

**CITY OF ONTARIO
CITY COUNCIL AND HOUSING AUTHORITY
AGENDA
AUGUST 4, 2020**

Paul S. Leon
Mayor

Debra Dorst-Porada
Mayor pro Tem

Alan D. Wapner
Council Member

Jim W. Bowman
Council Member

Ruben Valencia
Council Member



Scott Ochoa
City Manager

Scott E. Huber
City Attorney

Sheila Mautz
City Clerk

James R. Milhiser
Treasurer

SPECIAL AND URGENT NOTICE

In accordance with the Governor's Declarations of Emergency for the State of California (Executive Orders N-25-20 and N-29-20) and the Governor's Stay at Home Order (Executive Order N-33-20), the Ontario City Council Meetings are being conducted via teleconference to limit in-person attendance at the upcoming meeting of the City of Ontario City Council and Housing Authority.

Members of the public may utilize alternative measures established by the City of Ontario to view the City Council meetings and/or to address the Mayor and City Council Members.

The meeting will be live broadcast on local cable Channel 3 as well as internet live streamed: www.ontarioca.gov/Agendas/CityCouncil.

TO PROVIDE PUBLIC COMMENT DURING THE MEETING: Those wishing to speak during the "Public Comment" portion of the meeting must call 909-395-2900 between 6:00 p.m. and 6:30 p.m. the day of the meeting. Those wishing to speak on an item on the agenda must call between 6:00 p.m. and the close of the public hearing for that item. You will be asked to provide your name and item number that you will be speaking on, then you will be placed on hold until your item of interest is under consideration by the City Council. Comments will be limited to 3 minutes.

TO COMMENT BY E-MAIL: Submit your comments by email no later than 4:00 p.m. on the day of the meeting by emailing your name, agenda item you are commenting on and your comment to publiccomments@ontarioca.gov . All Comments received by the deadline will be forwarded to the City Council for consideration before action is taken on the matter.

TO COMMENT BY MAIL: To submit your comments by mail, provide your name, agenda item you are commenting on, and your comment by mailing to Records Management, Ontario City Hall, 303 East “B” Street, Ontario, CA 91764. Comments by mail must be received by the Records Management Department no later than 4:00 p.m. on the day of the meeting. Postmarks are not accepted. All comments received by the deadline will be provided to the City Council for consideration before action is taken on the matter.

We appreciate your understanding during this unprecedented time of social distancing under the Stay at Home Order. These procedures may be modified in the future as social and public gathering protocols change.

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 provide public comment or to address the City Council have been provided alternative measures including U.S. mail, email, a website comment form, and the ability to call in and speak to the City Council. All public comments received by the established deadline for this meeting will be included as part of the official meeting record.
- 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.

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.

CALL TO ORDER (*OPEN SESSION*)

6:00 p.m.

ROLL CALL

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

CLOSED SESSION PUBLIC COMMENT

Members of the public who wish to address a closed session agenda item may do so by mailing comments to the City Clerk's Office, or by calling (909) 395-2900 between 5:30 - 5:45 p.m. or by emailing PublicComments@ontarioca.gov no later than 5:00 p.m. on the day of the meeting. Under provisions of the Brown Act, Council is prohibited from taking action on oral requests.

CLOSED SESSION

- GC 54957, PUBLIC EMPLOYEE APPOINTMENT: *City Attorney*

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

PLEDGE OF ALLEGIANCE

Mayor pro Tem Dorst-Porada

INVOCATION

REPORT ON CLOSED SESSION

City Attorney

PUBLIC COMMENTS

6:30 p.m.

Members of the public who wish to provide a general comment or address a specific agenda item may do so by mailing comments to the City Clerk's Office, or by calling (909) 395-2900 between 6:00 – 6:30 p.m. or by emailing PublicComments@ontarioca.gov no later than 5:00 p.m. on the day of the meeting. Under provisions of the Brown Act, Council is prohibited from taking action on oral requests.

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 July 7, 2020, approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills July 3, 2020 through July 16, 2020 and **Payroll** June 21, 2020 through July 4, 2020, when audited by the Finance Committee.

3. A RESOLUTION APPROVING AN APPLICATION FOR THE USED OIL PAYMENT PROGRAM CYCLE 11 (FISCAL YEAR 2020-21) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

That the City Council adopt a resolution approving a grant application for an estimated \$49,000 from the Used Oil Payment Program Cycle 11 (Fiscal Year 2020-21) through the State of California Department of Resources Recycling and Recovery (CalRecycle); and authorize the City Manager or his designee to execute all necessary documents to participate in the program.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN ANNUAL APPLICATION TO PARTICIPATE IN THE USED OIL PAYMENT PROGRAM CYCLE 11 (FISCAL YEAR 2020-21) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE).

4. AN AMENDMENT TO A GOODS AND SERVICES AGREEMENT FOR COMMERCIAL BIN SUPPLIES AND MATERIALS/WASTEBUILT ENVIRONMENTAL SOLUTIONS, LLC

That the City Council approve and authorize the City Manager to execute Amendment No. 1 to a Goods and Services agreement (on file in the Records Management Department) with Wastebuilt Environmental Solutions, LLC of Ontario, California, in the amount of \$150,000; and authorize the City Manager to extend the agreement for up to three additional one year periods consistent with City Council approved budgets.

5. AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 58 (COLONY COMMERCE CENTER EAST SERVICES)

That the City Council consider and adopt an ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 58 (Colony Commerce Center East Services).

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. 58 (COLONY COMMERCE CENTER EAST SERVICES).

6. A RESOLUTION ESTABLISHING THE ANNUAL SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT 58 FOR FISCAL YEAR 2020-21

That the City Council adopt a resolution establishing the annual special tax within City of Ontario Community Facilities District No. 8 for Fiscal Year 2020-21.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 58 (COLONY COMMERCE CENTER EAST SERVICES), ESTABLISHING THE ANNUAL SPECIAL TAX FOR FISCAL YEAR 2020-21.

