |
|  | Project Boundary | | |



The following mitigation measures shall be imposed on the project prior to the issuance of demolition permits for all Tier III designated historic properties located on the project site:

- An effort to relocate structure must be made (such as running a newspaper ad making the structure available to interested parties).

- HABS/HAER documentation of the historic resource (photos interior and exterior, written physical description of property, plans with dimensioned floor plan, site plan, elevations, and detailed drawings of any character defining-feature).
- Mitigation fees for non-residential structures (\$6.50 per square foot with a cap of \$32,500) shall be paid to the Historic Preservation Mitigation Trust Fund.
- Planning Department to identify salvageable features from the building or site to be reused either in the new project or donated to a local preservation group.

Demolition of any historic building on the project site shall not occur until the Approving Authority has approved a Certificate of Appropriateness for the replacement structure. The Historic Preservation Commission, upon recommendation of the Historic Preservation Subcommittee, may waive the requirement for a replacement structure if the ultimate project proposed for the site of the demolition provides an exceptional benefit to the community. Minimum findings must be made to waive the replacement structure requirements pursuant to the requirements of Ontario Development Code Section 4.02.050 (Historic Preservation – Certificates of Appropriateness and Demolition of Historic Resources).

8.4 – Rock Curb

Split Cobble Stone Curb (Rock Curb) exists along areas of Vine Avenue, Fern Avenue, and Transit Street in the project area. All rock curb locations in the project area are considered the lowest priority of rock curb classification. Due to this classification, the rock curb can be removed. The rocks shall be cleaned to the extent possible (removal of concrete), and temporarily stored on the project site, or at a City facility to be determined and arranged by the Housing Agency. The rocks acquired shall be reused on the project site within pedestrian corridors, at entry points into the site (e.g. drive aisles), or within the open space areas, subject to review and approval of the Planning Department. Rock curb locations can be replaced with standard curb and gutters pursuant to City standards. Locations of the rock curb are shown on Exhibit 8-1 (Historic Resources Map).

Incorporating an interpretative plan should be considered and submitted with the Development Plan submitted to implement this Planned Unit Development. Interpretative elements should be coordinated with the design of the landscape and hardscape plans, to achieve maximum compatibility and functionality. The purpose of the interpretative plan is to convey the historic background and historic significance (such as Developer’s Row, Fallis House, Casa Blanca, and Ocean-to-Ocean Highway—Holt Blvd.) of the project site and surrounding area, through narrative

HISTORIC PRESERVATION

plaques and photo displays. The salvaged rock curb should be part of the interpretative plan.

9 – CEQA Compliance

An Addendum to The Ontario Plan Environmental Impact Report (SCH No. 2008101140), prepared in conjunction with File No. PGPA06-001, and certified by the City of Ontario City Council on January 27, 2010, was prepared for the project.

The Approving Authority for the Project reviewed and considered the information contained in the Addendum, the initial study, and the administrative record for the Project, including all submitted written and oral evidence. Based upon the facts and information contained in the Addendum, the initial study, and the administrative record, including all written and oral evidence, the Approving Authority found as follows:

- The Addendum and administrative record have been completed in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and
- The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the Approving Authority; and
- There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and
- The project will not introduce any new significant environmental impacts beyond those previously analyzed in the Environmental Impact Report, and all mitigation measures previously adopted by the Environmental Impact Report, are incorporated herein by this reference.

9.1 – Environmental Performance Standards

Due to the proximity of the project area to rail lines and Holt Avenue which are both generators of noise and emissions, standards have been established to mitigate these environmental impacts.

9.1.1 – Noise

To ensure a proper standard of living, noise levels shall not exceed 65 dBA for exterior noise levels and 45 dBA for interior noise levels. In order to achieve these noise levels the following mitigations shall be followed:

- **MM 5.12-1:** Prior to the issuance of building permits, the developer/owner shall retain an acoustical engineer to conduct an acoustic analysis and identify, where

appropriate, site design features (e.g., setbacks, berms, or sound walls), and/or required building acoustical improvements (e.g., sound transmission class rated windows, doors and attic baffling), to ensure compliance with the City's Noise Compatibility Criteria, and the California State Building Code and California Noise Insulation Standards (CCR Titles 24 and 21).

