

**CITY OF ONTARIO
CITY COUNCIL AND HOUSING AUTHORITY
AGENDA
APRIL 7, 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 ELIMINATING IN-PERSON PUBLIC PARTICIPATION AT CITY OF ONTARIO CITY COUNCIL AND HOUSING AUTHORITY MEETINGS

Due to the directives contained in 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 City of Ontario City Council and Housing Authority is required 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 participate in the meeting of the City of Ontario City Council and Housing Authority and/or to communicate your opinions to the City Council.

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 to address the Council regarding a public hearing will be required to dial in to (909)736-0970, at 5:50 p.m. to be added to the queue for public comment.
- 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 mute their phones 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.

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 54957.6, LABOR NEGOTIATIONS: City Negotiator: City Manager or his designees; Bargaining Units: American Federation of State, County and Municipal Employees (AFSCME); Association of Ontario Management Employees (AOME); and Teamsters Local 1932.
- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APN 0110-321-38; City/Authority Negotiator: Scott Ochoa or his designee; Negotiating parties: Unknown at this time; Under negotiation: Price and terms of payment.

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

PLEDGE OF ALLEGIANCE

Council Member Bowman

INVOCATION

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. 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 March 3, 2020, and the special meeting of the City Council and Housing Authority of February 27, 2020, approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills February 28, 2020 through March 19, 2020 and **Payroll** February 16, 2020 through March 14, 2020, when audited by the Finance Committee.

3. A RESOLUTION CONTINUING THE EXISTENCE OF A LOCAL EMERGENCY FOR THE 2020 CORONAVIRUS PANDEMIC

That the City Council continue the Proclamation of Local Emergency for the 2020 Coronavirus Pandemic until further notice with an update scheduled for the May 5, 2020 City Council Meeting, unless cancelled sooner.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, PROCLAIMING THE CONTINUED EXISTENCE OF A LOCAL EMERGENCY AND DIRECT THE EMERGENCY ORGANIZATION OF THE CITY OF ONTARIO TO TAKE THE NECESSARY STEPS FOR THE PROTECTION OF LIFE, HEALTH AND SAFETY IN THE CITY OF ONTARIO.

4. A RESOLUTION DECLARING CONDITIONS RELATED TO THE COVID-19 QUARANTINE AND HOUSING OF INDIVIDUALS AT HOTELS AND MOTELS WITHIN THE CITY OF ONTARIO

That the City Council adopt a resolution ratifying Executive Order 2020-1: declaring conditions related to the COVID-19 quarantine and housing of individuals at hotels and motels within the City of Ontario.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING CONDITIONS RELATED TO THE COVID-19 QUARANTINE AND HOUSING OF INDIVIDUALS AT HOTELS AND MOTELS WITHIN THE CITY OF ONTARIO.

5. A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 18929 LOCATED ON THE SOUTH SIDE OF EUCALYPTUS AVENUE AND THE WEST SIDE OF ARCHIBALD AVENUE

That the City Council adopt a resolution approving an improvement agreement, improvement security and Final Tract Map No. 18929 located on the south side of Eucalyptus Avenue and the west side Archibald Avenue within the Subarea 29 Specific Plan area.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 18929 LOCATED ON THE SOUTH SIDE OF EUCALYPTUS AVENUE AND WEST SIDE OF ARCHIBALD AVENUE.

6. A RESOLUTION APPROVING THE 2020-21 LIST OF PROJECTS FUNDED BY THE ROAD MAINTENANCE AND REHABILITATION

That the City Council adopt a resolution approving the 2020-21 Project List for the Road Repair and Accountability Act – Senate Bill 1 (“SB1”).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO APPROVE THE LIST OF PROJECTS TO BE FUNDED BY SENATE BILL 1, THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017.

7. A CONSTRUCTION CONTRACT FOR THE BON VIEW AVENUE STORM DRAIN PROJECT/CHRISTENSEN BROTHERS GENERAL ENGINEERING, INC.

That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) with Christensen Brothers General Engineering, Inc., of Apple Valley, California, for the Bon View Avenue Storm Drain Project (SM1701) in the bid amount of \$2,367,966 plus a 15% contingency of \$355,195, for a total authorized expenditure of \$2,723,161; and authorize the City Manager to execute said contract and all related documents, and file a notice of completion at the conclusion of all construction activities.

8. ACCEPTANCE OF WRITTEN PETITIONS TO CREATE A COMMUNITY FACILITIES DISTRICT; A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 41 (CANVAS PARK FACILITIES) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES; AND A RESOLUTION TO INCUR BONDED INDEBTEDNESS

That the City Council consider and:

- (A) Accept written petitions (on file in the Records Management Department) from Brookcal Ontario LLC, a Delaware limited liability company, to create a Community Facilities District, and to waive certain procedural matters under the Mello-Roos Community Facilities Act of 1982;
- (B) Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 41 (Canvas Park Facilities) (the “CFD”) and authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, May 19 , 2020; and
- (C) Adopt a Resolution to Incur Bonded Indebtedness of proposed Community Facilities District No. 41 (Canvas Park Facilities).

RESOLUTION NO. _____

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. 41 (CANVAS PARK FACILITIES), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

RESOLUTION NO. _____

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. 41 (CANVAS PARK FACILITIES).

9. AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 53 (TEVELDE FACILITIES)

That the City Council consider and adopt an ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 53 (Tevelde Facilities).

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. 53 (TEVELDE FACILITIES).

10. ACCEPTANCE OF A WRITTEN PETITION TO CREATE A COMMUNITY FACILITIES DISTRICT; A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 54 (ESPERANZA FACILITIES) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES; AND A RESOLUTION TO INCUR BONDED INDEBTEDNESS

That the City Council consider and:

- (A) Accept written petitions (on file in the Records Management Department) from GDC/CDG Esperanza PA 4 Venture, L.P., a Delaware limited liability partnership and GDC/CDG Esperanza PA 10 Venture, L.P., a Delaware limited liability partnership, to create a Community Facilities District, and to waive certain procedural matters under the Mello-Roos Community Facilities Act of 1982;
- (B) Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 54 (Esperanza Facilities) (the “CFD”) and authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, May 19, 2020; and
- (C) Adopt a Resolution to Incur Bonded Indebtedness of proposed Community Facilities District No. 54 (Esperanza Facilities).

RESOLUTION NO. _____

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. 54 (ESPERANZA FACILITIES), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

RESOLUTION NO. _____

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. 54 (ESPERANZA FACILITIES).

11. PRE-AUTHORIZED LIST OF VENDORS TO PROVIDE SERVICES AND PARTS FOR CITY FACILITIES AND INFRASTRUCTURE

That the City Council approve the attached list of pre-authorized vendors to provide parts and maintenance services for City facilities and infrastructure.

12. AN AMENDMENT TO THE CONSTRUCTION CONTRACT FOR ON-CALL REMEDIATION AND RESTORATION SERVICES/BELFOR USA GROUP, INC.

That the City Council approve and authorize the City Manager to execute Amendment No. 1 (on file in the Records Management Department) to the Construction Contract with Belfor USA Group, Inc., of Riverside, CA for on-call remediation and restoration services, adding \$365,000 for a revised not-to-exceed contract limit of \$375,000 over a term of three years.

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.

13. A PUBLIC HEARING TO CONSIDER AN URGENCY ORDINANCE RELATING TO THE EVICTION OF RESIDENTIAL TENANTS, COMMERCIAL TENANTS, AND STORAGE UNIT PATRONS EXPERIENCING LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC

That the City Council read by title only, waive further reading, and adopt an urgency ordinance imposing regulations on the eviction of residential tenants, commercial tenants, and 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 URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL TENANTS, COMMERCIAL TENANTS, AND STORAGE UNIT PATRONS EXPERIENCING LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC.

14. A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A DEVELOPMENT CODE AMENDMENT (FILE NO. PDCA20-001) TO AMEND ONTARIO DEVELOPMENT CODE SECTION 4.02.010.D.2.F, BILLBOARD RELOCATION AGREEMENTS, INTERAGENCY RELOCATION EXCEPTION, TO REVISE THE LOCATIONAL CRITERIA AND THE NUMBER OF BILLBOARDS TO BE ELIMINATED WITHIN THE CITY

That the City Council introduce and waive further reading of an ordinance approving a Development Code Amendment (PDCA20-001) amending Ontario Development Code Section 4.02.010.D.2.f, Billboard Relocation Agreements, Interagency Relocation Exception, to revise the locational criteria and the number of billboards to be eliminated within the City.

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 CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA20-001, A REQUEST TO AMEND ONTARIO DEVELOPMENT CODE SECTION 4.02.010.D.2.F, BILLBOARD RELOCATION AGREEMENTS, INTERAGENCY RELOCATION EXCEPTION, TO REVISE THE LOCATIONAL CRITERIA AND THE NUMBER OF BILLBOARDS TO BE ELIMINATED WITHIN THE CITY.

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)
April 7, 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 54957.6, LABOR NEGOTIATIONS: City Negotiator: City Manager or his designees; Bargaining Units: American Federation of State, County and Municipal Employees (AFSCME); Association of Ontario Management Employees (AOME); and Teamsters Local 1932.

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

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

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APN: 0110-321-38; City/Authority Negotiator: Scott Ochoa or his designee;
Negotiating parties: Unknown at this time; 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
April 7, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION CONTINUING THE EXISTENCE OF A LOCAL EMERGENCY FOR THE 2020 CORONAVIRUS PANDEMIC

RECOMMENDATION: That the City Council continue the Proclamation of Local Emergency for the 2020 Coronavirus Pandemic until further notice with an update scheduled for the May 5, 2020 City Council Meeting, unless cancelled sooner.

COUNCIL GOALS: Maintain the Current High Level of Public Safety


FISCAL IMPACT: This resolution continues the existence of a declared local emergency and the City's compliance with State and Federal requirements for emergency response. Furthermore, this action allows continued eligibility for State and Federal reimbursement for eligible costs associated with Coronavirus Disease 2019 (abbreviated COVID-19).

BACKGROUND: Governments worldwide are responding to an outbreak of respiratory disease caused by a novel (new) coronavirus that was first detected in China and which has now been detected in nearly 100 countries, including in the United States. The virus has been named "SARS-CoV-2"; and the disease COVID-19).

COVID-19 is a serious disease that has killed over 36,873 people worldwide with over 153,000 confirmed cases and over 2,800 deaths in the United States. On March 4, 2020, the Governor of the State of California declared a State of Emergency. On March 10, 2020, the San Bernardino County Health Department proclaimed a Public Health Emergency; and the Board of Supervisors issued a Proclamation of Local Emergency due to COVID-19. On March 11, 2020, the World Health Organization declared the disease a global pandemic. On March 13, 2020, the President of the United States declared a National Emergency.

Through Ontario Ordinance No. 2990, the City Manager, as the Director of Emergency Services, proclaimed a local emergency on March 14, 2020 in order to enhance the City's ability to mobilize local resources, coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and

STAFF MEMBER PRESENTING: Jordan Villwock, Fire Administrative Director

Prepared by: Raymond Cheung
Department: Fire Department
City Manager Approval: 

Submitted to Council/O.H.A. 04/07/2020
Approved: _____
Continued to: _____
Denied: _____

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seek potential reimbursement by the State and Federal governments. On March 17, 2020 the City Council ratified the local emergency proclamation.

The City of Ontario regularly participates in disaster drills to maintain its preparedness. The City's first and second response agencies are prepared for the impact of COVID-19; however, continuing the existence of a local emergency continues to unlock resources and legal authority to quickly respond to changing conditions.

Per California Government Code § 8630, a proclamation of local emergency must be ratified by the governing body within 7 days of issuance and reviewed and continued every 30 days thereafter until termination of the local emergency as conditions warrant.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, PROCLAIMING THE CONTINUED EXISTENCE OF A LOCAL EMERGENCY AND DIRECT THE EMERGENCY ORGANIZATION OF THE CITY OF ONTARIO TO TAKE THE NECESSARY STEPS FOR THE PROTECTION OF LIFE, HEALTH AND SAFETY IN THE CITY OF ONTARIO.

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

WHEREAS, conditions of disaster or of extreme peril to the safety of persons and property have arisen both Internationally and within the United States as a result of the introduction of the novel coronavirus (COVID-19), a novel communicable disease, which was first detected in Wuhan City, Hubei Province, China in December 2019; and

WHEREAS COVID-19 has spread globally to over 70 countries, infecting more than 153,000 persons in the United States and killing more than 2,800. COVID-19 has created conditions that are likely to be beyond the control of local resources and require the combined forces of other political subdivisions to combat; and

WHEREAS, on February 26, 2020, the CDC confirmed the first case of local person-to-person transmission of COVID-19 in the United States and this case raises the possibility of community transmission occurring in the general public, the Health Officer of San Bernardino County and the San Bernardino County Board of Supervisors has determined that there is an imminent threat to the public health from the introduction of COVID-19 in the City of Ontario and has declared a Local Health Emergency; and

WHEREAS, the City's ability to mobilize local resources, coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and seek future reimbursement by the State and Federal governments will be critical to successfully responding to COVID-19; and

WHEREAS, these conditions warrant and necessitate that the City of Ontario declare the existence of a local emergency.

WHEREAS, on March 17, 2020 the Ontario City Council ratified Resolution No. 2020-027 proclaiming the existence of local emergency.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Ontario does hereby proclaim the continued existence of a local emergency and direct the Emergency Organization of the City of Ontario to take the necessary steps for the protection of life, health and safety in the City of Ontario.

IT IS FURTHER ORDERED, that during the existence of said local emergency the powers, functions, and duties of the Emergency Organization of the City shall be those prescribed by state law, by ordinances, and resolutions of the City; and

THE ONTARIO CITY COUNCIL FURTHER DIRECTS, that all City Departments shall review and revise their department emergency and contingency plans to address the risks COVID-19 poses to their critical functions in coordination with the Office of Emergency Management (OEM); and

THE ONTARIO CITY COUNCIL FURTHER DIRECTS, that all City Departments shall track costs for staffing, supplies, and equipment related to COVID-19 preparation and prevention and forward that information to the Financial Services Agency; and

THE ONTARIO CITY COUNCIL FURTHER DIRECTS, that OEM shall coordinate Citywide planning, preparedness and response efforts regarding COVID-19 with the San Bernardino County Department of Public Health and the San Bernardino County Office of Emergency Services (OES).

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the City Council of the City of Ontario, that the Resolution of Local Emergency shall take effect immediately and that widespread publicity and notice shall be given said Declaration through the most feasible and adequate means of disseminating such notice throughout the City.

IT IS FURTHER RESOLVED AND ORDERED, by the City Council of the City of Ontario, that a copy of this Resolution be forwarded to the San Bernardino County Office of Emergency Services to be forwarded to the Director of the California Governor's Office of Emergency Services requesting that the Director find it acceptable in accordance with State law; that the Governor of California pursuant to the Emergency Services Act, issue a resolution declaring an emergency in San Bernardino County; that the Governor waive regulations that may hinder response and recovery efforts; that response and recovery assistance be made available under the California Disaster Assistance Act; and that the State expedite access to State and Federal resources and any other appropriate federal disaster relief programs.