7. MAINTENANCE AGREEMENT FOR MANAGED PRINT SERVICES OF CITYWIDE KONICA MINOLTA MULTIFUNCTION COPIERS/KONICA MINOLTA (KM) BUSINESS SOLUTIONS

That the City Council authorize the City Manager to execute a recurring annual maintenance contract (on file in the Record Management Department) with Konica Minolta (KM) Business Solutions of San Bernardino, California, consistent with the six years terms and conditions of the County of San Bernardino's contract #20509A-3 for print services.

8. AN AMENDMENT TO THE SERVICES AGREEMENT WITH BIO-TOX LABORATORIES, INC. FOR TOXICOLOGY SERVICES

That the City Council authorize the City Manager to execute an amendment (on file in the Records Management Department) to the existing services agreement with Bio-Tox Laboratories, Inc. of Riverside, California, for toxicology services extending the term for an additional year and increasing the revised authorized contract amount by \$50,000, for a new total of \$165,000.

9. A PROFESSIONAL SERVICES AGREEMENT FOR PHLEBOTOMY AND NURSE SERVICES FOR THE POLICE DEPARTMENT/LAW ENFORCEMENT MEDICAL SERVICES, INC. (LEMS)

That the City Council authorize the City Manager to execute a three-year professional services agreement (on file in the Records Management Department) with Law Enforcement Medical Services, Inc., (LEMS) of Fontana, California, for phlebotomy and nurse services at an annual estimated cost of \$50,000, or a total of \$150,000 for three years; and the option to extend the agreement for up to two additional one-year periods.

10. AMERICORPS STATE FORMULA GRANT FOR 2020-21

That the City Council authorize the City Manager or designee, to execute grant documents to accept a \$400,000 AmeriCorps State formula grant for August 2020 through June 30, 2021 to fund the *Ontario Promise Corps* project.

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.

11. A PUBLIC HEARING TO CONSIDER AN ORDINANCE REPEALING URGENCY ORDINANCE NO. 3163, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL AND COMMERCIAL TENANTS, AND ENACTING A MORATORIUM ON RESIDENTIAL FORECLOSURES DUE TO LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC

That the City Council introduce and waive further reading of an ordinance amending City of Ontario Ordinance No. 3163 to repeal the City's existing temporary regulations on the eviction of storage unit patrons experiencing a loss of income due to the COVID-19 pandemic.

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, REPEALING URGENCY ORDINANCE NO. 3163, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL AND COMMERCIAL TENANTS, AND ENACTING A MORATORIUM ON RESIDENTIAL FORECLOSURES DUE TO LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC.

ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

12. A LEGAL SERVICES AGREEMENT FOR CITY ATTORNEY SERVICES

That the City Council authorize the City Manager to negotiate and execute a Legal Services Agreement with Best, Best & Krieger, LLP, of Riverside, California, to provide City Attorney services.

STAFF MATTERS

City Manager Ochoa

COUNCIL MATTERS

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

ADJOURNMENT

CITY OF ONTARIO
CLOSED SESSION REPORT
City Council // Housing Authority // Other // (GC 54957.1)
August 4, 2020

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 54957, PUBLIC EMPLOYEE APPOINTMENT: *City Attorney*

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

Reported by:

City Attorney / City Manager / Executive Director

CITY OF ONTARIO

Agenda Report
August 4, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING AN APPLICATION FOR THE USED OIL PAYMENT PROGRAM CYCLE 11 (FISCAL YEAR 2020-21) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

RECOMMENDATION: That the City Council adopt a resolution approving a grant application for an estimated \$49,000 from the Used Oil Payment Program Cycle 11 (Fiscal Year 2020-21) through the State of California Department of Resources Recycling and Recovery (CalRecycle); and authorize the City Manager or his designee to execute all necessary documents to participate in the program.

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

FISCAL IMPACT: The City is eligible to receive approximately \$49,000 in per capita funding through the Used Oil Payment Program to fund qualifying expenses made between July 1, 2020 and June 30, 2022. There are no additional costs and no matching funds required from the City to participate in this grant program. If approved, the additional appropriations and corresponding revenue will be included in the Integrated Waste Fund in the next quarterly budget update report to the City Council. There is no impact to the General Fund.

BACKGROUND: The California Oil Recycling Enhancement Act provides annual payments to local governments for the implementation of used oil and filter collection programs. The costs covered by this program include educational and public outreach materials, staff safety training, and support for collections and operations at the City's Household Hazardous Waste Collection Facility located at 1430 South Cucamonga Avenue. The program will assist the City in achieving the goals set by the State of California to reduce the amount of waste sent to the landfills by 50%. Used oil recycling and household hazardous waste collection are integral programs that help in attaining this goal.

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Thomas Coates
Department: Integrated Waste

City Manager
Approval: 

Submitted to Council/O.H.A. 08/04/2020

Approved: _____

Continued to: _____

Denied: _____

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN ANNUAL APPLICATION TO PARTICIPATE IN THE USED OIL PAYMENT PROGRAM CYCLE 11 (FISCAL YEAR 2020-21) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE).

WHEREAS, pursuant to Public Resources Code §48690 the Department of Resources Recycling and Recovery (CalRecycle) has established the Used Oil Payment Program to make payments to qualifying jurisdictions for implementation of their used oil programs; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the administration of the Used Oil Payment Program; and

WHEREAS, CalRecycle's procedures for administering the Used Oil Payment Program require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the Used Oil Payment Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Ontario authorizes the submittal of a Used Oil Payment Program application to CalRecycle.

BE IT FURTHER RESOLVED that the City Manager or his designee is hereby authorized and empowered to execute in the name of the City of Ontario all documents, including but not limited to applications, agreements annual reports including expenditure reports and amendments necessary to secure said payments to support the Used Oil Payment Program.