- **MM 5.12-2:** Prior to the issuance of building permits, the developer/owner shall retain an acoustical engineer to evaluate the potential for trains to create perceptible levels of vibration indoors. If vibration-related impacts are found, mitigation measures, such as use of concrete, iron, steel, or masonry materials to ensure that levels of vibration amplification are within acceptable limits to building occupants, shall be implemented. Pursuant to the Federal Transit Administration vibration-annoyance criteria, these acceptable limits are 78 VdB during the daytime and 72 VdB during the nighttime for residential uses.
- Construction activities shall only occur between the hours of 7:00 AM and 6:00 PM on weekdays, and 9:00 AM and 6:00 PM on Saturdays and Sundays;
- Structural noise attenuation requirements contained in Ontario Municipal Code Title 8, Chapter 15, Article 3 (Building Requirements for New Residential Construction in the 65 CNEL to 70 CNEL Noise Zone) are required to be incorporated into exterior façade units located along the eastern, western, and northern project perimeter.
- Structural noise attenuation requirements contained in Ontario Municipal Code Title 8, Chapter 15, Article 2 (Building Requirements for New Residential Construction in the 70 CNEL to 75 CNEL Noise Zone) are required to be incorporated into exterior façade units located along the southern project perimeter;
- Balconies on exterior façade units located along the project's east, west and north perimeter street frontages shall have a solid balcony barrier of at least 5 feet above the deck height. On exterior façade units located along the project's south perimeter street frontage, no balconies or yard areas shall be permitted; and
- A 6-foot high solid decorative masonry block wall with self-closing, sound insulated gates shall be constructed between the buildings located along the southern edge of the project site. This will ensure exterior noise for outdoor facilities within the project will not exceed 65 dB CNEL.

9.1.2 – Air Quality

- Due to the proximity of the active rail lines to the south of the project area, air quality is a concern for the project site resulting from the diesel emissions from trains. Listed below are standards for reducing the air quality impacts of the diesel emissions.
- All residential living areas shall be equipped with air filtration systems operating under a positive pressure rated at MERV 12 or higher;
- The HOA or property management will replace all unit filters on a routine basis, determined by industry standards for the filter and air conditioning HVAC systems selected;
- The active outdoor recreation areas should be shifted northward where feasible, to provide the greatest possible distance setback from the closest railroad tracks; and
- A dense tree canopy shall be established along the southern site boundary to act as a living bio-filter for particulate air pollution.

10 – Administration

10.1 – Items Not Addressed in PUD

Any terms or regulations pertaining to design, development, subdivision, administration and interpretation, and nonconforming use, structures and, which are not addressed in this PLANNED UNIT DEVELOPMENT, shall be governed by the City of Ontario Development Code.

10.2 – Development Applications

Development Plan approval, pursuant to the requirements of Ontario Development Code Section 4.02.025 (Development Plans), shall be required for the physical alteration of a lot, the construction of a building, or the addition or significant alteration of an existing building. A Development Plan application shall be submitted to the Planning Department on a City application form pursuant to the requirements of Ontario Development Code Division 2.02 (Application Filing and Processing), commencing with Subsection B (Discretionary Permits and Actions) of Section 2.02.015 (Application Processing Procedures).

10.3 – Administrative Exceptions

Minor exceptions to the development standards set forth in this document may be granted by the Zoning Administrator in accordance with Section 4.02.020.C (Administrative Exceptions) of the Ontario Development Code, not to exceed 10 percent from minimum residential setback and separation requirements.

10.4 – Severability

If any portion of this Planned Unit Development is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, the determination shall not affect the validity of the remaining portions of this Planned Unit Development. Moreover, the decision shall not affect, impair, or nullify this Planned Unit Development, either in whole or in part, and the remainder of this Planned Unit Development shall continue in full force and effect.

EMPORIA FAMILY HOUSING

Planned Unit Development

Ontario, California