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

PASSED, APPROVED, AND ADOPTED this 7th day of April 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 April 7, 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 April 7, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
April 7, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION DECLARING CONDITIONS RELATED TO THE COVID-19 QUARANTINE AND HOUSING OF INDIVIDUALS AT HOTELS AND MOTELS WITHIN THE CITY OF ONTARIO

RECOMMENDATION: That the City Council adopt a resolution ratifying Executive Order 2020-1: declaring conditions related to the COVID-19 quarantine and housing of individuals at hotels and motels within the City of Ontario.

COUNCIL GOALS: Maintain the Current High Level of Public Safety

FISCAL IMPACT: None.

BACKGROUND: On March 14, 2020, the City of Ontario City Manager, acting as the Director of Emergency Services, proclaimed a local emergency concerning the spread of COVID-19, and the Ontario City Council subsequently ratified the proclamation at its March 17, 2020 meeting.

Pursuant to California Executive Order N-32-20, the Governor provided for the housing of infected and potentially infected homeless persons within hotels throughout the state and has suspended the application of CEQA requirements to such actions.

The Centers for Disease Control (CDC) and medical personnel have confirmed that the presence of infected or potentially infected persons presents a threat and hazard to the population of the City of Ontario unless specific provisions are observed to prevent the spread of the disease to nearby populated areas.

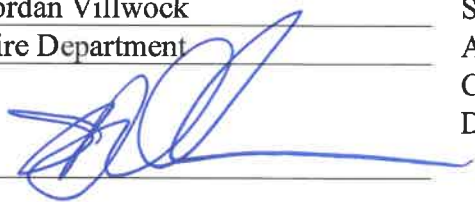
Through Executive Order 2020-1, any parcel of property with an existing hotel or motel that accepts individuals who test positive for Coronavirus Disease 19 (COVID-19) or who have had a high risk of exposure and are thought to be in the incubation period (collectively, "Quarantined Individuals") must

STAFF MEMBER PRESENTING: Scott Ochoa, City Manager

Prepared by: Jordan Villwock

Department: Fire Department

City Manager

Approval: 

Submitted to Council/O.H.A. 04/07/2020

Approved: _____

Continued to: _____

Denied: _____

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comply with: curfew, no loitering, fencing required, security and medical personnel on duty 24-hours per day as described within the Executive Order 2020-1.

As provided by provisions of the Ontario Municipal Code, violation of this Written Order and Regulation is determined to be an act of a nature which would imperil the lives or property of the inhabitants of the city and hinder their protection.

CITY OF



ONTARIO

303 EAST "B" STREET, CIVIC CENTER

ONTARIO

CALIFORNIA 91764-4105

(909) 395-2000
FAX (909) 395-2070

PAUL S. LEON
MAYOR

March 27, 2020

SCOTT OCHOA
CITY MANAGER

DEBRA DORST-PORADA
MAYOR PRO TEM

SHEILA MAUTZ
CITY CLERK

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

JAMES R. MILHISER
TREASURER

Director of Emergency Services
City of Ontario
Executive Order No. 2020-1

**CONDITIONS RELATED TO THE COVID-19 QUARANTINE AND HOUSING OF INDIVIDUALS AT
HOTELS AND MOTELS WITHIN THE CITY OF ONTARIO**

WHEREAS, the City Manager of the City of Ontario is the Emergency Services Director; and

WHEREAS, on March 14, 2020, the City of Ontario City Manager declared a local emergency, which was ratified on March 17, 2020 by the City of Ontario City Council, based upon the March 4, 2020 State Declaration of Emergency and March 21, 2020 Federal Declaration of Emergency due to the COVID-19 epidemic within California and the nation; and

WHEREAS, as provided by Municipal Code Section 4.3-06, the Emergency Services Director represents the City in all dealings with public or private agencies on matters pertaining to such emergencies; and

WHEREAS, the Emergency Services Director has broad powers and duties to provide for the protection of life and property within the City in the event of such emergencies; and

WHEREAS, such powers include the ability to promulgate written orders and regulations to provide for the safety of the residents of Ontario; and

WHEREAS, pursuant to Executive Order N-32-20, the Governor has provided for the housing of infected and potentially infected homeless persons within hotels throughout the state and has suspended the application of CEQA requirements to such actions but not existing land use or local emergency provisions; and

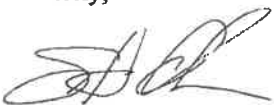
WHEREAS, as confirmed by the CDC and medical personnel, the presence of such person presents a threat and hazard to the safety of the population of the City of Ontario unless specific provisions are observed to present the spread of the disease to nearby populated areas; and

WHEREAS, the proximity of the Ontario International Airport to the hotels and motels in the City of Ontario requires additional measures to protect the health and safety of those required to travel for essential functions and to protect from the large scale widespread transmission of COVID-19 to other regions, states and nations.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Any parcel of property with an existing hotel or motel that accepts individuals for quarantining, isolating or treating individuals who test positive for COVID-19 or who have had a high risk of exposure and are thought to be in the incubation period (collectively, "Quarantined Individuals") must comply with the following:
 - a. Curfew: A curfew is imposed to require all Quarantined Individuals to remain on the parcel of property at all times until the curfew is lifted.
 - b. No Loitering: No person shall remain idle in essentially one location outside of the property used to treat Quarantined Individuals, which shall include standing or gathering upon any public street, sidewalk, alley or other location generally open to the public
 - c. Fencing: Chain link or similar fencing of the entire site with two access points which are locked and monitored (or as otherwise required by Fire Code regulations).
 - d. Security Personnel: Licensed security personnel on duty 24-hours per day at a ratio of one per ten Quarantined Individuals housed in the hotel or motel.
 - e. Medical Personnel: Licensed medical personnel on duty 24-hours per day to monitor the Quarantined Individuals and to assist in providing the medical care as needed to treat the Quarantined Individuals.
2. Land Use: Any use of a hotel or motel for Quarantined Individuals must comply with all zoning requirements, including but not limited to the existing requirements of any Conditional Use Permits issued for the property.
3. Publication: Such requirements shall be publicized by posting on the City website and physical service on all owners, managers and/or operators of hotels and motels within the City.
4. Ratification: Such requirements shall be presented to the City Council at its next regularly scheduled City Council meeting for ratification.
5. Enforcement:
 - a. As provided by the Municipal Code, violation of the provisions of this Written Order and Regulation is determined to be an act of a nature which would imperil the lives or property of the inhabitants of the City and hinder their protection.
 - b. Violation of this Written Order & Regulation is a misdemeanor, punishable by fine of not to exceed five hundred dollars (\$500.00), or by imprisonment in the County Jail for a period of time not to exceed six (6) months.
 - c. The City also may enforce the provisions of this Written Order & Regulation in any manner allowed by law.

Sincerely,



Scott Ochoa
Director of Emergency Services

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING CONDITIONS RELATED TO THE COVID-19 QUARANTINE AND HOUSING OF INDIVIDUALS AT HOTELS AND MOTELS WITHIN THE CITY OF ONTARIO.

WHEREAS, the City Manager of the City of Ontario is the Emergency Services Director; and

WHEREAS, on March 14, 2020, the City of Ontario City Manager declared a local emergency, which was ratified on March 17, 2020 by the City of Ontario City Council, based upon the March 4, 2020 State Declaration of Emergency and March 21, 2020 Federal Declaration of Emergency due to the COVID-19 epidemic within California and the nation; and

WHEREAS, as provided by Municipal Code Section 4.3-06, the Emergency Services Director represents the City in all dealings with public or private agencies on matters pertaining to such emergencies; and

WHEREAS, the Emergency Services Director has broad powers and duties to provide for the protection of life and property within the City in the event of such emergencies; and

WHEREAS, such powers include the ability to promulgate written orders and regulations to provide for the safety of the residents of Ontario; and

WHEREAS, pursuant to Executive Order N-32-20, the Governor has provided for the housing of infected and potentially infected homeless persons within hotels throughout the state and has suspended the application of CEQA requirements to such actions but not existing land use or local emergency provisions; and

WHEREAS, as confirmed by the CDC and medical personnel, the presence of such person presents a threat and hazard to the safety of the population of the City of Ontario unless specific provisions are observed to prevent the spread of the disease to nearby populated areas; and

WHEREAS, the proximity of the Ontario International Airport to the hotels and motels in the City of Ontario requires additional measures to protect the health and safety of those required to travel for essential functions and to protect from the large scale widespread transmission of COVID-19 to other regions, states and nations.

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

SECTION 1. Any parcel of property with an existing hotel or motel that accepts individuals for quarantining, isolating or treating individuals who test positive for COVID-19 or who have had a high risk of exposure and are thought to be in the incubation period (collectively, "Quarantined Individuals") must comply with the following:

a. **Curfew:** A curfew is imposed to require all Quarantined Individuals to remain on the parcel of property at all times until the curfew is lifted.

b. **No Loitering:** No person shall remain idle in essentially one location outside of the property used to treat Quarantined Individuals, which shall include standing or gathering upon any public street, sidewalk, alley or other location generally open to the public.

c. **Fencing:** Chain link or similar fencing of the entire site with two access points which are locked and monitored (or as otherwise required by Fire Code regulations).

d. **Security Personnel:** Licensed security personnel on duty 24-hours per day at a ratio of one per ten Quarantined Individuals housed in the hotel or motel.

e. **Medical Personnel:** Licensed medical personnel on duty 24-hours per day to monitor the Quarantined Individuals and to assist in providing the medical care as needed to treat the Quarantined Individuals.

SECTION 2. Land Use: Any use of a hotel or motel for Quarantined Individuals must comply with all zoning requirements, including but not limited to the existing requirements of any Conditional Use Permits issued for the property.

SECTION 3. Publication: Such requirements shall be publicized by posting on the City website and physical service on all owners, managers and/or operators of hotels and motels within the City.

SECTION 4. Ratification: Such requirements shall be presented to the City Council at its next regularly scheduled City Council meeting for ratification.

SECTION 5. Enforcement:

a. As provided by the Municipal Code, violation of the provisions of this Written Order and Regulation is determined to be an act of a nature which would imperil the lives or property of the inhabitants of the City and hinder their protection.

b. Violation of this Written Order & Regulation is a misdemeanor, punishable by fine of not to exceed five hundred dollars (\$500.00), or by imprisonment in the County Jail for a period of time not to exceed six (6) months.

c. The City also may enforce the provisions of this Written Order & Regulation in any manner allowed by law.

SECTION 6. Effective Date. This Resolution shall take effect upon adoption.

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

PASSED, APPROVED, AND ADOPTED this 7th day of April 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 April 7, 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 April 7, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
April 7, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 18929 LOCATED ON THE SOUTH SIDE OF EUCALYPTUS AVENUE AND THE WEST SIDE OF ARCHIBALD AVENUE

RECOMMENDATION: That the City Council adopt a resolution approving an improvement agreement, improvement security and Final Tract Map No. 18929 located on the south side of Eucalyptus Avenue and the west side Archibald Avenue 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 Ontario Ranch

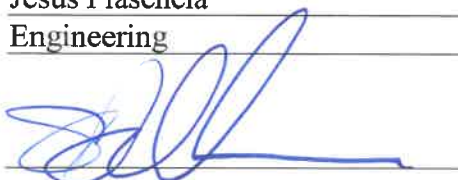
FISCAL IMPACT: None. All public infrastructure improvements required for this subdivision will be constructed by the developer at its sole cost.

BACKGROUND: Final Tract Map No. 18929, consisting of 207 residential lots and 23 lettered lots on 39.94 acres as shown on Exhibit "A", has been submitted by Arroyo Cap VII, LLC, a Delaware Limited Liability Corporation (Mr. Jeffrey B. Brouelette, Principal).

Tentative Tract Map No. 18929 was approved by the Planning Commission (6-0) on August 28, 2018 and is consistent with the adopted Subarea 29 Specific Plan.

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

STAFF MEMBER PRESENTING: Scott Murphy, AICP, Executive Director Development Agency

Prepared by: Jesus Plasencia
Department: Engineering
City Manager Approval: 

Submitted to Council/O.H.A. 04/07/2020
Approved: _____
Continued to: _____
Denied: _____

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Arroyo Cap VII, LLC (owner) and LS-Ontario, LLC (developer) have entered into an improvement agreement with the City for Final Tract Map No. 18929 and have posted adequate security to ensure construction of the required public improvements.

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

EXHIBIT 'A'

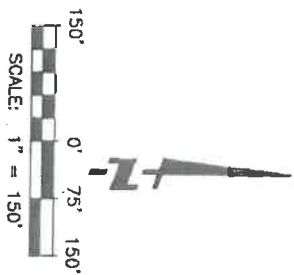
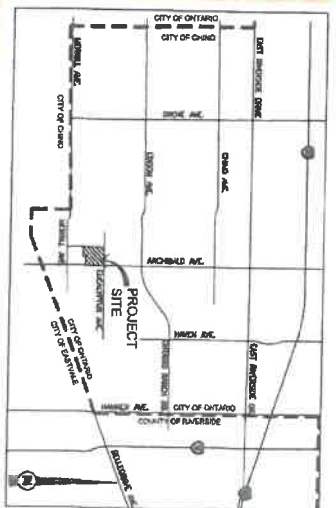
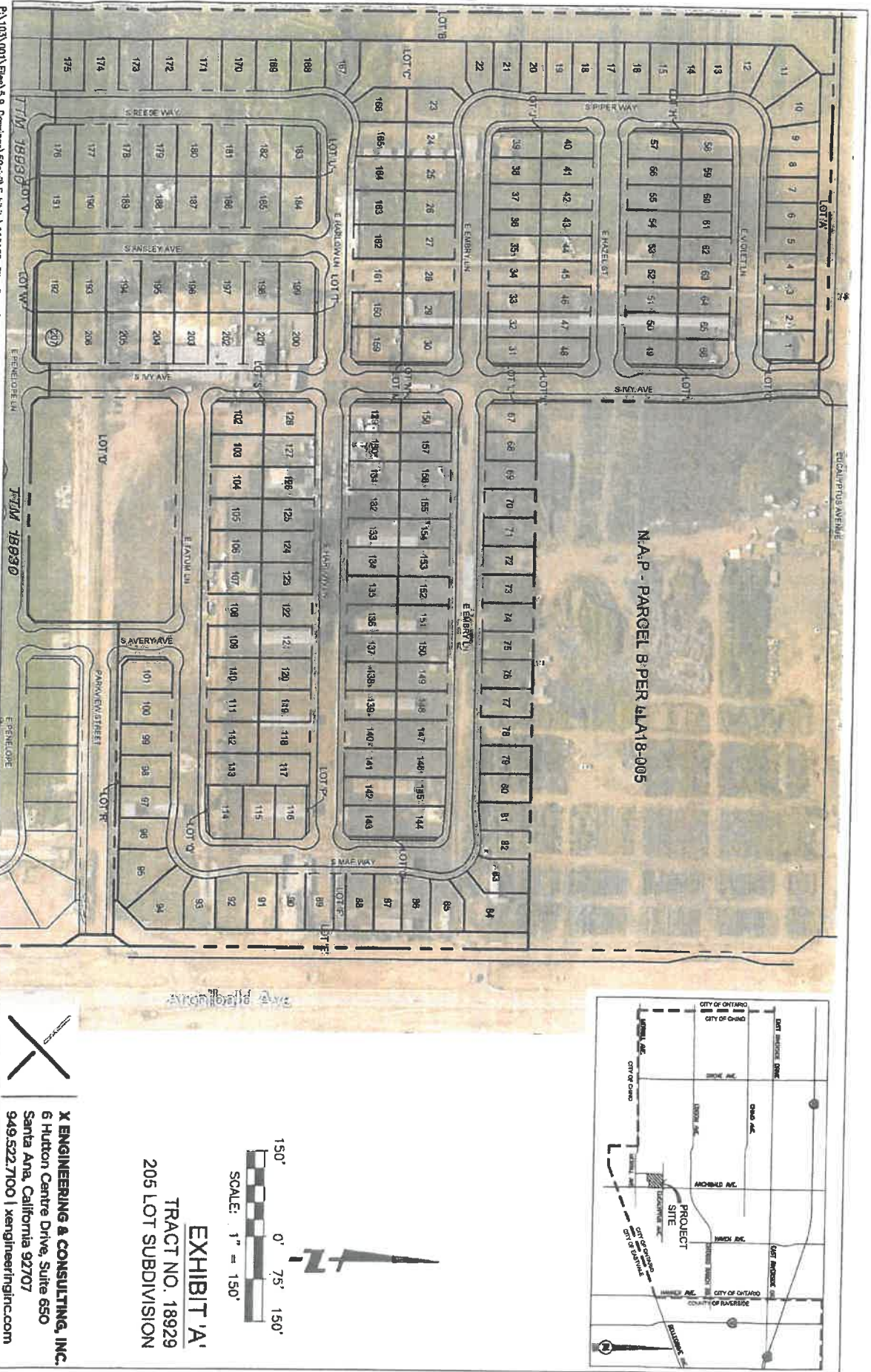


EXHIBIT 'A'
 TRACT NO. 18929
 205 LOT SUBDIVISION

X ENGINEERING & CONSULTING, INC.
 6 Huron Centre Drive, Suite 650
 Santa Ana, California 92707
 949.522.7100 | xengineeringinc.com

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 18929 LOCATED ON THE SOUTH SIDE OF EUCALYPTUS AVENUE AND WEST SIDE OF ARCHIBALD AVENUE.