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

PASSED, APPROVED AND ADOPTED on the 4th day of August 2020.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

COLE HUBER 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. 2020- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held August 4, 2020 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. 2020- duly passed and adopted by the Ontario City Council at their regular meeting held August 4, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
August 4, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: AN AMENDMENT TO A GOODS AND SERVICES AGREEMENT FOR COMMERCIAL BIN SUPPLIES AND MATERIALS

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute Amendment No. 1 to a Goods and Services agreement (on file in the Records Management Department) with Wastebuilt Environmental Solutions, LLC of Ontario, California, in the amount of \$150,000; and authorize the City Manager to extend the agreement for up to three additional one year periods consistent with City Council approved budgets.


COUNCIL GOALS: Operate in a Businesslike Manner

FISCAL IMPACT: The recommended amendment will add \$150,000 to the current contract amount of \$71,724, bringing the total authorized contract amount to \$221,724 and will extend the current term by one year through June 30, 2021. The Fiscal Year 2020-21 Adopted Operating Budget includes appropriations from the Integrated Waste Fund for these goods and services. At the City's discretion, up to three additional one-year extensions may be exercised, for a total term of up to five years. Five years is the standard City agreement term for on-going services allowed by the City's Purchasing Policies and Procedures Manual, Section 6, "Agreement Form."

Pricing terms and conditions for Fiscal Year 2020-21 are consistent with the existing base agreement. Pricing for future years will be negotiated, and any increases shall not exceed 3% per year. Future contracting actions will be commensurate with City Council authorized work programs and approval of appropriations in future years' budgets. There is no impact to the General Fund.

BACKGROUND: The Integrated Waste Department currently has commercial bin containers of various sizes for refuse, recycling, wood/green waste recycling, and food waste service. The Department routinely repairs bin containers to maintain an adequate inventory to meet customer needs.

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Benjamin Mayorga
Department: MU – Integrated Waste
City Manager Approval: 

Submitted to Council/O.H.A. 08/04/2020
Approved: _____
Continued to: _____
Denied: _____

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On October 10, 2019, the City solicited bids for Integrated Waste Bin Supplies and Materials. Two proposals were received. Wastebuilt was identified as a local vendor, met the criteria spelled out in the Request for Quotes and was awarded a Goods and Services agreement for Fiscal Year 2019-20.

Since that time, Wastebuilt has provided necessary supplies and materials to repair Integrated Waste bins. Based upon ongoing maintenance repairs of bins, the company's responsiveness, and the reliability of their products, City staff recommends extending the current Agreement with Wastebuilt.

CITY OF ONTARIO

Agenda Report
August 4, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 58 (COLONY COMMERCE CENTER EAST SERVICES)

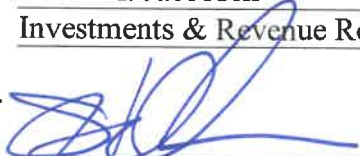
RECOMMENDATION: That the City Council consider and adopt an ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 58 (Colony Commerce Center East Services).

COUNCIL GOALS: Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

FISCAL IMPACT: The use of Mello-Roos financing for services in the industrial development of the Colony Commerce Center East project is estimated to generate approximately \$522,400 per year, at build out, to fund City services. The use of Mello-Roos financing for Colony Commerce Center East Services will not generate funds for facilities and bonds will not be issued as part of this formation. There will be a proposed levy starting in Fiscal Year 2020-21 and in subsequent years that will require City Council approval. This revenue will be included in the next quarterly budget update report to the City Council.

BACKGROUND: At a public hearing conducted by the City Council on July 21, 2020, the City Council adopted the resolution of formation for Community Facilities District No. 58 (Colony Commerce Center East Services) and introduced and waived further reading of an ordinance levying special taxes within the District. Adoption of the ordinance will conclude the formation process for City of Ontario Community Facilities District No. 58 (Colony Commerce Center East Services).

STAFF MEMBER PRESENTING: Armen Harkalyan, Executive Director of Finance

Prepared by: Jason M. Jacobsen
Department: Investments & Revenue Resources
City Manager Approval: 

Submitted to Council/O.H.A. 08/04/2020
Approved: _____
Continued to: _____
Denied: _____

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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 (CFDs) for the purpose of levying special taxes to finance various kinds of government services.

The Colony Commerce Center East project addresses the development of approximately 84 gross acres located south of Merrill Avenue, east of Cucamonga Channel, and west of Archibald Avenue. At build-out, the project is anticipated to consist of 1,685,420 square feet of industrial development.

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. 58 (COLONY COMMERCE CENTER EAST SERVICES).

WHEREAS, on June 2, 2020, 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. 58 (Colony Commerce Center East Services) and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 58 (Colony Commerce Center East Services) (the "Community Facilities District") and to finance certain services (the "Services"); and

WHEREAS, on July 21, 2020, 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. 58 (Colony Commerce Center East Services), 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 "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 58 (Colony Commerce Center East Services)," 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 levying a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District, respectively; and

WHEREAS, on July 21, 2020, 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 2020-21 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 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.

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

PASSED, APPROVED, AND ADOPTED this 4th day of August 2020.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

COLE HUBER, 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. 3165 was duly introduced at a regular meeting of the City Council of the City of Ontario held July 21, 2020 and adopted at the regular meeting held August 4, 2020 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. 3165 duly passed and adopted by the Ontario City Council at their regular meeting held August 4, 2020 and that Summaries of the Ordinance were published on July 28, 2020 and August 11, 2020 in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
August 4, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION ESTABLISHING THE ANNUAL SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT 58 FOR FISCAL YEAR 2020-21

RECOMMENDATION: That the City Council adopt a resolution establishing the annual special tax within City of Ontario Community Facilities District 58 for Fiscal Year 2020-21.

COUNCIL GOALS: Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Ensure the Development of a Well Planned, Balanced and Self-Sustaining Community in Ontario Ranch

FISCAL IMPACT: As proposed for Fiscal Year 2020-21, special tax revenues in the amount of \$518,590 will be used to fund City services and related district expenses. This revenue will be included in the next quarterly budget update.

BACKGROUND: The services authorized to be financed, in whole or in part, by City of Ontario Community Facilities District 58 are as follows: 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 drain protection services; and maintenance and operation of any real property or tangible property with an estimated useful life of five or more years that is owned by the City.

The resolution to establish the annual special tax for Fiscal Year 2020-21 could not be brought to City Council until after the Resolution of Formation and the second reading of the ordinance had occurred. The adoption of a resolution for the above, named district by the City Council is required annually to establish the special tax rates to be levied. Goodwin Consulting Group has prepared the Administrative Report for the district for Fiscal Year 2020-21, which is on file in the Records Management Department.

STAFF MEMBER PRESENTING: Armen Harkalyan, Executive Director of Finance

Prepared by: Jason Jacobsen
Department: Investments & Revenue Resources
City Manager Approval: 

Submitted to Council/O.H.A. 08/04/2020
Approved: _____
Continued to: _____
Denied: _____

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The maximum and proposed annual tax rate for Fiscal Year 2020-21, are as follows:

Annual Tax Rates

Land Use	Number of Units / Sq. Ft.	FY 2020-21 Maximum Tax Rates	FY 2020-21 Proposed Tax Rates	FY 2020-21 Special Tax Levy
Residential Property:				
Single Family Detached	0	\$1,754.00 per Unit	\$1,686.54 per Unit	\$0.00
Multiple Family	0	\$1,521.00 per Unit	\$1,462.50 per Unit	\$0.00
Gated Apartment Community	0	\$1,275.00 per Unit	\$1,225.96 per Unit	\$0.00
Non-Residential Property	1,685,420	\$0.3200 per Sq. Ft.	\$0.3077 per Sq. Ft.	\$518,590
Total Fiscal Year 2020-21 Special Tax Levy				\$518,590

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 58 (COLONY COMMERCE CENTER EAST SERVICES), ESTABLISHING THE ANNUAL SPECIAL TAX FOR FISCAL YEAR 2020-21.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings, held a public hearing, conducted an election and received a favorable vote from the qualified electors relating to the levy of a special tax in the City of Ontario Community Facilities District No. 58 (Colony Commerce Center East Services) (the "District"), all as authorized pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982" (the "Act"), being Chapter 2.5, Part 1, Division 2, Title 5, of the Government Code of the State of California; and

WHEREAS, the City Council, acting as the legislative body of the District, adopted Ordinance No. 3165 (the "Special Tax Ordinance") as authorized by Section 53340 of the Government Code of the State of California, to authorize the levy of a special tax to pay for costs and expenses related to the District, and this legislative body is desirous to establish the specific rates of the special tax to be collected for the specified Fiscal Year.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. The above recitals are all true and correct.

SECTION 2. That the specific rates and amount of the special tax to be collected to pay for the costs and expenses (as defined in Section 5 below) for the referenced Fiscal Year for the District are hereby determined and established as set forth in the attached referenced and incorporated Exhibit "A".

SECTION 3. That the rates as set forth above do not exceed the amount authorized by the Special Tax Ordinance of this legislative body, and are not in excess of that as previously approved by the qualified electors of the District.

SECTION 4. The City Manager is authorized and directed to file a certified copy of this Resolution, together with a list of all parcels subject to the special tax for the above specified Fiscal Year and the amount of the special tax to be levied against each such parcel, with the County Auditor/Tax Collector of the County of San Bernardino on or before August 10; provided, however, that such may be filed after August 10, but not later than August 21, if the City Manager obtains the prior written consent of such County Auditor/Tax Collector.

SECTION 5. That the proceeds of the special tax shall be used only to pay the following costs and expenses:

- (a) Costs of those services authorized to be financed by the District;
- (b) Costs incurred by the District and the City in the annual levy and collection of the special taxes;
- (c) Administrative costs of the District; and
- (d) Any incidental expenses authorized to be financed by the District.

SECTION 6. 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 same procedure and sale in cases of any delinquency for ad valorem taxes, and the County Auditor/Tax Collector is hereby authorized to deduct reasonable administrative costs incurred in collecting any said special tax.

SECTION 7. All monies above collected shall be paid into the Community Facilities District No. 58 Fund.

SECTION 8. The County Auditor/Tax Collector is hereby directed to enter in the next County assessment roll on which taxes will become due, opposite each lot or parcel of land affected in a space marked "CFD No. 58 Special Tax," or by any other suitable designation, the installment of the special tax.

SECTION 9. The County Auditor/Tax Collector shall then, at the close of the tax collection period, promptly render to the District a detailed report showing the amount and/or amounts of such special tax installments, interests, penalties, and percentages so collected and from what property collected, and also provide a statement of any percentages retained for the expense of making any such collection.

SECTION 10. This legislative body hereby certifies that the levy of the special tax was authorized in accordance with the provisions of the Act, and complies with the requirements of Articles XIII A and XIII C of the Constitution of the State of California.

SECTION 11. This Resolution shall take effect on the date the Special Tax Ordinance becomes effective.

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

PASSED, APPROVED, AND ADOPTED this 4^h day of August 2020.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

COLE HUBER, 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. 2020- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held August 4, 2020 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. 2020- duly passed and adopted by the Ontario City Council at their regular meeting held August 4, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT "A"

**CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 58
(COLONY COMMERCE CENTER EAST SERVICES)**

**SPECIAL TAX RATES
FOR FISCAL YEAR 2020-21**

Land Use	Number of Units / Sq. Ft.	FY 2020-21 Actual Special Tax
Residential Property:		
Single Family Detached	0	\$1,686.54 per Unit
Multiple Family	0	\$1,462.50 per Unit
Gated Apartment Community	0	\$1,225.96 per Unit
Non-Residential Property	1,685,420	\$0.3077 per Sq. Ft.

CITY OF ONTARIO

Agenda Report
August 4, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: MAINTENANCE AGREEMENT FOR MANAGED PRINT SERVICES OF CITYWIDE KONICA MINOLTA MULTIFUNCTION COPIERS

RECOMMENDATION: That the City Council authorize the City Manager to execute a recurring annual maintenance contract (on file in the Record Management Department) with Konica Minolta (KM) Business Solutions of San Bernardino, California, consistent with the six years terms and conditions of the County of San Bernardino's contract #20509A-3 for print services.