WHEREAS, Tentative Tract Map No. 18929, submitted for approval by Arroyo Cap VII, LLC, a Delaware Limited Liability Corporation (Mr. Jeffrey B. Brouelette, Principal) ("Owner") was approved by the Planning Commission of the City of Ontario on August 28, 2018; and

WHEREAS, Tentative Tract Map No. 18929 consists of 207 numbered lots and 23 lettered lots within the Subarea 29 Specific Plan being a portion of Parcel A of Lot Line Adjustment No. 18-005, Recorded September 12, 2018 as Instrument No. 2018-0337164 all lying within Section 22, Township 2 South, Range 7 West, San Bernardino Meridian, official records, in the Office of the Recorder of San Bernardino County, State of California; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Final Tract Map No. 18929, Owner and LS-Ontario, LLC, a Delaware Limited Liability Corporation (Mr. David Mello, Vice President of Forward Planning) ("Developer") have 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

WHEREAS, the requirement for the preparation of Covenants, Conditions and Restrictions (CC&R's), approved by the City Attorney's Office, to ensure the right to mutual ingress and egress and continued maintenance of common facilities by the commonly affected property owners has been deferred to a date that coincides with the recordation of the subject Tract Map.

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

SECTION 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

SECTION 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

SECTION 3. That Final Tract Map No. 18929 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 7th day of April 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 April 7, 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 April 7, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
April 7, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING THE 2020-21 LIST OF PROJECTS FUNDED BY THE ROAD MAINTENANCE AND REHABILITATION ACCOUNT

RECOMMENDATION: That the City Council adopt a resolution approving the 2020-21 Project List for the Road Repair and Accountability Act – Senate Bill 1 (“SB1”).

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)

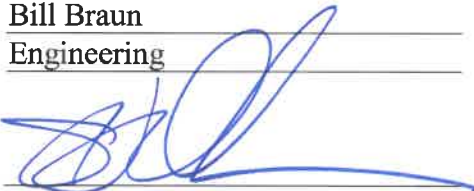
FISCAL IMPACT: This spending plan identifies the recommended uses for the City’s Fiscal Year 2020-21 apportionment of Road Maintenance and Rehabilitation Account (RMRA) funds from SB1, which is projected to be at \$3,317,090 for the upcoming fiscal year.

BACKGROUND: On April 28, 2017, the Governor signed Senate Bill SB1 (Beall, Chapter 5, Statutes of 2017), which is known as the Road Repair and Accountability Act (“RMRA”) of 2017. To address basic road maintenance, rehabilitation and critical safety needs on both the state highway and local streets and road system, RMRA increases per gallon fuel excise taxes, increases diesel fuel sales taxes and vehicle registration fees and provides for inflationary adjustments to tax rates in future years.

Prior to receiving an annual apportionment of RMRA funds from the California State Controller, the City must submit by May 1st to the California Transportation Commission (CTC) an adopted list of projects. The proposed project list must be adopted by resolution (with public record of the action taken) of the City Council at a regular public meeting each fiscal year.

If approved, projects for FY 2020-21 (see Exhibit “A” of the resolution) will be included in the City’s Five-Year Capital Improvement Program to be adopted by the City Council for the upcoming fiscal year’s budget.

STAFF MEMBER PRESENTING: Scott Murphy, AICP, Executive Director Development Agency

Prepared by: Bill Braun
Department: Engineering
City Manager Approval: 

Submitted to Council/O.H.A. 04/07/2020
Approved: _____
Continued to: _____
Denied: _____

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO APPROVE THE LIST OF PROJECTS TO BE FUNDED BY SENATE BILL 1, THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017.

WHEREAS, Senate Bill 1 (SB1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 in order to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB1 includes accountability and transparency provisions that will ensure the residents of our City are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City must adopt by resolution a list of all projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City will receive an estimated \$3,317,090 in RMRA funding in Fiscal Year 2020-21 from SB1; and

WHEREAS, this is the fourth year in which the City is receiving SB 1 funding and will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB1; and

WHEREAS, the City has undergone a robust public process to ensure public input into our community's transportation priorities/the project list; and

WHEREAS, the City used a Pavement Management System to develop the SB1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the community's priorities for transportation investment; and

WHEREAS, the funding from SB1 will help the City maintain and rehabilitate streets/roads, bridges, and add active transportation infrastructure throughout the City this year and many similar projects into the future; and

WHEREAS, the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City's streets and roads are in a "good" condition and this revenue will help us increase the overall quality of our road system and over the next decade will bring our streets and roads to an "excellent" condition; and

WHEREAS, the SB1 project list and overall investment in our local streets and roads infrastructure, with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide.

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

SECTION 1. That the foregoing recitals are true and correct.

SECTION 2. That the attached list (Exhibit A) of proposed projects will be funded in-part or solely with fiscal year 2020-21 Road Maintenance and Rehabilitation Account revenues.

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

PASSED, APPROVED, AND ADOPTED this 7th day of April 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 April 7, 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 April 7, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

Local Streets and Roads Program

Agency Name	Agency Contact
Ontario	William Braun
LoCode: 5092	bbraun@ontarioca.gov

FY
20/21

Project Description: Projects shown receiving an Asphalt Overlay will also have removal and replacement of failing pavement areas, replacement of damaged sidewalk and curb/gutter, placement of ADA access ramps, updated signage, and updated striping. All overlay projects listed will be paved utilizing Rubberized Asphalt which uses ground up discarded tires in its mix design. This rubberized asphalt mix is a high performing asphalt product at a competitive cost that extends the pavement life while providing an environmentally friendly recycled tire usage.

Summary of Proposed Project List

	Project Title	Project Type	Project Location	Begin Project	Complete Project	Estimated	Useful Life
FY 19/20	Philadelphia Street	Asphalt Overlay	Archibald Avenue to Haven Avenue	6/30/2020	12/31/2020	15 years	25 years
	Turner Avenue	Asphalt Overlay	Philadelphia Street to Mission Blvd.	6/30/2020	12/31/2020	15 years	25 years
	Parco Avenue	Asphalt Overlay	Riverside Drive to SR 60	6/30/2020	12/31/2020	15 years	25 years
	Walnut Street	Asphalt Overlay	Grove Avenue to Parco Avenue	6/30/2020	12/31/2020	15 years	25 years
	Intersection Improvement	Traffic Signal	McCleve Way & Merrill Avenue	6/30/2019	12/31/2020	25 years	35 years
	Intersection Improvement	Traffic Signal	Riverside Drive & Colonial Avenue	6/30/2019	12/31/2020	25 years	35 years
	ATP Cycle 4 (Design Costs)	Pedestrian Access	Various Locations TBD	6/30/2019	12/31/2020	25 years	35 years
FY 20/21	Inland Empire Boulevard	Asphalt Overlay	Mercedes Avenue to Milliken Avenue	6/30/2021	12/31/2021	15 years	25 years
	Auto Center Drive	Asphalt Overlay	Jurupa Street to Jurupa Street	6/30/2021	12/31/2021	15 years	25 years
	Bon View Avenue	Asphalt Overlay	Riverside Drive to SR 60	6/30/2021	12/31/2021	15 years	25 years
	Fifth Street	Asphalt Overlay	El Dorado Avenue to Baker Avenue	6/30/2021	12/31/2021	15 years	25 years
	Baker Avenue	Asphalt Overlay	Fourth Street to Sixth Street	6/30/2021	12/31/2021	15 years	25 years
	Alley Rehabilitation Program	Asphalt Overlay	Various Locations	6/30/2021	12/31/2021	15 years	25 years
	Intersection Improvement	Traffic Signal	Campus Avenue and Walnut Street	6/30/2021	12/31/2021	25 years	35 years
	Intersection Improvement	Traffic Signal	Campus Avenue and Francis Street	6/30/2021	12/31/2021	25 years	35 years
ATP Cycle 4 (Construction Match Costs)	Pedestrian Access	Various Locations TBD	6/30/2021	12/31/2021	25 years	35 years	
FY 21/22	Archibald Avenue (Design)	Asphalt Overlay	I-10 to Inland Empire Boulevard	6/30/2022	12/31/2022	15 years	25 years
	Archibald Avenue	Asphalt Overlay	Riverside Drive to Chino Avenue	6/30/2022	12/31/2022	15 years	25 years
	Grove Avenue	Asphalt Overlay	Philadelphia Street to SR 60	6/30/2022	12/31/2022	15 years	25 years
	Guasti Road	Asphalt Overlay	Guasti Road at Milliken Avenue	6/30/2022	12/31/2022	15 years	25 years
	Milliken Avenue	Asphalt Overlay	Milliken Avenue at Jurupa Street	6/30/2022	12/31/2022	15 years	25 years
	Haven Avenue	Asphalt Overlay	Jurupa Street to Airport Drive	6/30/2022	12/31/2022	15 years	25 years
	San Antonio Avenue	Asphalt Overlay	Sixth Street to Holt Boulevard	6/30/2022	12/31/2022	15 years	25 years
	Phillips Street	Asphalt Overlay	Benson Avenue to San Antonio Avenue	6/30/2022	12/31/2022	15 years	25 years
FY 22/23	Vine Street	Storm Drain	Vesta Street to D Street	6/30/2023	12/31/2023	15 years	25 years
	Fourth Street	Asphalt Overlay	Archibald Avenue to Haven Avenue	6/30/2023	12/31/2023	15 years	25 years
	Fourth Street	Asphalt Overlay	Cucamonga Avenue to Sultana Avenue	6/30/2023	12/31/2023	15 years	25 years
	Archibald Avenue	Asphalt Overlay	I-10 to Inland Empire Boulevard	6/30/2023	12/31/2023	15 years	25 years
	Alley Rehabilitation Program	Asphalt Overlay	Various Locations TBD	6/30/2023	12/31/2023	15 years	25 years
	Intersection Improvement	Traffic Signal	Various Locations TBD	6/30/2023	12/31/2023	25 years	35 years
FY 23/24	I Street	Asphalt Overlay	Benson Avenue to Euclid Avenue	6/30/2024	12/31/2024	15 years	25 years
	Belmont Street	Asphalt Overlay	Cucamonga Avenue to Sultana Avenue	6/30/2024	12/31/2024	15 years	25 years
	Haven Avenue	Asphalt Overlay	Jurupa Street to SR 60	6/30/2024	12/31/2024	15 years	25 years
	Alley Rehabilitation Program	Asphalt Overlay	Various Locations TBD	6/30/2024	12/31/2024	15 years	25 years
	Intersection Improvement	Traffic Signal	Various Locations TBD	6/30/2024	12/31/2024	25 years	35 years
FY 24/25	Guasti Road	Asphalt Overlay	Holt Boulevard to Archibald Avenue	6/30/2025	12/31/2025	15 years	25 years
	Mountain Avenue	Asphalt Overlay	Mission Boulevard to SR60	6/30/2025	12/31/2025	15 years	25 years
	D Street	Asphalt Overlay	Vine Avenue to Euclid Avenue	6/30/2025	12/31/2025	15 years	25 years
	Alley Rehabilitation Program	Asphalt Overlay	Various Locations TBD	6/30/2025	12/31/2025	15 years	25 years
	Intersection Improvement	Traffic Signal	Various Locations TBD	6/30/2025	12/31/2025	25 years	35 years

CITY OF ONTARIO

Agenda Report
April 7, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: A CONSTRUCTION CONTRACT FOR THE BON VIEW AVENUE STORM DRAIN PROJECT

RECOMMENDATION: That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) with Christensen Brothers General Engineering, Inc., of Apple Valley, California, for the Bon View Avenue Storm Drain Project (SM1701) in the bid amount of \$2,367,966 plus a 15% contingency of \$355,195, for a total authorized expenditure of \$2,723,161; and authorize the City Manager to execute said contract and all related documents, and file a notice of completion at the conclusion of all construction activities.

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)

FISCAL IMPACT: The Fiscal Year 2019-20 Adopted Budget allocated funds for the construction of the Bon View Avenue Storm Drain Project in the amount of \$2,700,000 from Old Model Colony Local Adjacent Storm Drain Development Impact Fees and \$225,000 from the Water Capital Fund, for a total combined allocation of \$2,925,000. The total recommended expenditure authorization consists of \$2,367,966 plus a 15% contingency of \$355,195, for a total authorized expenditure of \$2,723,161, consistent with the adopted budget. The 15% contingency is recommended due to possible unforeseen conditions that may arise during the construction of the project.

BACKGROUND: The Bon View Storm Drain Project is a Master Plan facility that drains 270 acres. The Bon View Storm Drain Project is located on Bon View Avenue from Riverside Drive to State Route 60; a project location map is provided for reference as Exhibit "A". The storm drain project consists of installation of reinforced concrete pipe of various sizes ranging from 18-inch to 78-inch in diameter, catch basins, laterals, and other drainage appurtenances for a total length of approximately 4,000 lineal feet.

STAFF MEMBER PRESENTING: Scott Murphy, AICP, Executive Director Development Agency

Prepared by: Tricia Espinoza/
Omar Gonzalez

Department: Engineering/
MU/Engineering

City Manager Approval: 

Submitted to Council/O.H.A.