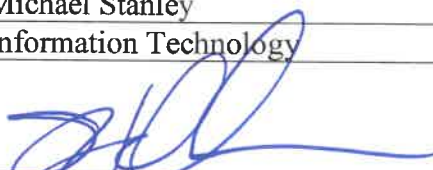
COUNCIL GOALS: Operate in a Businesslike Manner

FISCAL IMPACT: The annual costs for copies, supplies, and maintenance of KM copiers is estimated to be \$ 130,000 annually. Appropriations to cover these costs are included in the Fiscal Year 2020-21 Adopted Budget for the Information Technology Agency.

BACKGROUND: Multifunction copier technology has created new opportunities for departments to centralize faxing, scanning, and printing. Total costs of ownership for multifunction KM equipment is lower than other separate printing and scanning options. The City has purchased KM copiers under a County of San Bernardino contract for managed print services where each purchase includes a cost per copy maintenance plan covering the cost of all copies, supplies, parts, and maintenance through the life of the copier. Per copy costs, which can be as low as .00314 cents per copy, are generally lower on newer and larger copiers, facilitating a stable, proactive replacement strategy. While the City continues to evaluate and procure copiers from competing manufacturers, the KM price, performance and, quality justify the continued procurement and use of that equipment. The City presently has an inventory of 108 copiers, 91 of which are KM multifunction copiers.

In general conformance with the provisions of Government Code Section 54201 through 54204 the Ontario Municipal Code, Section 2-6.1(b)(3), allows for the purchase of supplies and equipment through cooperative purchasing with other governmental agencies. Cooperative purchasing enables the City to

STAFF MEMBER PRESENTING: Colin Fernandes, Executive Director Information Technology

Prepared by: Michael Stanley
Department: Information Technology
City Manager Approval: 

Submitted to Council/O.H.A. 08/04/2020
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pool its procurement power with other public agencies to obtain pricing lower than might otherwise be possible.

CITY OF ONTARIO

Agenda Report
August 4, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: AN AMENDMENT TO THE SERVICES AGREEMENT WITH BIO-TOX LABORATORIES, INC. FOR TOXICOLOGY SERVICES

RECOMMENDATION: That the City Council authorize the City Manager to execute an amendment (on file in the Records Management Department) to the existing services agreement with Bio-Tox Laboratories, Inc. of Riverside, California, for toxicology services extending the term for an additional year and increasing the revised authorized contract amount by \$50,000, for a new total of \$165,000.


**COUNCIL GOALS: Maintain The Current High Level of Public Safety
Operate in a Businesslike Manner**

FISCAL IMPACT: The estimated annual cost for the toxicology services is \$50,000. Bio-Tox Laboratories, Inc. has agreed to extend the contract term for an additional year and maintain their current pricing schedule for services. Appropriations have been included in the Fiscal Year 2020-21 Adopted Budget.

BACKGROUND: The Ontario Police Department has contracted with Bio-Tox Laboratories, Inc. since 1997 for on-call toxicology drug testing services. The services include blood draw samples picked-up from a county facility and availability of 24 hours per day, seven (7) days per week, and 365 days per year.

The City's existing agreement with Bio-Tox Laboratories expired on June 30, 2020, and the recommended amendment would extend services for a one-year period with a new authorized contract amount of \$165,000

STAFF MEMBER PRESENTING: Derek Williams, Chief of Police

Prepared by: Donna Bailey
Department: Police
City Manager Approval: 

Submitted to Council/O.H.A. 08/04/2020
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CITY OF ONTARIO

Agenda Report
August 4, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: A PROFESSIONAL SERVICES AGREEMENT FOR PHLEBOTOMY AND NURSE SERVICES FOR THE POLICE DEPARTMENT

RECOMMENDATION: That the City Council authorize the City Manager to execute a three-year professional services agreement (on file in the Records Management Department) with Law Enforcement Medical Services, Inc., (LEMS) of Fontana, California, for phlebotomy and nurse services at an annual estimated cost of \$50,000, or a total of \$150,000 for three years; and the option to extend the agreement for up to two additional one-year periods.

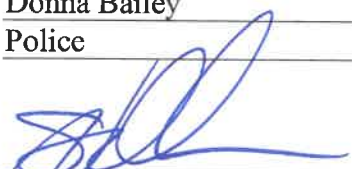
COUNCIL GOALS: Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner

FISCAL IMPACT: The annual cost is estimated at \$50,000; however, the actual cost to be incurred, to include reasonable rate increases, will be determined by the type, nature, and frequency of use for phlebotomy and nurse services. Services will be billed based on the established current Fee Schedule, which LEMS has agreed to extend its existing rates. The Fiscal Year 2020-21 Adopted Operating Budget includes appropriations for phlebotomy and nurse services for the first year of \$50,000. Appropriations for the remaining two years of the agreement will be included in future annual budgets to be considered by the City Council. The three-year estimated cost for services is \$150,000.

BACKGROUND: In May 2020, the City issued a Request for Proposals (RFP) for companies to provide phlebotomy and nurse services for the Police Department. Two responses were received: LEMS Inc. and SoCal Regeneration Inc. Based upon staff's review and evaluation of the responses received, staff recommends award of the Phlebotomy and Nurse Services agreement to LEMS based upon LEMS submitting the lowest responsive bid and having performed their services for the Ontario Police Department for the past 20 years in a consistently reliable and satisfactory manner.

Under State law, the collection of forensic medical evidence and medical samples is required to be performed by State licensed and certified examiners in the cases of sex crime investigations, driving under the influence, and in the registration of sex offenders. The staff of LEMS consists of

STAFF MEMBER PRESENTING: Derek Williams, Chief of Police

Prepared by: Donna Bailey
Department: Police
City Manager Approval: 

Submitted to Council/O.H.A. 08/04/2020
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fully trained and State certified nurses, phlebotomists, sexual assault nurse examiners, and licensed vocational nurses. LEMS has agreed to maintain its current billing rates as set forth in last year's Services and Fee Schedules.