Approved:

Continued to: _____

Denied: _____

04/07/2020

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The replacement of 80 water service laterals on Bon View Avenue is also included as part of the project. The water main in Bon View Avenue within the project limits was constructed in 1978 using ductile iron pipe and has no operational issues, and thus is expected to have an additional 20 years or more of service life remaining. Typical practice is to replace the water services as part of the water main replacement. In this case, the service lines were constructed using galvanized steel, which have shorter service lives than the ductile iron main due to the material's susceptibility to the corrosive soil that exists in the project vicinity. It is recommended to replace all water services within the storm drain project boundaries on Bon View Avenue from Riverside Drive to State Route 60 at this time so as to avoid having to re-trench the street in the future, thereby minimizing further construction impacts to the residents and commuters.

At the completion of the project, existing flooding on Bon View Avenue will be minimized; and driving conditions, pedestrian access and safety throughout the area will be improved.

In January 2020, the City solicited bids for the project, and 9 bids were received. The following is a summary of the bid results:

COMPANY	LOCATION	TOTAL BID AMOUNT
GRFCO, Inc. *	Brea, CA	\$2,296,080
Christensen Brothers Gen. Eng., Inc.	Apple Valley, CA	\$2,367,966
Downing Construction, Inc.	Redlands, CA	\$2,511,000
C.P. Construction Co., Inc.	Ontario, CA	\$2,575,810
Leatherwood Construction	Fountain Valley, CA	\$2,852,795
Kana Pipeline, Inc.	Riverside, CA	\$2,888,147
Pacific West Underground, Inc.	Yucaipa, CA	\$2,941,100
Weka, Inc.	Highland, CA	\$3,563,289
Norstar Plumbing & Engineering, Inc.	Alta Loma, CA	\$3,993,285

*GRFCO, Inc. withdrew their bid due to clerical errors.

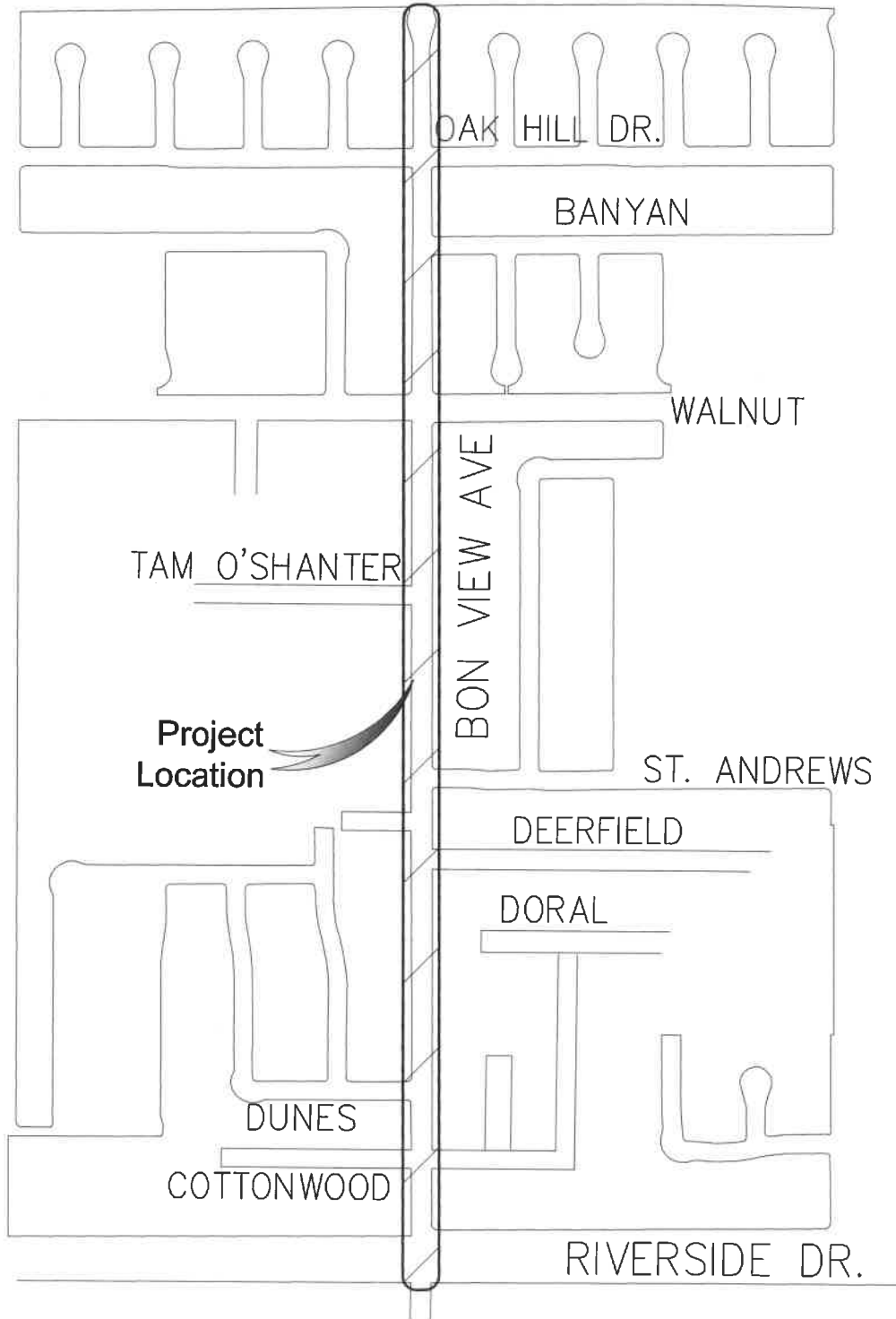
Christensen Brothers General Engineering, Inc. submitted the lowest responsive bid and has performed similar work in a satisfactory manner.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were reviewed as part of a previously prepared Mitigated Negative Declaration (MND) pursuant to the provisions of the California Environmental Quality Act (CEQA) that was approved by the City Council on December 4, 2012. Staff has determined that the project is substantially consistent with the facilities identified in the Master Plan of Drainage and the associated MND prepared for it and no further CEQA analysis is required.

EXHIBIT "A"

BON VIEW AVENUE STORM DRAIN IMPROVEMENT Project No. SM1701 RIVERSIDE DR. TO NORTH END

POMONA 60 FWY



**Project
Location**



N.T.S.

CITY OF ONTARIO

Agenda Report
April 7, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: ACCEPTANCE OF WRITTEN PETITIONS TO CREATE A COMMUNITY FACILITIES DISTRICT; A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 41 (CANVAS PARK FACILITIES) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES; AND A RESOLUTION TO INCUR BONDED INDEBTEDNESS

RECOMMENDATION: That the City Council consider and:

- (A) Accept written petitions (on file in the Records Management Department) from Brookcal Ontario LLC, a Delaware limited liability company, to create a Community Facilities District, and to waive certain procedural matters under the Mello-Roos Community Facilities Act of 1982;
- (B) Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 41 (Canvas Park Facilities) (the “CFD”) and authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, May 19 , 2020; and
- (C) Adopt a Resolution to Incur Bonded Indebtedness of proposed Community Facilities District No. 41 (Canvas Park Facilities).


COUNCIL GOALS: Operate in a Businesslike Manner

Focus Resources in Ontario’s Commercial and Residential Neighborhoods

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 Ontario Ranch

STAFF MEMBER PRESENTING: Armen Harkalyan, Executive Director of Finance

Prepared by: Jason M. Jacobsen
Department: Financial Services
City Manager Approval: 

Submitted to Council/O.H.A. 04/07/2020
Approved: _____
Continued to: _____
Denied: _____

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FISCAL IMPACT: The use of Mello-Roos financing for facilities in the residential development of the proposed CFD for the Canvas Park project is estimated to generate approximately \$13.7 million, which will be used to help fund a portion of the public infrastructure improvements that will serve the project. 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, therefore, there is no General Fund impact from the issuance of Mello-Roos bonds. City Council approval will be required in future years to process annual special tax levies.

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. 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, authorizing the levy of special taxes, and to issue bonds.

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. Brookcal Ontario LLC has provided written petitions to the City requesting formation of a community facilities district for the Canvas Park project in Ontario Ranch. The Canvas Park project addresses the development of approximately 45 gross acres located east of Haven Avenue, generally west of Hamner Avenue, and north of Ontario Ranch Road. At build out, the development is projected to include 532 attached and 62 detached units.

Included, as part of the resolution of intention for the proposed district, is the proposed Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 41 (Canvas Park Facilities). The terms of the Rate 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 0.18% for the detached units, and by 0.48% for the attached units. However, as has been previously authorized for other similar 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 Builder on July 21, 2015 (the MOU) it is recommended that the policy threshold limitations be waived in this instance in recognition of the 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. The amount of bonds authorized (\$46 million) under the resolution is set intentionally higher than the current proposed bond amount (approximately \$13.7 million) in order to allow future City Councils the option to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund City services without increasing the amount of the annual special taxes. The term and structure of the Rate and Method of Apportionment of Special Tax for the Canvas Park project are consistent with those of the previously adopted Rate and Method of Apportionments for Ontario Ranch community facilities districts. This will ensure 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 Ontario Ranch community facilities districts will be required to disclose the maximum annual special tax amounts to each homeowner before they enter into a sales contract.

List of infrastructure to be funded;

- Streets and Traffic Circulation System Facilities
- Fiber Optic System Facilities

City staff has discussed the proposed Rate and Method of Apportionment of Special Tax with the landowners. As proposed, the resolution of intention to establish the district and to levy special taxes will set the public hearing date for the formation of the community facilities district for the regularly scheduled City Council meeting on Tuesday, May 19, 2020 to consider the matter.

RESOLUTION NO. _____

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. 41 (CANVAS PARK FACILITIES), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

WHEREAS, Section 53318 of the Mello-Roos Community Facilities Act of 1982 (the "Act") provides that proceedings for the establishment of a Community Facilities District shall be instituted by a legislative body of a local agency when a petition requesting the institution of the proceedings signed by the owners of not less than 10% of the area of land proposed to be included in the community facilities district and not proposed to be exempt from the special tax, describing the boundaries of the territory that is proposed for inclusion in the community facilities district and specifying the types of facilities and services to be financed by the community facilities district is filed with the clerk of the legislative body; and

WHEREAS, Section 53318 of the Act further provides that such a petition is not required to be acted upon until the payment of a fee in an amount that the legislative body determines, within 45 days of receiving such petition, is sufficient to compensate the legislative body for all costs incurred in conducting proceedings to create a community facilities district pursuant to the Act; and

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City") has received a written petition (the "Petition") from BrookCal Ontario LLC, a Delaware limited liability company (the "Landowner"), requesting the institution of proceedings for the establishment of a community facilities district (the "Community Facilities District"), describing the boundaries of the territory that is proposed for inclusion in the Community Facilities District and specifying the types of facilities and services to be financed by the Community Facilities District; and

WHEREAS, the Landowner has represented and warranted to the City Council that the Landowner is the owner of 100% of the area of land proposed to be included within the Community Facilities District and not proposed to be exempt from the special tax; 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 53321 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 the Landowner have entered into a Deposit and Reimbursement Agreement, dated as of April 1, 2020 (the "Deposit Agreement"), relating to the Community Facilities District, 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, the City desires to include in this Resolution, in accordance with Section 53314.9 of the Act, the proposal to repay funds pursuant to the Deposit Agreement.

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, and the City Council so finds and determines.

SECTION 2. The City Council hereby finds that the Petition is signed by the owner of the requisite amount of land proposed to be included in the Community Facilities District.

SECTION 3. The City Council proposes to establish a community facilities district under the terms of the Act. The boundaries of the territory proposed for inclusion in the Community Facilities District are described in the map showing the proposed Community Facilities District (the "Boundary Map") on file with the City Clerk of the City (the "City Clerk"), which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to sign the original Boundary Map and record, or cause to be recorded, the Boundary Map with all proper endorsements thereon in the office of the San Bernardino County Recorder within 15 days of the date of adoption of this Resolution, all as required by Section 3111 of the California Streets and Highways Code.

SECTION 4. The name proposed for the Community Facilities District is "City of Ontario Community Facilities District No. 41 (Canvas Park Facilities)."

SECTION 5. 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 Expenses" 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 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 City Council hereby fixes Tuesday, May 19, 2020, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the establishment of the Community Facilities District.

SECTION 11. The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53322 of the Act.

SECTION 12. The levy of said proposed special tax shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the Community Facilities District, with each owner having one vote for each acre or portion of an acre such owner owns in the Community Facilities District.

SECTION 13. Each officer of the City who is or will be responsible for providing one or more of the proposed types of Facilities or Services is hereby 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 Facilities and Services by type which 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 the Facilities and Services. Such officers are hereby also directed to estimate the fair and reasonable cost of the Facilities proposed to be purchased as completed public facilities and of the incidental expenses proposed to be paid. Such report shall be made a part of the record of said public hearing.

SECTION 14. 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 establishment 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 15. 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 16. 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 7th day of April 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 April 7, 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 April 7, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

FACILITIES 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. 41 (CANVAS PARK 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. 41 (Canvas Park Facilities) ("CFD No. 41") and collected each Fiscal Year, commencing in Fiscal Year 2020-21, 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. 41, 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 of Part 1 of 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. 41: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 41 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. 41 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 41 of complying with City, CFD No. 41, 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. 41 related to the analysis and reduction, if any, of the Special Tax on Single Family Property in accordance with Section C.1 herein; the costs of the City or CFD No. 41 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. 41; and amounts estimated or advanced by the City or CFD No. 41 for any other

administrative purposes of CFD No. 41, 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. 41 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. 41 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. 41" means City of Ontario Community Facilities District No. 41 (Canvas Park 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. 41.

"Contractual Impositions" means (a) a voluntary contractual assessment established and levied on an Assessor's Parcel pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.10 *et seq.*), as amended from time to time, (b) a special tax established and levied on an Assessor's Parcel pursuant to Section 53328.1 of the California Government Code and related provisions of the Act, as amended from time to time, and (c) any other fee, charge, tax, or assessment established and levied on an individual Assessor's Parcel pursuant to a contractual agreement or other voluntary consent by the owner thereof (e.g., property owner association assessments).

“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, 2019, and before May 1 of the prior Fiscal Year.

“Expected Residential Lot Count” means 595 Buildable Lots of Single Family Property or, as determined by the CFD Administrator, the number of Buildable Lots of Single Family 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. 41.

“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.

“Other Residential Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued by the City for purposes of constructing Units, excluding Single Family Attached Property, Single Family Attached Three Story Property, and Single Family Detached Property.

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

“Price Point Consultant” means any consultant or firm of such consultants selected by CFD No. 41 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. 41 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 41, (ii) the City, (iii) any owner of real property in CFD No. 41, or (iv) any real property in CFD No. 41, and (e) is not connected with CFD No. 41 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 41 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. 41 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. 41 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 or utility 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 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. 41. 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.

"Services" means the services authorized to be financed, in whole or in part, by CFD No. 41.

"Single Family Attached Property" means all Assessor's Parcels of Developed Property for which a building permit or use permit was issued for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor's Parcel Numbers assigned to them (except for a duplex unit, which may share an Assessor's Parcel with another duplex unit), may be purchased by individual homebuyers (which shall still be the case even if the Units are purchased and subsequently offered for rent by the owner of the Unit), including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351, and is not Single Family Attached Three Story Property.

"Single Family Attached Three Story Property" means all Assessor's Parcels of Developed Property for which a building permit or use permit was issued for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor's Parcel Numbers assigned to them (except for a duplex unit, which may share an Assessor's Parcel with another duplex unit), may be purchased by individual homebuyers (which shall still be the case even if the Units are purchased and subsequently offered for rent by the owner of the Unit), including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351, contains three or more floors of living area at the time the Unit is constructed, and is located within TTM 20081.

“Single Family Detached Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued for construction of a Unit, on one legal lot, that does not share a common wall with another Unit.

“Single Family Property” means all Assessor’s Parcels of Single Family Attached Property, Single Family Attached Three Story Property, and Single Family Detached Property.

“Special Tax” means the special tax authorized by the qualified electors of CFD No. 41 to be levied within the boundaries of CFD No. 41.

“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. 41 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) without duplicating any amounts described in clause (iv), above, provide an amount equal to reasonably anticipated Special Tax delinquencies based on the delinquency rate for the Special Tax in the previous Fiscal Year as determined by the CFD Administrator, as limited by the Act.

“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. 41, issued for construction of Single Family Property, Other 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. 41 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 a Unit within a Land Use Class, for the Fiscal Year in which Total Tax Burden is being calculated, the sum of (a) the Assigned Special Tax for such Land Use Class for such Fiscal Year, plus (b) the *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities districts, and any other governmental fees, charges (other than fees or charges for services such as sewer and trash), taxes, and assessments (which do not include Contractual Impositions) collected by the County on *ad valorem* tax bills and that the CFD Administrator estimates would be levied or imposed on such Unit in such Fiscal Year if the residential dwelling unit thereon or therein had been completed and sold, and was subject to such fees, charges, taxes, and assessments in such Fiscal Year.

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

“TTM 20081” means Tentative Tract Map No. 20081, the area of which is located within CFD No. 41.

“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 2020-21, all Taxable Property within CFD No. 41 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 Single Family Detached Property shall be assigned to Land Use Classes 1 through 5, and Assessor’s Parcels of Single Family Attached Property and Single Family Attached Three Story Property shall be assigned to Land Use Classes 6 through 20, as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor’s Parcels. Other Residential Property shall be assigned to Land Use Class 21, and Non-Residential Property shall be assigned to Land Use Class 22.

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. 41 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 Single Family Property to be constructed within CFD No. 41 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. Upon determining the reductions, if any, in the Assigned Special Tax and Backup Special Tax required pursuant to this Section C, the CFD Administrator shall complete the Certificate of Modification of Special Tax substantially in the form attached hereto as Exhibit A (the "Certificate of Modification"), shall execute such completed Certificate of Modification, and shall deliver such executed Certificate of Modification to CFD No. 41. Upon receipt thereof, if in satisfactory form, CFD No. 41 shall execute such Certificate of Modification. The reduced Assigned Special Tax and Backup Special Tax specified in such Certificate of Modification shall become effective upon the execution of such Certificate of Modification by CFD No. 41.

The Special Tax reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien, which CFD No. 41 shall cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by CFD No. 41. The reductions in this section apply to Single Family Property, but not to Other Residential Property or 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	Single Family Detached	< 1,801	\$2,293 per Unit
2	Single Family Detached	1,801 – 2,000	\$2,378 per Unit
3	Single Family Detached	2,001 – 2,200	\$2,491 per Unit
4	Single Family Detached	2,201 – 2,400	\$2,612 per Unit
5	Single Family Detached	> 2,400	\$2,653 per Unit
6	Single Family Attached	< 901	\$1,075 per Unit
7	Single Family Attached	901 – 1,100	\$1,140 per Unit
8	Single Family Attached	1,101 – 1,300	\$1,400 per Unit
9	Single Family Attached	1,301 – 1,500	\$1,632 per Unit
10	Single Family Attached	1,501 – 1,700	\$1,759 per Unit
11	Single Family Attached	1,701 – 1,900	\$1,923 per Unit
12	Single Family Attached	> 1,900	\$2,066 per Unit
13	Single Family Attached Three Story	< 751	\$711 per Unit
14	Single Family Attached Three Story	751 – 900	\$833 per Unit
15	Single Family Attached Three Story	901 – 1,050	\$1,040 per Unit
16	Single Family Attached Three Story	1,051 – 1,200	\$1,127 per Unit
17	Single Family Attached Three Story	1,201 – 1,400	\$1,251 per Unit
18	Single Family Attached Three Story	1,401 – 1,600	\$1,503 per Unit
19	Single Family Attached Three Story	1,601 – 1,800	\$1,615 per Unit
20	Single Family Attached Three Story	> 1,800	\$1,717 per Unit
21	Other Residential Property		\$43,199 per Acre
22	Non-Residential Property		\$43,199 per Acre

3) *Backup Special Tax*

The Backup Special Tax shall be \$2,492 per Unit for Single Family Detached Property and \$1,547 per Unit for Single Family Attached Property and Single Family Attached Three Story Property. However, if the Expected Residential Lot Count does not equal 61 for Single Family Detached Property or 534 for Single Family Attached Property and Single Family Attached

Three Story Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property or Single Family Attached Property and Single Family Attached Three Story Property according to the following formula:

$$\text{Backup Special Tax} = \$151,998 \div \text{Expected Residential Lot Count for Single Family Detached Property}$$

or $\$826,202 \div \text{Expected Residential Lot Count for Single Family Attached Property and Single Family Attached Three Story Property}$

If any portion of a Final Subdivision Map, or any area expected by CFD No. 41 to become Final Mapped Property, such as the area within TTM 20081 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 Single Family Detached Property or Single Family Attached Property and Single Family Attached Three Story 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 Single Family Detached Property or Single Family Attached Property and Single Family Attached Three Story Property, 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 Single Family Detached Property or Single Family Attached Property and Single Family Attached Three Story Property, 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 Single Family Detached Property or Single Family Attached Property and Single Family Attached Three Story Property.

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 \$43,199 per Acre, 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 Single Family Property and Acres of Other Residential Property and Non-Residential Property (based on the pro rata share of Square Footage between Other Residential Property and Non-Residential Property, according to 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 2020-21, 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; and

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 Single Family Property or Other 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. 41 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 7.25 Acres of Public Property and up to 12.57 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. 41 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 \$12,929,000 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. 41.

"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, 2020, through June 30, 2054.

"Prepayment Period 2" means July 1, 2054, through June 30, 2087.

"Prepayment Period 3" means July 1, 2087, through June 30, 2121.

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, 2019, 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
less	<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. 41 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. 41, 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. 41, 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 Future Facilities Costs for the applicable Prepayment Period.
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. 41, 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. 41.

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. 41 (after excluding 7.25 Acres of Public Property and 12.57 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, 2019, 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. 41 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 2120-2121, 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 3)**

CFD No. 41 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. 41 (Canvas Park Facilities) (“CFD No. 41”), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 41 has been modified.
 - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 41, 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	Single Family Detached	< 1,801	\$[] per Unit
2	Single Family Detached	1,801 – 2,000	\$[] per Unit
3	Single Family Detached	2,001 – 2,200	\$[] per Unit
4	Single Family Detached	2,201 – 2,400	\$[] per Unit
5	Single Family Detached	> 2,400	\$[] per Unit
6	Single Family Attached	< 901	\$[] per Unit
7	Single Family Attached	901 – 1,100	\$[] per Unit
8	Single Family Attached	1,101 – 1,300	\$[] per Unit
9	Single Family Attached	1,301 – 1,500	\$[] per Unit
10	Single Family Attached	1,501 – 1,700	\$[] per Unit
11	Single Family Attached	1,701 – 1,900	\$[] per Unit
12	Single Family Attached	> 1,900	\$[] per Unit

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 2 OF 3)**

13	Single Family Attached Three Story	< 751	\$[] per Unit
14	Single Family Attached Three Story	751 – 900	\$[] per Unit
15	Single Family Attached Three Story	901 – 1,050	\$[] per Unit
16	Single Family Attached Three Story	1,051 – 1,200	\$[] per Unit
17	Single Family Attached Three Story	1,201 – 1,400	\$[] per Unit
18	Single Family Attached Three Story	1,401 – 1,600	\$[] per Unit
19	Single Family Attached Three Story	1,601 – 1,800	\$[] per Unit
20	Single Family Attached Three Story	> 1,800	\$[] per Unit
21	Other Residential Property		\$[] per Acre
22	Non-Residential Property		\$[] per Acre

- 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 Single Family Detached Property and \$[] per Unit for Single Family Attached Property and Single Family Attached Three Story Property. However, if the Expected Residential Lot Count does not equal 61 for Single Family Detached Property or 534 for Single Family Attached Property and Single Family Attached Three Story Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property or Single Family Attached Property and Single Family Attached Three Story Property according to the following formula:

$$\text{Backup Special Tax} = \frac{\$[]}{\text{Expected Residential Lot Count for Single Family Detached Property}}$$

or
$$\frac{\$[]}{\text{Expected Residential Lot Count for Single Family Attached Property and Single Family Attached Three Story Property}}$$

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 3 OF 3)**

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 41 Bonds.
3. Upon execution of this certificate by CFD No. 41, CFD No. 41 shall cause an amended notice of Special Tax lien for CFD No. 41 to be recorded reflecting the modifications set forth herein.

Capitalized undefined terms used herein have the meanings ascribed thereto in the Rate and Method. The modifications set forth in this Certificate have been calculated by the CFD Administrator in accordance with the Rate and Method.

GOODWIN CONSULTING GROUP, INC.
CFD ADMINISTRATOR

By: _____ Date: _____

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.

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 41
(CANVAS PARK FACILITIES)

By: _____ Date: _____

RESOLUTION NO. _____

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. 41 (CANVAS PARK FACILITIES).

WHEREAS, 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"), has this date adopted its 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. 41 (Canvas Park Facilities), and to Authorize the Levy of Special Taxes," stating its intention to establish City of Ontario Community Facilities District No. 41 (Canvas Park Facilities) (the "Community Facilities District") for the purpose of financing certain public facilities (the "Facilities") and services, as further provided in said Resolution; and

WHEREAS, in order to finance the Facilities it is necessary to incur bonded indebtedness in the amount of up to \$46,000,000;

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, and the City Council so finds and determines.

SECTION 2. The City Council hereby declares that in order to finance the Facilities, it is necessary to incur bonded indebtedness.

SECTION 3. The purpose for which the proposed debt is to be incurred is to provide the funds necessary to pay the costs of the Facilities, including all costs and estimated costs incidental to, or connected with, the accomplishment of said purpose and of the financing thereof, as permitted by Section 53345.3 of the Act.

SECTION 4. The maximum amount of the proposed debt is \$46,000,000.

SECTION 5. The City Council hereby fixes Tuesday, May 19, 2020, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the proposed debt authorization.

SECTION 6. The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53346 of the Act.

SECTION 7. 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 8. 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 7th day of April 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 April 7, 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 April 7, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
April 7, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 53 (TEVELDE FACILITIES)

RECOMMENDATION: That the City Council consider and adopt an ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 53 (Tevelde Facilities).

COUNCIL GOALS: Operate in a Businesslike Manner

Focus Resources in Ontario's Commercial and Residential Neighborhoods

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 Ontario Ranch

FISCAL IMPACT: The use of Mello-Roos financing for facilities in the residential development of the Tevelde project is estimated to generate approximately \$18.5 million in bond proceeds to be used to fund a portion of the public infrastructure improvements that will serve the project. 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, therefore, there is no General Fund impact from the issuance of Mello-Roos bonds. City Council approval will be required in future years to process annual special tax levies.

BACKGROUND: At a public hearing conducted by the City Council on March 17, 2020, the City Council adopted the resolution of formation for Community Facilities District No. 53 (Tevelde Facilities) 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. 53 (Tevelde Facilities).

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. 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 City's intention

STAFF MEMBER PRESENTING: Armen Harkalyan, Executive Director of Finance

Prepared by: Jason M. Jacobsen
Department: Financial Services
City Manager Approval: 

Submitted to Council/O.H.A. 04/07/2020
Approved: _____
Continued to: _____
Denied: _____

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to establish a community facilities district and levy special taxes, and to issue bonds. On February 4, 2020, the City Council approved Resolution No. 2020-011, a Resolution of Intention to establish City of Ontario Community Facilities District No. 53 (Tevelde Facilities) and authorize the levy of special taxes; and adopted Resolution No. 2020-012, declaring its intention to issue bonds for the district. The Resolution of Intention set a public hearing date for the regularly scheduled City Council meeting of March 17, 2020 to consider formation matters. On March 17, 2020, the City Council conducted a public hearing on the formation of the District, adopted the resolution of formation, and introduced and waived further reading of the ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 53 (Tevelde Facilities).

The Tevelde project addresses the development of approximately 82 gross acres located generally east of Cucamonga Channel, generally west of Archibald Avenue, south of Eucalyptus Avenue, and north of Merrill Avenue. At build out, the development is projected to include 432 detached units. The Community Facilities District is being formed pursuant to the provisions of the ARROYO CAP VII, LLC. Agreement, and the First Amended and Restated Construction Agreement between the City and NMC Builders.

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. 53 (TEVELDE FACILITIES).

WHEREAS, on February 4, 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. 53 (Tevelde Facilities), and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 53 (Tevelde Facilities) (the "Community Facilities District") and to finance certain public facilities (the "Facilities") and services (the "Services"); and

WHEREAS, on March 17, 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. 53 (Tevelde 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. 53 (Tevelde 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. 53 (Tevelde 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 March 17, 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; and

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 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 7th day of April 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.3158 was duly introduced at a regular meeting of the City Council of the City of Ontario held March 17, 2020 and adopted at the regular meeting held April 7, 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 the Ordinance No.3158 duly passed and adopted by the Ontario City Council at their regular meeting held April 7, 2020 and that Summaries of the Ordinance were published on March 24, 2020 and April 14, 2020 in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
April 7, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: ACCEPTANCE OF A WRITTEN PETITION TO CREATE A COMMUNITY FACILITIES DISTRICT; A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 54 (ESPERANZA FACILITIES) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES; AND A RESOLUTION TO INCUR BONDED INDEBTEDNESS

RECOMMENDATION: That the City Council consider and:

- (A) Accept written petitions (on file in the Records Management Department) from GDC/CDG Esperanza PA 4 Venture, L.P., a Delaware limited liability partnership and GDC/CDG Esperanza PA 10 Venture, L.P., a Delaware limited liability partnership, to create a Community Facilities District, and to waive certain procedural matters under the Mello-Roos Community Facilities Act of 1982;
- (B) Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 54 (Esperanza Facilities) (the "CFD") and authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, May 19, 2020; and
- (C) Adopt a Resolution to Incur Bonded Indebtedness of proposed Community Facilities District No. 54 (Esperanza Facilities).

COUNCIL GOALS: Operate in a Businesslike Manner


Focus Resources in Ontario's Commercial and Residential Neighborhoods

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 Ontario Ranch

FISCAL IMPACT: The use of Mello-Roos financing for facilities in the residential development of the proposed CFD for the Esperanza project is estimated to generate approximately \$5.7 million in bond

STAFF MEMBER PRESENTING: Armen Harkalyan, Executive Director of Finance

Prepared by: Jason M. Jacobsen
Department: Financial Services
City Manager Approval: 

Submitted to Council/O.H.A. 04/07/2020
Approved: _____
Continued to: _____
Denied: _____

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proceeds to be used to fund a portion of the public infrastructure improvements that will serve the project. 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; therefore, there is no General Fund impact from the issuance of Mello-Roos bonds. City Council approval will be required in future years to process annual special tax levies.