LEMS will provide all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply forensic medical evidence collection services to the Ontario Police Department. LEMS also performs these forensic medical collection services for the San Bernardino County Sheriff's Department, California Highway Patrol, and police departments from the cities of Colton, Fontana, Montclair, and Redlands.

CITY OF ONTARIO

Agenda Report
August 4, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: AMERICORPS STATE FORMULA GRANT FOR 2020-21

RECOMMENDATION: That the City Council authorize the City Manager or designee, to execute grant documents to accept a \$400,000 AmeriCorps State formula grant for August 2020 through June 30, 2021 to fund the *Ontario Promise Corps* project.

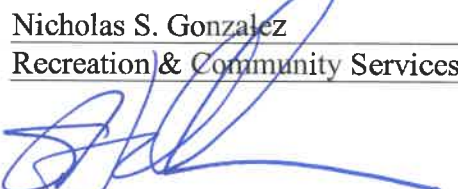
COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Pursue City's Goals and Objectives by Working with Other Governmental Agencies
Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: The Community Life & Culture Agency has been awarded a \$400,000 AmeriCorps State formula grant to fund costs associated with building the capacity of the City to successfully operate an AmeriCorps program. The grant will cover costs related to one new full-time Administrative Specialist position at a total cost of \$100,594. The City is also responsible to provide a cash match of \$203,750, of which a portion of these funds will come from outside partner support. Additionally, the City will provide in-kind services related to some existing personnel costs associated with the grant and administrative costs. The grant period is from August 2020 through June 30, 2021. The associated grant revenue and expenditure appropriations will be included in the next Quarterly Budget Report to the City Council.

BACKGROUND: On August 20, 2019 the City Council approved a twelve-month AmeriCorps State planning grant for the City to develop a cradle-to-career collective impact program (*Ontario Promise Corps*) to engage AmeriCorps members to implement services that will include but are not limited to improving school readiness, improved school attendance, and college access and success in the City. The planning grant outlined activities that will address the needs of young children, school-aged children, youth, and young adults by AmeriCorps Members.

Ontario Promise Corps will focus on the National Service Focus Area of Education and will provide services that contribute to improved educational outcomes for economically disadvantaged children and

STAFF MEMBER PRESENTING: Helen McAlary, Executive Director Community Life & Culture

Prepared by: Nicholas S. Gonzalez
Department: Recreation & Community Services
City Manager Approval: 

Submitted to Council/O.H.A. 08/04/2020
Approved: _____
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youth, and support economically disadvantaged students as they prepare for success in post-secondary educational institutions. The program will have twenty (20) AmeriCorps Members who will assist in the operation of a one-on-one education program for low-income and at-risk students, foster mentor-mentee relationships with participants and provide access to information and resources for higher education attainment in the City of Ontario. At the end of the first program year, the AmeriCorps Members will be responsible for improving school readiness, literacy and social-emotional skills needed to succeed in kindergarten, providing mentorship for social-emotional development, and increasing access to college resources and information.

Throughout the planning grant process, the Ontario Community Life & Culture Agency developed partnerships with the Ontario-Montclair Promise Scholars team and Hope Through Housing to design evidence-based programs to support student across the cradle-to-career continuum.

Over the past year, the *Ontario Promise Corps* team has raised awareness in the larger community about the program and has engaged various City departments including Library, Recreation & Community Services, and Economic Development. Based on the City's commitment on providing cradle-to-career continuum and increasing educational opportunities, the City submitted a successful competitive and comprehensive grant application to seek funding for AmeriCorps members to implement the strategies developed during the planning grant phase.

The grant award of \$400,000 will be matched with \$203,750 of local funds of which a portion will come from outside partner support. Highlights of the grant budget include approval of a full-time Administrative Specialist position who will be 100% responsible for the day-to-day operations of the grant at a total cost of \$100,594; twenty (20) AmeriCorps Members with a state-mandated living allowance set at \$16,000 plus health care; miscellaneous office supplies; and equipment costs.

This one-year grant supports AmeriCorps member service activities occurring in August 2020 through June 30, 2021. A new application will be submitted in the fall of 2020 for funding beyond this one-year grant period.

CITY OF ONTARIO

Agenda Report
August 4, 2020

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE REPEALING URGENCY ORDINANCE NO. 3163, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL AND COMMERCIAL TENANTS, AND ENACTING A MORATORIUM ON RESIDENTIAL FORECLOSURES DUE TO LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance amending City of Ontario Ordinance No. 3163 to repeal the City's existing temporary regulations on the eviction of storage unit patrons experiencing a loss of income due to the COVID-19 pandemic.


COUNCIL GOALS: 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: On April 7, 2020, the City Council adopted Ordinance No. 3159, which along with other protections for residential and commercial tenants, prohibited the eviction of storage unit patrons experiencing a loss of income due to the COVID-19 pandemic. On May 19, 2020, the City Council adopted Ordinance No. 3163, which amended Ordinance No. 3159 to add in protections for homeowners but left unchanged the protections offered for storage unit patrons.

Ordinance No. 3163 is currently effective through the term of the state of local emergency caused by COVID-19. Under the ordinance, qualifying patrons remain responsible to pay all fees incurred within six months of the expiration of the protection. Violation of the ordinance carries a misdemeanor penalty.

STAFF MEMBER PRESENTING: David Sheasby, Deputy City Manager

Prepared by: David Sheasby
Department: Management Services
City Manager Approval: 

Submitted to Council/O.H.A. 08/04/2020
Approved: _____
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Denied: _____

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During the shutdown of the local economy during “Stage 1” of the Governor’s state at home order, moving of items was not readily feasible for residents of all income levels. As such, the unnecessary displacement of stored items posed a threat to the public health and welfare as unmoved items could have been sold at auction, depriving residents of belongings needed for their well-being. Additionally, unwanted items could have been discarded into the public right of way.

Circumstances have changed considerably since the initial adoption of the protection, with the state having now opened up the economy significantly and with jobs numbers having improved significantly as well. The number of inquiries that staff receives regarding the ordinance has decreased in recent weeks, and there have not been significant reports of storage unit patrons continuing to need the protections. However, storage unit operators have questioned the need to continue the protections and have requested that they be repealed.