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. 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, authorizing the levy of special taxes, and to issue bonds.

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. CDG/CDG Esperanza PA 4 Venture, L.P. and CGD/CDG Esperanza PA 10 Venture, L.P., have provided written petition to the City requesting formation of a community facilities district for the Esperanza project in Ontario Ranch. The Esperanza project addresses the development of approximately 26 gross acres located generally west of Hamner Avenue, east of Mill Creek Avenue, south of Chatham Street, and generally north of Bellegrave Avenue. At build out, the development is projected to include 226 units; 100 detached and 126 attached units and will generate approximately \$5.7 million for debt service.

Included, as part of the resolution of intention for the proposed district, is the proposed Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 54 (Esperanza 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, Resolution No. 2006-021, in all aspects.

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. The amount of bonds authorized (\$25 million) under the resolution is set intentionally higher than the current proposed bond amount (approximately \$5.7 million) in order to allow future City Councils the option to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund City services without increasing the amount of the annual special taxes. The term and structure of the Rate and Method of Apportionment of Special Tax for the Esperanza project are consistent with those of the previously adopted Rate and Method of Apportionments for Ontario Ranch community facilities districts. This will ensure 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 Ontario Ranch community facilities districts will be required to disclose the maximum annual special tax amounts to each homeowner before they enter into a sales contract.

List of infrastructure to be funded;

- Neighborhood Edge and Parkways

City staff has discussed the proposed Rate and Method of Apportionment of Special Tax with the landowners. As proposed, the resolution of intention to establish the district and to levy special taxes will set the public hearing date for the formation of the community facilities district for the regularly scheduled City Council meeting on Tuesday, May 19, 2020 to consider the matter.

RESOLUTION NO. _____

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. 54 (ESPERANZA FACILITIES), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

WHEREAS, Section 53318 of the Mello-Roos Community Facilities Act of 1982 (the "Act") provides that proceedings for the establishment of a Community Facilities District shall be instituted by a legislative body of a local agency when a petition requesting the institution of the proceedings signed by the owners of not less than 10% of the area of land proposed to be included in the community facilities district and not proposed to be exempt from the special tax, describing the boundaries of the territory that is proposed for inclusion in the community facilities district and specifying the types of facilities and services to be financed by the community facilities district is filed with the clerk of the legislative body; and

WHEREAS, Section 53318 of the Act further provides that such a petition is not required to be acted upon until the payment of a fee in an amount that the legislative body determines, within 45 days of receiving such petition, is sufficient to compensate the legislative body for all costs incurred in conducting proceedings to create a community facilities district pursuant to the Act; and

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City") has received written petitions (the "Petitions") from GDC/CDG Esperanza PA 4 Venture, L.P., a Delaware limited partnership ("Esperanza PA 4 Venture"), and GDC/CDG Esperanza PA 10 Venture, L.P., a Delaware limited partnership (collectively, the "Landowners"), requesting the institution of proceedings for the establishment of a community facilities district (the "Community Facilities District"), describing the boundaries of the territory that is proposed for inclusion in the Community Facilities District and specifying the types of facilities and services to be financed by the Community Facilities District; and

WHEREAS, the Landowners have represented and warranted to the City Council that the Landowners are the owners of 100% of the area of land proposed to be included within the Community Facilities District and not proposed to be exempt from the special tax; 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 53321 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 Esperanza PA 4 Venture have entered into a Deposit and Reimbursement Agreement, dated as of April 1, 2020 (the "Deposit Agreement"), relating to the Community Facilities District, that provides for the advancement of funds by Esperanza PA 4 Venture 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 Esperanza PA 4 Venture of such funds advanced, without interest, from the proceeds of any such bonds issued by the Community Facilities District; and

WHEREAS, the City desires to include in this Resolution, in accordance with Section 53314.9 of the Act, the proposal to repay funds pursuant to the Deposit Agreement.

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, and the City Council so finds and determines.

SECTION 2. The City Council hereby finds that the Petitions are signed by the owners of the requisite amount of land proposed to be included in the Community Facilities District.

SECTION 3. The City Council proposes to establish a community facilities district under the terms of the Act. The boundaries of the territory proposed for inclusion in the Community Facilities District are described in the map showing the proposed Community Facilities District (the "Boundary Map") on file with the City Clerk of the City (the "City Clerk"), which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to sign the original Boundary Map and record, or cause to be recorded, the Boundary Map with all proper endorsements thereon in the office of the San Bernardino County Recorder within 15 days of the date of adoption of this Resolution, all as required by Section 3111 of the California Streets and Highways Code.

SECTION 4. The name proposed for the Community Facilities District is "City of Ontario Community Facilities District No. 54 (Esperanza Facilities)".

SECTION 5. 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 Expenses" 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 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 City Council hereby fixes Tuesday, May 19, 2020, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the establishment of the Community Facilities District.

SECTION 11. The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53322 of the Act.

SECTION 12. The levy of said proposed special tax shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the Community Facilities District, with each owner having one vote for each acre or portion of an acre such owner owns in the Community Facilities District.

SECTION 13. Each officer of the City who is or will be responsible for providing one or more of the proposed types of Facilities or Services is hereby 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 Facilities and Services by type which 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 the Facilities and Services. Such officers are hereby also directed to estimate the fair and reasonable cost of the Facilities proposed to be purchased as completed public facilities and of the incidental expenses proposed to be paid. Such report shall be made a part of the record of said public hearing.

SECTION 14. Esperanza PA 4 Venture 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 establishment 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 15. 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 16. 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 7th day of April 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 April 7, 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 April 7, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

FACILITIES 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. 54 (ESPERANZA 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. 54 (Esperanza Facilities) ("CFD No. 54") and collected each Fiscal Year, commencing in Fiscal Year 2020-21, 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. 54, 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 of Part 1 of 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. 54: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 54 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. 54 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 54 of complying with City, CFD No. 54, 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. 54 related to the analysis and reduction, if any, of the Special Tax on Single Family Property in accordance with Section C.1 herein; the costs of the City or CFD No. 54 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. 54; and amounts estimated or advanced by the City or CFD No. 54 for any other

administrative purposes of CFD No. 54, 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. 54 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. 54 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. 54" means City of Ontario Community Facilities District No. 54 (Esperanza 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. 54.

"Contractual Impositions" means (a) a voluntary contractual assessment established and levied on an Assessor's Parcel pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.10 *et seq.*), as amended from time to time, (b) a special tax established and levied on an Assessor's Parcel pursuant to Section 53328.1 of the California Government Code and related provisions of the Act, as amended from time to time, and (c) any other fee, charge, tax, or assessment established and levied on an individual Assessor's Parcel pursuant to a contractual agreement or other voluntary consent by the owner thereof (e.g., property owner association assessments).

“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, 2019, and before May 1 of the prior Fiscal Year.

“Expected Residential Lot Count” means 226 Buildable Lots of Single Family Property or, as determined by the CFD Administrator, the number of Buildable Lots of Single Family 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. 54.

“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.

“Other Residential Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued by the City for purposes of constructing Units, excluding Single Family Attached Property and Single Family Detached Property.

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

“Price Point Consultant” means any consultant or firm of such consultants selected by CFD No. 54 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. 54 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 54, (ii) the City, (iii) any owner of real property in CFD No. 54, or (iv) any real property in CFD No. 54, and (e) is not connected with CFD No. 54 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 54 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. 54 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. 54 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 or utility 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 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. 54. 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.

"Services" means the services authorized to be financed, in whole or in part, by CFD No. 54.

"Single Family Attached Property" means all Assessor's Parcels of Developed Property for which a building permit or use permit was issued for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor's Parcel Numbers assigned to them (except for a duplex unit, which may share an Assessor's Parcel with another duplex unit), and may be purchased by individual homebuyers (which shall still be the case even if the Units are purchased and subsequently offered for rent by the owner of the Unit), including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

"Single Family Detached Property" means all Assessor's Parcels of Developed Property for which a building permit was issued for construction of a Unit, on one legal lot, that does not share a common wall with another Unit.

"Single Family Property" means all Assessor's Parcels of Single Family Attached Property and Single Family Detached Property.

"Special Tax" means the special tax authorized by the qualified electors of CFD No. 54 to be levied within the boundaries of CFD No. 54.

“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. 54 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) without duplicating any amounts described in clause (iv), above, provide an amount equal to reasonably anticipated Special Tax delinquencies based on the delinquency rate for the Special Tax in the previous Fiscal Year as determined by the CFD Administrator, as limited by the Act.

“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. 54, issued for construction of Single Family Property, Other 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. 54 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 a Unit within a Land Use Class, for the Fiscal Year in which Total Tax Burden is being calculated, the sum of (a) the Assigned Special Tax for such Land Use Class for such Fiscal Year, plus (b) the *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities districts, and any other governmental fees, charges (other than fees or charges for services such as sewer and trash), taxes, and assessments (which do not include Contractual Impositions) collected by the County on *ad valorem* tax bills and that the CFD Administrator estimates would be levied or imposed on such Unit in such Fiscal Year if

the residential dwelling unit thereon or therein had been completed and sold, and was subject to such fees, charges, taxes, and assessments in such Fiscal Year.

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

“**TTM 17931**” means Tentative Tract Map No. 17931, the area of which is located within CFD No. 54.

“**TTM 20285**” means Tentative Tract Map No. 20285, the area of which is located within CFD No. 54.

“**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 2020-21, all Taxable Property within CFD No. 54 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 Single Family Detached Property shall be assigned to Land Use Classes 1 through 7, and Assessor’s Parcels of Single Family Attached Property shall be assigned to Land Use Classes 8 through 14, as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor’s Parcels. Other Residential Property shall be assigned to Land Use Class 15, and Non-Residential Property shall be assigned to Land Use Class 16.

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. 54 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 Single Family Property to be constructed within CFD No. 54 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. Upon determining the reductions, if any, in the Assigned Special Tax and Backup Special Tax required pursuant to this Section C, the CFD Administrator shall complete the Certificate of Modification of Special Tax substantially in the form attached hereto as Exhibit A (the "Certificate of Modification"), shall execute such completed Certificate of Modification, and shall deliver such executed Certificate of Modification to CFD No. 54. Upon receipt thereof, if in satisfactory form, CFD No. 54 shall execute such Certificate of Modification. The reduced Assigned Special Tax and Backup Special Tax specified in such Certificate of Modification shall become effective upon the execution of such Certificate of Modification by CFD No. 54.

The Special Tax reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien, which CFD No. 54 shall cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by CFD No. 54. The reductions in this section apply to Single Family Property, but not to Other Residential Property or 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	Single Family Detached Property	< 2,201	\$2,574 per Unit
2	Single Family Detached Property	2,201 – 2,400	\$2,848 per Unit
3	Single Family Detached Property	2,401 – 2,600	\$3,016 per Unit
4	Single Family Detached Property	2,601 – 2,800	\$3,216 per Unit
5	Single Family Detached Property	2,801 – 3,000	\$3,441 per Unit
6	Single Family Detached Property	3,001 – 3,200	\$3,579 per Unit
7	Single Family Detached Property	> 3,200	\$3,761 per Unit
8	Single Family Attached Property	< 901	\$1,090 per Unit
9	Single Family Attached Property	901 – 1,100	\$1,166 per Unit
10	Single Family Attached Property	1,101 – 1,300	\$1,312 per Unit
11	Single Family Attached Property	1,301 – 1,500	\$1,484 per Unit
12	Single Family Attached Property	1,501 – 1,700	\$1,623 per Unit
13	Single Family Attached Property	1,701 – 1,900	\$1,766 per Unit
14	Single Family Attached Property	> 1,900	\$1,840 per Unit
15	Other Residential Property		\$32,813 per Acre
16	Non-Residential Property		\$32,813 per Acre

3) *Backup Special Tax*

The Backup Special Tax shall be \$3,235 per Unit for Single Family Detached Property and \$1,473 per Unit for Single Family Attached Property. However, if the Expected Residential Lot Count does not equal 100 for Single Family Detached Property or 126 for Single Family Attached Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property and Single Family Attached Property according to the following formula:

$$\text{Backup Special Tax} = \$323,525 \div \text{Expected Residential Lot Count for Single Family Detached Property}$$

or $\$185,598 \div \text{Expected Residential Lot Count for Single Family Attached Property}$

If any portion of a Final Subdivision Map, or any area expected by CFD No. 54 to become Final Mapped Property, such as the area within TTM 17931, TTM 20285, 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 Single Family Detached Property and Single Family Attached 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 Single Family Detached Property and Single Family Attached Property, 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 Single Family Detached Property and Single Family Attached Property, 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 Single Family Detached Property and Single Family Attached Property.

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 \$32,813 per Acre, 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 Single Family Property and Acres of Other Residential Property and Non-Residential

Property (based on the pro rata share of Square Footage between Other Residential Property and Non-Residential Property, according to 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 2020-21, 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; and

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 Single Family Property or Other 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. 54 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 4.72 Acres of Public Property and up to 3.67 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. 54 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 \$6,397,000 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. 54.

“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, 2020, through June 30, 2054.

“Prepayment Period 2” means July 1, 2054, through June 30, 2087.

“Prepayment Period 3” means July 1, 2087, through June 30, 2121.

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, 2019, 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. 54 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. 54, 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. 54, 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 Future Facilities Costs for the applicable Prepayment Period.
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. 54, 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. 54.

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. 54 (after excluding 4.72 Acres of Public Property and 3.67 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, 2019, 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. 54 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 2120-2121, 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. 54 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. 54 (Esperanza Facilities) (“CFD No. 54”), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 54 has been modified.
 - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 54, 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	Single Family Detached Property	< 2,201	\$[] per Unit
2	Single Family Detached Property	2,201 – 2,400	\$[] per Unit
3	Single Family Detached Property	2,401 – 2,600	\$[] per Unit
4	Single Family Detached Property	2,601 – 2,800	\$[] per Unit
5	Single Family Detached Property	2,801 – 3,000	\$[] per Unit
6	Single Family Detached Property	3,001 – 3,200	\$[] per Unit
7	Single Family Detached Property	> 3,200	\$[] per Unit
8	Single Family Attached Property	< 901	\$[] per Unit
9	Single Family Attached Property	901 – 1,100	\$[] per Unit
10	Single Family Attached Property	1,101 – 1,300	\$[] per Unit
11	Single Family Attached Property	1,301 – 1,500	\$[] per Unit
12	Single Family Attached Property	1,501 – 1,700	\$[] per Unit
13	Single Family Attached Property	1,701 – 1,900	\$[] per Unit
14	Single Family Attached Property	> 1,900	
15	Other Residential Property		\$[] per Acre
16	Non-Residential Property		\$[] per Acre

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

EXHIBIT A

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

The Backup Special Tax shall be \$[_____] per Unit for Single Family Detached Property and \$[_____] per Unit for Single Family Attached Property. However, if the Expected Residential Lot Count does not equal 100 for Single Family Detached Property or 126 for Single Family Attached Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property and Single Family Attached Property according to the following formula:

$$\text{Backup Special Tax} = \$[\text{_____}] \div \text{Expected Residential Lot Count for Single Family Detached Property}$$

$$\text{or } \$[\text{_____}] \div \text{Expected Residential Lot Count for Single Family Attached Property}$$

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 54 Bonds.
3. Upon execution of this certificate by CFD No. 54, CFD No. 54 shall cause an amended notice of Special Tax lien for CFD No. 54 to be recorded reflecting the modifications set forth herein.

Capitalized undefined terms used herein have the meanings ascribed thereto in the Rate and Method. The modifications set forth in this Certificate have been calculated by the CFD Administrator in accordance with the Rate and Method.

GOODWIN CONSULTING GROUP, INC.
CFD ADMINISTRATOR

By: _____ Date: _____

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.

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 54
(ESPERANZA FACILITIES)

By: _____ Date: _____

RESOLUTION NO. _____

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. 54 (ESPERANZA FACILITIES).

WHEREAS, 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"), has this date adopted its 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. 54 (Esperanza Facilities), and to Authorize the Levy of Special Taxes," stating its intention to establish City of Ontario Community Facilities District No. 54 (Esperanza Facilities) (the "Community Facilities District") for the purpose of financing certain public facilities (the "Facilities") and services, as further provided in said Resolution; and

WHEREAS, in order to finance the Facilities it is necessary to incur bonded indebtedness in the amount of up to \$25,000,000;

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, and the City Council so finds and determines.

SECTION 2. The City Council hereby declares that in order to finance the Facilities, it is necessary to incur bonded indebtedness.

SECTION 3. The purpose for which the proposed debt is to be incurred is to provide the funds necessary to pay the costs of the Facilities, including all costs and estimated costs incidental to, or connected with, the accomplishment of said purpose and of the financing thereof, as permitted by Section 53345.3 of the Act.

SECTION 4. The maximum amount of the proposed debt is \$25,000,000.

SECTION 5. The City Council hereby fixes Tuesday, May 19, 2020, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the proposed debt authorization.

SECTION 6. The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53346 of the Act.

SECTION 7. 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 8. 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 7th day of April 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 April 7, 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 April 7, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
April 7, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: PRE-AUTHORIZED LIST OF VENDORS TO PROVIDE SERVICES AND PARTS FOR CITY FACILITIES AND INFRASTRUCTURE


RECOMMENDATION: That the City Council approve the attached list of pre-authorized vendors to provide parts and maintenance services for City facilities and infrastructure.

COUNCIL GOALS: Operate in a Businesslike Manner
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Maintain the Current High Level of Public Safety

FISCAL IMPACT: The designation of the pre-authorized list of vendors to provide service and parts does not affect appropriations and does not commit the City to any specific level of future expenditures with these vendors. Annual expenditures for direct lighting and security camera and alarm maintenance services are estimated at \$150,000, roofing maintenance services at \$50,000, and lock smith services at \$20,000. The actual costs incurred will not exceed the appropriations limits established by the City Council in any respective fiscal year.

BACKGROUND: The Facilities Maintenance Department in the Public Works Agency maintains more than 60 buildings throughout the City. To ensure City facilities and equipment are safe for the public and City staff, regular maintenance and repairs are necessary; and undue time delays affect the City's ability to provide services to the community. For this reason, the City has standardized on specialized building systems (Mijac alarms and control systems and Tremco roof systems), specialized parts and equipment, and has been able to procure certain goods and services directly from manufacturers. Due to the nature of these items, and to ensure City facilities are maintained and repaired in a timely manner, it is not always cost effective or feasible for the City to follow its standard purchasing procedures in soliciting bids or requests for proposals. Therefore, it is recommended that the City establish a list of pre-authorized vendors to provide parts and services consistent with Section 2-6.23(b) and 2-6.23(c) of the Purchasing Ordinance which authorizes the Purchasing Officer to make purchases without following the standard purchasing procedures whenever (1) the goods can be

STAFF MEMBER PRESENTING: Tito Haes, Executive Director Public Works

Prepared by: Michael Johnson
Department: Municipal Services
City Manager Approval: 

Submitted to Council/O.H.A. 04/07/2020
Approved: _____
Continued to: _____
Denied: _____

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obtained from only one source, and/or (2) a breakdown in machinery, equipment or an essential service which requires an immediate purchase of supplies and equipment to protect public health, safety and welfare generates circumstances that a competitive process would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable, impractical, or impossible.

APPROVED LIST OF AUTHORIZED VENDORS FOR
SERVICES AND PARTS FOR CITY FACILITIES AND INFRASTRUCTURE

Sole Source Vendors

Mijac Alarms
9339 Charles Smith Avenue, #100
Rancho Cucamonga, CA 91730

Tremco Roofing and Building Maintenance
3735 Green Road,
Beachwood, Ohio 44122

Non-Sole Sources Vendors

Direct Lighting
1656 S. Bon View Avenue
Ontario, CA 91761

Slim's Key Shop
5989 Trotters Lane,
Rancho Cucamonga, CA 91701

Service/Maintenance Performed

Burglar and Fire Alarms, Access Controls

Roof Systems and Warranties

Service/Maintenance Performed

Specialized Interior/Exterior Lighting

Door Locks and Keys

CITY OF ONTARIO

Agenda Report
April 7, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: AN AMENDMENT TO THE CONSTRUCTION CONTRACT FOR ON-CALL REMEDIATION AND RESTORATION SERVICES


RECOMMENDATION: That the City Council approve and authorize the City Manager to execute Amendment No. 1 (on file in the Records Management Department) to the Construction Contract with Belfor USA Group, Inc., of Riverside, CA for on-call remediation and restoration services, adding \$365,000 for a revised not-to-exceed contract limit of \$375,000 over a term of three years.

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

FISCAL IMPACT: This recommended amendment increases the total authorized contract amount from \$90,000 to \$375,000 for a contract term of three years. The Fiscal Year 2019-20 Adopted Operating Budget includes appropriations of \$515,000 in the Facility Maintenance Fund for unanticipated emergency repairs. Annual expenditures are estimated at \$125,000. The total compensation paid by the City under the original term and any subsequent term extensions will be contingent upon the type and amount of work performed, billed at the contracted fixed hourly rates, and shall not exceed \$375,000.

BACKGROUND: Due to aging infrastructure, environmental factors, vandalism, renovation projects etc., there are times the City requires environment remediation services to deal with various issues that may arise. This type of work requires licensed professionals to perform remediation and repair services with specialized equipment according to strict standards that City staff cannot reasonably perform. The services to be provided by Belfor USA include, but are not limited to, mold abatement, lead-based paint abatement, asbestos abatement, and sewer and water damage remediation. Having an on-call remediation and restoration company will allow the City to quickly perform the work needed to ensure we are providing a safe environment and minimizing impacts to the public and City operations.

STAFF MEMBER PRESENTING: Tito Haes, Executive Director Public Works

Prepared by: Michael Johnson
Department: Municipal Services
City Manager Approval: 

Submitted to Council/O.H.A. 04/07/2020
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Denied: _____

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In September 2019, the City solicited bids for on-call remediation and restoration services. On October 9, 2019, three (3) bids were received through the City's electronic bid management system in response to Bid No. 1206.

<u>COMPANY</u>	<u>LOCATION</u>
Belfor USA Group, Inc.	Riverside, CA
Vizion's West Inc.	Menifee, CA
Integrated Demolition and Remediation Inc.	Anaheim, CA

Bid No. 1206 was awarded to Belfor USA Group, Inc. as the lowest responsive bid. Bid prices submitted were based on task descriptions and an hourly rate per task.

The City currently has a \$90,000 construction contract with Belfor USA Group, Inc. for the same services. It is recommended that the existing contract be amended to increase the maximum contract value to \$375,000.

CITY OF ONTARIO

Agenda Report
April 7, 2020

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN URGENCY ORDINANCE RELATING TO THE EVICTION OF RESIDENTIAL TENANTS, COMMERCIAL TENANTS, AND STORAGE UNIT PATRONS EXPERIENCING LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC

RECOMMENDATION: That the City Council read by title only, waive further reading, and adopt an urgency ordinance imposing regulations on the eviction of residential tenants, commercial tenants, and 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 March 16, 2020, Governor Newsom issued Executive Order N-28-20, which authorizes local jurisdictions to regulate the eviction of residential and commercial tenants experiencing a loss of income due to the Coronavirus Disease 19 (COVID-19) pandemic. Following that Executive Order, several jurisdictions, including the County of San Bernardino, have adopted regulations prohibiting evictions for these reasons. The regulations are typically effective for only a limited period of time, and expire with the end of the local emergency.

City of Ontario Ordinance No. 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 to be affected by a public calamity. The City Manager exercised his right as Director of Emergency Services to proclaim a local emergency concerning the spread of COVID-19 on March 14, 2020, and the Ontario City Council subsequently ratified the proclamation at its March 17, 2020 meeting.

STAFF MEMBER PRESENTING: David Sheasby, Deputy City Manager

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

Submitted to Council/O.H.A. 04/07/2020
Approved: _____
Continued to: _____
Denied: _____

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Following that proclamation, on March 19, 2020, Governor Newsom issued a statewide “stay at home” order via Executive Order N-33-20. That order required the closure of businesses within “non-essential” industries and has led to severe economic impacts across the state, including the temporary closure of many businesses, and the lay-off or reduction in income for their employees. It is anticipated that the order could be in effect for as many as twelve weeks and could have further economic impacts, leaving tenants vulnerable to eviction.

The proposed urgency ordinance prohibits the eviction of residential and commercial tenants, as well as storage unit patrons who can demonstrate a loss of income due to COVID-19. Loss of income may come from being infected/quarantined due to a suspected or confirmed case of COVID-19; providing care to a family member with a suspected or confirmed case; experiencing a layoff or loss of hours; or needing to miss time to care for a child whose school was closed in response to COVID-19. Loss of income may be demonstrated by a termination slip, payroll check, bank statement, or medical bill which supports the tenant/patron’s assertion of an inability to pay. Qualifying tenants and patrons remain responsible for the payment of all rents/fees within six months of the expiration of the local emergency. Violation of the ordinance carries a misdemeanor penalty.

Under California Government Code 36937, the City Council may issue an urgency ordinance only by a fourth-fifths vote of the Council with a finding that there is a current and immediate threat to the public health, safety, or welfare. During this local emergency, unnecessary displacement of tenants, businesses, and stored items would pose a threat to the public health and welfare as the moving of items is not feasible due to the Governor’s stay at home order, thereby potentially leaving tenants/patrons without an ability to move their items. As such, housed individuals could be exposed to homelessness, and items could be discarded into the public right of way.

Upon adoption, the proposed urgency ordinance is effective immediately.

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL TENANTS, COMMERCIAL TENANTS, AND STORAGE UNIT PATRONS EXPERIENCING 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 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 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 No. 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 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, further economic impacts are anticipated, leaving residential tenants, commercial tenants and storage unit patrons vulnerable to eviction; and

WHEREAS, there is existing evidence that COVID-19 is active 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, business and storage 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, and to prevent the displacement of stored items 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, commercial tenants and storage unit patrons must be regulated in order to protect the public health, safety, and welfare.

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

SECTION 1. The recitals set forth above are true and correct and are hereby adopted as findings in support of this Urgency Ordinance as if fully set forth herein.

In accordance with California Government Code, Section 36937 and in order to protect the public health, safety and welfare, the City Council also makes the following findings in support of the urgent nature of this Ordinance:

A. The City Council finds that this Urgency Ordinance is enacted in order to protect the public health, safety and welfare by adopting regulations that mitigate existing and ongoing impacts and threats to the public peace, health, and safety that would be caused by residential tenants, commercial tenants and storage unit patrons being displaced in this time of public health emergency; and

B. The City Council further finds that the regulations contained in this Urgency Ordinance are reasonable and beneficial and assure that a lawful regulatory program is in place immediately to address the immediate threats to the public peace, health and safety.

SECTION 2. Temporary Moratorium on Evictions. A temporary moratorium on eviction for non-payment of rent by residential tenants, commercial tenants and storage unit patrons 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, commercial tenant or storage unit patron, in accordance with this Urgency Ordinance, if the tenant or patron

demonstrates that the inability to pay rent or fees is due to 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 or patron must satisfy all of the following requirements:

1. Prior to the date of this Order, the tenant/patron paid rent due to the landlord or storage unit operator pursuant to an agreement.

2. The tenant/patron notifies the landlord or storage unit operator in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant/patron 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/patron was unavailable to work because the tenant/patron 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/patron 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/patron needed to miss work to care for a child whose school was closed in response to COVID-19.

3. The tenant/patron retains verifiable documentation, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant/patron's changed financial circumstances, to support the tenant/patron's assertion of an inability to pay. This documentation may be provided to the landlord or storage unit operator 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 tenant or occupant of 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. If a storage unit patron complies with the requirements of subsection A, a storage unit operator shall not do any of the following:

1. Prevent a storage unit patron from accessing their stored items during the normal hours of operation of the storage unit facility; or

2. Send to the storage unit patron a Notice of Lien Sale pursuant to Business and Professions Code, Division 8, Chapter 10, or any other applicable statute regulating storage unit operators.

3. Conduct a Lien Sale pursuant to Business and Professions Code, Division 8, Chapter 10, or any other applicable statute regulating storage unit operators.

D. For purposes of this Urgency 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.

E. Nothing in this Urgency 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.

F. Nothing in this Urgency Ordinance shall relieve a tenant/patron of liability for unpaid rent or storage fees, which the landlord/operator may seek after expiration of the local emergency and the tenant/patron must pay within six months of the expiration of the local emergency. Six months after the end of the emergency if the rent or storage fees are unpaid, a landlord/operator may charge or collect a late fee for rent/fees that is delayed for the reasons stated in this Urgency Ordinance; or a landlord/operator may seek rent or storage fees that is delayed for the reasons stated in this Urgency Ordinance through the eviction or other appropriate legal process.

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

SECTION 3. Violations

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

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

SECTION 4. Term. This Urgency Ordinance shall remain in effect for the period of local emergency declared in response to COVID-19 within the City.

SECTION 5. Effective Date. This Urgency Ordinance was adopted by the necessary four-fifths vote of the members of the City Council pursuant to California Government Code Sections 36934 and 36937(b), and shall take effect immediately upon passage.

SECTION 6. Uncodified. This Urgency Ordinance shall not be codified.

SECTION 7. Severability. If any section, sentence, clause or phrase of this Urgency 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 Urgency Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Urgency Ordinance are severable. The City Council of the City of Ontario hereby declares that it would have adopted this Urgency 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 8. This Urgency 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 9. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a copy thereof to be published within fifteen (15) days of the adoption and 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 7th day of April 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 Urgency Ordinance No. _____ was duly introduced and adopted at the regular meeting of the City Council of the City of Ontario held on the 7th day of April 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 Urgency Ordinance No. _____ duly passed and adopted by the Ontario City Council at their regular meeting held April 7, 2020 and the entire Ordinance was published on April _____, 2020 in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
April 7, 2020

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A DEVELOPMENT CODE AMENDMENT (FILE NO. PDCA20-001) TO AMEND ONTARIO DEVELOPMENT CODE SECTION 4.02.010.D.2.F, BILLBOARD RELOCATION AGREEMENTS, INTERAGENCY RELOCATION EXCEPTION, TO REVISE THE LOCATIONAL CRITERIA AND THE NUMBER OF BILLBOARDS TO BE ELIMINATED WITHIN THE CITY

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance approving a Development Code Amendment (PDCA20-001) amending Ontario Development Code Section 4.02.010.D.2.f, Billboard Relocation Agreements, Interagency Relocation Exception, to revise the locational criteria and the number of billboards to be eliminated within the City.