The proposed ordinance would remove the protections for storage unit patrons but would leave intact protections offered for residential/commercial tenants, as well as homeowners. To allow for a measured transition, the proposed ordinance would become effective October 1, 2020, meaning that any fees deferred by a storage unit patron under the protection of the ordinance will be due in full by April 1, 2021, unless otherwise agreed upon by the parties.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, REPEALING URGENCY ORDINANCE NO. 3163, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL AND COMMERCIAL TENANTS, AND ENACTING A MORATORIUM ON RESIDENTIAL FORECLOSURES DUE TO LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC.

WHEREAS, the City of Ontario, California (“City”) is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

WHEREAS, Article XI, section 7 of the California Constitution grants the City broad discretionary power to “make and enforce within its limits all local police, sanitary, and other ordinances and regulations not in conflict with general laws”; and

WHEREAS, Executive Order N-28-20, issued by Governor Gavin Newsom on March 16, 2020, suspends any provision of state law that would preempt or otherwise restrict the City’s exercise of its police powers to impose limitations on evictions based on nonpayment of rent arising out of a substantial decrease in household or business income caused by the Coronavirus Disease 2019 (COVID-19) pandemic; and

WHEREAS, Executive Order N-37-20, issued by Governor Gavin Newsom on March 27, 2020 amends, supplements and extends the protections afforded by Executive Order N-28-20 related to evictions and foreclosures due to COVID-19 caused nonpayment of rent and/or mortgage payments; and

WHEREAS, City of Ontario Ordinance 2990 empowers the City Manager, acting as the Director of Emergency Services, to proclaim the existence or threatened existence of a local emergency when the City is affected or likely affected by a public calamity and the City Council is not in session; and

WHEREAS, the City Manager exercised his right as Director of Emergency Services to proclaim a local emergency on March 14, 2020; and

WHEREAS, the Ontario City Council ratified the proclamation by a unanimous vote of the four Council Members in attendance at the March 17, 2020 meeting of the Ontario City Council; and

WHEREAS, the declaration of a statewide “stay at home” order by Governor Gavin Newsom via Executive Order N-33-20 on March 19, 2020, has required the closure of businesses within “non-essential” industries, and has led to severe economic impacts across the state, including the lay off or a reduction in income for many California residents; and

WHEREAS, on June 18, 2020, California Governor Gavin Newsom issued a statewide order mandating the wearing of face masks or coverings for the public which the City of Ontario followed by requiring face masks or coverings for city employees; and

WHEREAS, on June 28, 2020, California Governor Gavin Newsom issued an order closing bars and restricting indoor restaurant operations for seven counties, including the County of San Bernardino; and

WHEREAS, on July 13, 2020, California Governor Gavin Newsom issued an order closing additional businesses, including gyms, worship services, personal care services, hair salons, and malls; and

WHEREAS, further economic impacts are anticipated, leaving residential tenants, and commercial tenants vulnerable to eviction; and

WHEREAS, the economic impacts may extend to certain residential property owners leaving them vulnerable to foreclosure by lenders; and

WHEREAS, there is evidence that COVID-19 is active and substantially increasing in the State of California, and the City of Ontario; and

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing and business displacement to protect the City's affordable housing stock, to prevent housed individuals from falling into homelessness, to prevent the displacement and closure of local and small businesses, during the statewide "stay at home" order issued by the Governor; and

WHEREAS, in the interest of public peace, health, and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the City Council to exercise its authority to issue these regulations related to the protection of the public peace, health, and safety; and

WHEREAS, the City Council finds and determines eviction of residential tenants, and commercial tenants must be regulated in order to protect the public health, safety, and welfare; and

WHEREAS, the City Council passed Urgency Ordinance No. 3159 on April 7, 2020 which adopted temporary regulations prohibiting the eviction of residential tenants, commercial tenants, and storage unit patrons experiencing loss of income related to the COVID-19 pandemic; and

WHEREAS, the City Council passed Urgency Ordinance No. 3163 on May 19, 2020, which amended Urgency Ordinance 3159 to expand the scope of the ordinance to include protections against residential foreclosures, among other things; and

WHEREAS, there has been continuing interest and request for protections for residential and commercial tenants; and

WHEREAS, there has been diminishing interest and request for protections for storage unit patrons.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. Urgency Ordinance No. 3163 adopted by the Ontario City Council on May 19, 2020 is hereby repealed in its entirety.

SECTION 2. The recitals set forth above are true and correct and are hereby adopted as findings in support of this Ordinance as if fully set forth herein.

SECTION 3. Temporary Moratorium on Evictions. A temporary moratorium on eviction for non-payment of rent by residential tenants and commercial tenants impacted by the COVID-19 crisis is imposed as follows:

A. Until the period of local emergency proclaimed in response to COVID-19 concludes, no landlord shall endeavor to evict a residential tenant or commercial tenant, in accordance with this Ordinance, if the tenant demonstrates that the inability to pay rent or fees is due to the COVID-19, the state of emergency regarding COVID-19, or following government recommended COVID-19 precautions. To take advantage of the protections afforded under this subsection A, a tenant must satisfy all of the following requirements:

1. Prior to the date of this Order, the tenant paid rent due to the landlord pursuant to an agreement.

2. The tenant notifies the landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant needs to delay all or some payment of rent because of an inability to pay the full amount due to reasons related to COVID-19, including but not limited to the following:

(a) The tenant was unavailable to work because the tenant was sick with a suspected or confirmed case of COVID-19 or caring for a household or family member who was sick with a suspected or confirmed case of COVID-19;

(b) The tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19, the state of emergency, or related government response; or

(c) The tenant needed to miss work to care for a child whose school was closed in response to COVID-19.

(d) substantial decrease in business income resulting from the COVID-19 pandemic;

3. The tenant retains verifiable documentation, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, signed letters or statements from an employer or supervisor explaining the tenant's changed financial

circumstances, business balance sheets, profit and loss statements, income statements, or cash flow statements to support the tenant's assertion of an inability to pay. This documentation may be provided to the landlord no later than the time of payment of back-due rent.

B. If a residential or commercial tenant complies with the requirements of subsection A, a landlord shall not do any of the following:

1. Initiate a cause of action for judicial foreclosure pursuant to Code of Civil Procedure Section 725a et seq.;

2. Initiate a cause of action for unlawful detainer pursuant to Code of Civil Procedure Section 1161 et seq.;

3. Initiate any other statutory cause of action that could be used to evict or otherwise eject a residential tenant or occupant of residential real property;

4. Serve a notice to terminate tenancy pursuant to Code of Civil Procedure Section 1161 et seq, to evict for nonpayment of rent; or

5. Otherwise seek to evict for nonpayment of rent.

C. For purposes of this Ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

D. Nothing in this Ordinance shall relieve a commercial tenant from timely paying for electricity, water, sewer, garbage, HVAC, property tax, or other common area maintenance fees and/or charges that are required pursuant to a valid lease. Any modification of these as to the payment of the fees and charges is at the discretion of the parties to the valid lease.

E. Nothing in this Ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. Six months after the end of the emergency, if the rent or any portion thereof remains unpaid, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process.

F. This Ordinance applies to evictions and unlawful detainer actions served or filed on or after the date of adoption of this Ordinance.

SECTION 4. Temporary Moratorium on Foreclosures. A temporary moratorium on foreclosures related to the COVID-19 pandemic resulting from nonpayment of mortgages on residential properties of four (4) units or less located in the City of Ontario is imposed as follows:

A. Notwithstanding the provisions authorizing nonjudicial foreclosure in Division 3, Part 4 of the Civil Code (commencing with section 2920, et seq.), the provisions authorizing judicial foreclosure in Chapter 1 of Title 10 of the Code of Civil Procedure, or any other general or special law authorizing nonjudicial or judicial foreclosure, no person or entity shall take any action to foreclose on residential real property consisting of four (4) units or less, including, but not limited to, the following actions:

- (1) Causing or conducting the sale of real property pursuant to a power of sale.
- (2) Causing recordation of notice of default pursuant to Civil Code section 2924.
- (3) Causing recordation, posting, or publication of a notice of sale pursuant to Civil Code section 2924f.
- (4) Recording a trustee's deed upon sale pursuant to Civil Code section 2924h.
- (5) Initiating or prosecuting an action to foreclose, including, but not limited to, actions pursuant to Section 725a of the Code of Civil Procedure.
- (6) Enforcing a judgment by sale of real property pursuant to Civil Code section 680.010.

B. This temporary moratorium on foreclosures shall terminate immediately upon rescission of this Ordinance or upon termination of the state of emergency declared by the Governor, whichever is earlier.

SECTION 5. Violations

A. Violation of this Ordinance shall be punishable as a misdemeanor as set forth in Chapter 1-2.01(c) of the Ontario Municipal Code. Nothing in this Ordinance shall be construed to diminish or supersede the provisions of Penal Code Section 396.

B. This Ordinance grants a defense to a tenant in the event that an unlawful detainer or other legal action is commenced in violation of this Ordinance.

SECTION 6. Term. This Ordinance shall remain in effect for the period of local emergency declared in response to COVID-19 within the City.

SECTION 7. Effective Date. This Ordinance shall become effective on October 1, 2020.

SECTION 8. Uncodified. This Ordinance shall not be codified.

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 City Council of the City of Ontario hereby declares that it 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. CEQA Exemption. This Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. 14 Cal. Code Regs. § 15378(a). Further, this Ordinance is exempt from CEQA as there is no possibility that this Ordinance or its implementation would have a significant negative effect on the environment. 14 Cal. Code Regs. § 15061(b)(3).

SECTION 6. 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 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 _____ 2020.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

COLE HUBER 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 August 4, 2020 and adopted at the regular meeting held _____, 2020 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)

CITY OF ONTARIO

Agenda Report
August 4, 2020

SECTION:
ADMINISTRATIVE REPORTS/
DISCUSSION/ACTION

SUBJECT: A LEGAL SERVICES AGREEMENT FOR CITY ATTORNEY SERVICES

RECOMMENDATION: That the City Council authorize the City Manager to negotiate and execute a Legal Services Agreement with Best, Best & Krieger, LLP, of Riverside, California, to provide City Attorney services.

COUNCIL GOALS: Operate in a Businesslike Manner


FISCAL IMPACT: The Fiscal Year 2020-21 Adopted Operating Budget includes appropriations for City Attorney Services during the current year. Any future fiscal impacts resulting from the change in City Attorney services will be accounted for in future fiscal year budgets to be approved by the City Council.

BACKGROUND: Interim City Attorney Services have been provided by the law firm of Cole Huber, LLP since June 2019. Per the direction of the City Council, in February 2020, a Request for Proposals (RFP) for City Attorney Services was issued to solicit proposals for the appointment of a permanent City Attorney.

In response to the RFP, the City received nine qualifying responses from law firms all across the state. After a thorough review by a staff evaluation team, four firms were recommended for interviews with the City Council. On July 23, 2020, the City Council interviewed the four firms during a closed session special meeting and provided direction to staff to facilitate further discussions with the City Council's preferred respondent Best, Best & Krieger, LLP (BB&K) and Ruben Duran as the designated City Attorney.

This action, if approved by the City Council, will authorize the City Manager to move forward with concluding negotiations of agreement terms with BB&K, and a new Legal Services Agreement would be executed in line with the City's existing agreement which utilizes a two-tiered rate structure establishing rates for routine, general counsel services as well as non-routine, extraordinary services. A limited retainer may also be considered as a component of the agreement.

STAFF MEMBER PRESENTING: Scott Ochoa, City Manager

Prepared by: David Sheasby
Department: Management Services
City Manager Approval: 

Submitted to Council/O.H.A. 08/04/2020
Approved: _____
Continued to: _____
Denied: _____

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