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

FISCAL IMPACT: None.

BACKGROUND: Going back several decades, the City began prohibiting the construction of new billboard signs. In 2003, the City approved an amendment to the Development Code Sign Section that would allow for the construction of a new billboard as part of a billboard relocation agreement. The intent of the billboard relocation agreement was "to reduce the overall number of legal nonconforming billboards within the city by allowing relocated billboards in more suitable locations and provide more attractive, aesthetically pleasing billboard designs through a Billboard Relocation Agreement." A further purpose is to reduce or eliminate the City's obligation to pay compensation for the removal of legal nonconforming billboards. Billboard Relocation Agreements are part of the demonstrated commitment of the City of Ontario to improve the aesthetic appearance of the City. The consideration and execution of Billboard Relocation Agreements shall be at the sole discretion of the City of Ontario. The provisions require the removal of at least six existing billboards for every new, relocated billboard sign.

STAFF MEMBER PRESENTING: Scott Murphy, AICP, Executive Director Development Agency

Prepared by: Scott Murphy
Department: Development
City Manager Approval: 

Submitted to Council/O.H.A. 04/07/2020
Approved: _____
Continued to: _____
Denied: _____

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In 2015, the City was involved in several discussions with San Bernardino County Transportation Authority (“SBCTA”), the regional transportation planning agency of which the City is a part, regarding the relocation of billboards necessary to complete freeway improvement projects. Because most cities in the region prohibit new billboards, the ability to relocate billboards is minimal. In cases where billboards cannot be relocated, SBCTA was placed in a position of having to purchase the billboard and compensate the billboard companies for lost revenue potential – these costs can be substantial.

To assist SBCTA and other public agencies in relocating billboards, the City Council approved an amendment to the City’s billboard relocation agreement provisions that would allow billboards to be relocated within the City, under very specific criteria, through an “Interagency Relocation Exception.” The exception reads as follows:

- f) Notwithstanding the foregoing, a billboard may be relocated from outside the City to any location within the City pursuant to an agreement, approved at the discretion of the City Council, between the City and another public agency so long as the following findings can be met:
 - 1) A minimum of six (6) existing, legal nonconforming billboards shall be removed, at least five (5) of which must be currently located within the City;
 - 2) The billboard’s relocation is necessitated by work being performed on the same freeway as the planned new site for the billboard; and
 - 3) The public health, safety, and welfare are not impaired by the relocation.

That amendment provided for a billboard to be relocated to the Mountain/Interstate 10 intersection and the removal of five billboards within the City along Holt Boulevard, Vineyard Avenue, and Mountain Avenue.

Recently, the City has been reviewing the plans of the Interstate 10 express lanes project. As part of the freeway widening, a billboard located on the north side of Interstate 10, between the Vineyard Avenue and Fourth Street interchanges, is within the future freeway right-of-way. As part of the freeway widening, SBCTA would be required to relocate the same billboard to the north, outside the future right-of-way or purchase the billboard rights outright at a very high cost. Staff has had discussions with the billboard owner about the potential to relocate the billboard on the same site with a more pleasing design and obtain the removal of additional billboards within the City.

The current language only provides for interagency relocation of billboards located outside of the City to be relocated within the City. However, as the Development Code is silent on billboards within the City, relocation of existing billboards within the City would be prohibited. As a result, the language must be revised to address existing billboards within the City. Additionally, staff has determined that the number of older billboards in less desirable areas in the interior of the City (e.g. Holt Boulevard, Mountain Avenue, Mission Boulevard, etc.) has been dramatically reduced, thereby making the six billboard removals unattainable. Therefore, the number of billboards proposed for removal is being reduced to three (3) signs for existing billboards within the City to be relocated. The Interagency Relocation Exception Development Code Section 4.02.010.D.2.f, would read as follows:

(f) Interagency Relocation Exception. Notwithstanding the foregoing, a billboard may be relocated from **inside or** outside the City to any location within the City pursuant to an agreement, approved at the discretion of the City Council, between the City and another public agency so long as the following findings can be met:

- 1) **For a billboard that is to be relocated from within the City, a minimum of three (3) existing, legal nonconforming billboards currently located within the City shall be removed.**
- 2) **For a billboard that is to be relocated from outside the City, a minimum of six (6) existing, legal nonconforming billboards shall be removed, at least five (5) of which must be currently located within the City.**
- 3) The billboard's relocation is necessitated by work being performed on the same freeway as the planned new site for the billboard.
- 4) The public health, safety, and welfare are not impaired by the relocation.

On January 28, 2020, the Planning Commission conducted a public hearing to consider the Development Code Amendment. After receiving all public testimony, the Planning Commission voted unanimously to approve its Resolution No. PC20-002, recommending approval to the City Council.

ENVIRONMENTAL REVIEW: The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to § 15601(b)(3) (General Rule) of the CEQA Guidelines based on the fact that it is not known whether an interagency billboard relocation agreement will be proposed, where the location of any new relocation might occur, and the total number and locations of billboards proposed for removal as part of such an agreement might be.



PLANNING COMMISSION STAFF REPORT

January 28, 2020

FILE NO.: PDCA20-001

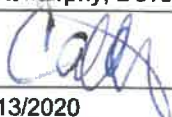
SUBJECT: A Development Code Amendment request to amend Ontario Development Code Section 4.02.010.D.2.f, Billboard Relocation Agreements, Interagency Relocation Exception, to revise the locational criteria and the number of billboards to be eliminated within the City; **City Initiated. City Council action is required.**

RECOMMENDED ACTION: That the Planning Commission consider and recommend approval of File No. PDCA20-001 to the City Council, pursuant to the facts and reasons contained in the staff report and attached resolution.

PROJECT ANALYSIS:

[1] Background — Going back several decades, the City began prohibiting the construction of new billboard signs. In 2003, the City approved an amendment to the Development Code Sign Section that would allow for the construction of a new billboard as part of a billboard relocation agreement. The intent of the billboard relocation agreement was “to reduce the overall number of legal nonconforming billboards within the city by allowing relocated billboards in more suitable locations and provide more attractive, aesthetically pleasing billboard designs through a Billboard Relocation Agreement.” A further purpose is to reduce or eliminate the City’s obligation to pay compensation for the removal of legal nonconforming billboards. Billboard Relocation Agreements are part of the demonstrated commitment of the City of Ontario to improve the aesthetic appearance of the City. The consideration and execution of Billboard Relocation Agreements shall be at the sole discretion of the City of Ontario. The provisions require the removal of at least six existing billboards for every new, relocated billboard sign.

In 2015, the City was involved in several discussions with San Bernardino County Transportation Authority (“SBCTA”), the regional transportation planning agency of which the City is a part, regarding the relocation of billboards necessary to complete freeway improvement projects. Because most cities in the region prohibit new billboards, the ability to relocate billboards is minimal. In cases where billboards cannot be relocated, SBCTA was placed in a position of having to purchase the billboard and compensate the billboard companies for lost revenue potential – these costs can be substantial.

<i>Case Planner:</i>	Scott Murphy, Development Director
<i>Planning Director Approval:</i>	
<i>Submittal Date:</i>	01/13/2020

<i>Hearing Body</i>	<i>Date</i>	<i>Decision</i>	<i>Action</i>
DAB			
PC	01/28/2020	Approval	Recommend
CC			Final

To assist SBCTA and other public agencies in relocating billboards, the City Council approved an amendment to the billboard relocation agreement that would allow billboards to be relocated within the City, under very specific criteria, through an “Interagency Relocation Exception.” The exception reads as follows:

Notwithstanding the foregoing, a billboard may be relocated from outside the City to any location within the City pursuant to an agreement, approved at the discretion of the City Council, between the City and another public agency so long as the following findings can be met:

- a) A minimum of six (6) existing, legal nonconforming billboards shall be removed, at least five (5) of which must be currently located within the City; and
- b) The billboard’s relocation is necessitated by work being performed on the same freeway as the planned new site for the billboard; and
- c) The public health, safety, and welfare are not impaired by the relocation.

That amendment provided for a billboard to be relocated to the Mountain/Interstate 10 intersection and the removal of five billboards within the City along Holt Boulevard, Vineyard Avenue, and Mountain Avenue.

[2] Analysis — Recently, the City has been reviewing the plans of the Interstate 10 express lanes project. As part of the freeway widening, a billboard located on the north side of Interstate 10, between the Vineyard Avenue and Fourth Street interchanges, is within the future freeway right-of-way. As part of the freeway widening, SBCTA would be required to relocate the same billboard to the north, outside the future right-of-way or purchase the billboard rights outright at a very high cost. Staff has had discussions with the billboard owner about the potential to relocate the billboard on the same site with a more pleasing design and obtain the removal of additional billboards within the City.

The current language only provides for relocation of billboards located outside of the City to be relocated within the City. However, the Development Code is silent on billboards within the City, relocation of existing billboards within the City would be prohibited. As a result, the language must be revised to address existing billboards within the City. Additionally, staff has determined that the number of older billboards in less desirable areas in the interior of the City (e.g. Holt Boulevard, Mountain Avenue, Mission Boulevard, etc.) has been dramatically reduced, thereby making the six billboard removals unattainable. Therefore, the number of billboards proposed for removal is being reduced to three (3) signs. The Interagency Relocation Exception (Development Code Section 4.02.010.D.2.f) would read as follows:

- (f) Interagency Relocation Exception. Notwithstanding the foregoing, a billboard may be relocated from **inside or** outside the City to any location within the

City pursuant to an agreement, approved at the discretion of the City Council, between the City and another public agency so long as the following findings can be met:

(1) A minimum of ~~six (6)~~ **three (3)** existing, legal nonconforming billboards **within the City** shall be removed, ~~at least five (5) of which must be currently located within the City;~~

(2) The billboard's relocation is necessitated by work being performed on the same freeway as the planned new site for the billboard; and

(3) The public health, safety, and welfare are not impaired by the relocation.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- Pursue City's Goals and Objectives by Working with Other Governmental Agencies

[2] Policy Plan (General Plan)

Land Use Element:

- Goal LU2: Compatibility between a wide range of uses.
 - LU2-5 *Regulation of Uses.* We regulate the location, concentration and operations of uses that have impacts on surrounding land uses.
 - LU2-7 *Inter-jurisdictional Coordination.* We maintain an ongoing liaison with IEUA, LAWA, Caltrans, Public Utilities Commission, the railroads and other agencies to help minimize impacts and improve the operations and aesthetics of their facilities.
- Goal LU3: Staff, regulations and processes that support and allow flexible response to conditions and circumstances in order to achieve the Vision.

HOUSING ELEMENT COMPLIANCE: 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.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport and has been found to be consistent with the policies and criteria set forth within the Ontario International Airport Land Use Compatibility Plan.

ENVIRONMENTAL REVIEW: The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to § 15601(b)(3) (General Rule) of the CEQA Guidelines based on the fact that it is not known whether an interagency billboard relocation agreement will be proposed, where the location of any new relocation might occur, and the total number and locations of billboards proposed for removal as part of such an agreement might be.

RESOLUTION NO. PC20-002

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING APPROVAL OF FILE NO. PDCA20-001, A REQUEST TO AMEND ONTARIO DEVELOPMENT CODE SECTION 4.02.010.D.2.F, BILLBOARD RELOCATION AGREEMENTS, INTERAGENCY RELOCATION EXCEPTION, TO REVISE THE LOCATIONAL CRITERIA AND THE NUMBER OF BILLBOARDS TO BE ELIMINATED WITHIN THE CITY.

WHEREAS, THE CITY OF ONTARIO ("Applicant") has initiated an Application for the approval of a revision to Development Code, File No. PDCA20-001, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, in 2003, the City recognized the benefit of allowing billboard relocations as a method of achieving an overall reduction in the number of billboards within the City; and

WHEREAS, public agencies occasionally encounter the need to remove a billboard in order to complete necessary public infrastructure; and

WHEREAS, the removal of billboards in order to install necessary infrastructure improvements can be very costly when considering the anticipated future revenue of a billboard; and

WHEREAS, the City understands the public benefit in reducing the costs of public infrastructure; and

WHEREAS, the City recognizes an opportunity to reduce public infrastructure costs while, at the same time, reducing the overall number of billboards located within the City; 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, the Application is exempt from the requirements of CEQA pursuant to Section 15601(b)(3) (General Rule) based on the fact that it is not known whether an interagency billboard relocation agreement will be proposed, where the location of any new relocation might occur, and the total number and locations of billboards proposed for removal as part of such an agreement might be; and

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and make recommendations to the City Council on the subject Application; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, 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 Ontario International Airport Land Use Compatibility Plan (hereinafter referred to as "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, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on January 28, 2020, the Planning Commission 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 Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. Environmental Determination and Findings. As the recommending body for the Project, the Planning Commission 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 Planning Commission, the Planning Commission finds as follows:

- a. The Project is exempt from environmental review pursuant to Section 15601(b)(3) (General Rule) of the CEQA Guidelines; and
- b. The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and
- c. The determination of CEQA exemption reflects the independent judgment of the Planning Commission.

SECTION 2. Concluding Facts and Reasons. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing,

and upon the specific findings set forth in Section 1, above, the Planning Commission 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 is consistent with the goals and policies of the Development Code; and

c. The proposed Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

SECTION 3. ***Planning Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 through 2, above, the Planning Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE the herein described Application, modifying Section 4.02.010(D)(2)(f) of the Development Code to read as follows:

(f) Interagency Relocation Exception. Notwithstanding the foregoing, a billboard may be relocated from inside or outside the City to any location within the City pursuant to an agreement, approved at the discretion of the City Council, between the City and another public agency so long as the following findings can be met:

(1) For a billboard that is to be relocated from within the City, a minimum of three (3) existing, legal nonconforming billboards currently located within the City shall be removed.

(2) For a billboard that is to be relocated from outside the City, a minimum of six (6) existing, legal nonconforming billboards shall be removed, at least five (5) of which must be currently located within the City.

(3) The billboard's relocation is necessitated by work being performed on the same freeway as the planned new site for the billboard.

(4) The public health, safety, and welfare are not impaired by the relocation.

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 Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of January, 2020, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.



Jim Willoughby
Planning Commission Chairman

ATTEST:



Cathy Wahlstrom
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC20-002, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on January 28, 2020, by the following roll call vote, to wit:

AYES: DeDiemar, Downs, Gage, Gregorek, Reyes, Ricci, and Willoughby

NOES: None

ABSENT: None

ABSTAIN: None



Gwen Berendsen
Secretary Pro Tempore

ORDINANCE NO. _____

AN ORDINANCE OF CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA20-001, A REQUEST TO AMEND ONTARIO DEVELOPMENT CODE SECTION 4.02.010.D.2.F, BILLBOARD RELOCATION AGREEMENTS, INTERAGENCY RELOCATION EXCEPTION, TO REVISE THE LOCATIONAL CRITERIA AND THE NUMBER OF BILLBOARDS TO BE ELIMINATED WITHIN THE CITY.

WHEREAS, THE CITY OF ONTARIO ("Applicant") has initiated an Application for the approval of a revision to Development Code, File No. PDCA20-001, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, in 2003, the City recognized the benefit of allowing billboard relocations as a method of achieving an overall reduction in the number of billboards within the City; and

WHEREAS, public agencies occasionally encounter the need to remove a billboard in order to complete necessary public infrastructure; and

WHEREAS, the removal of billboards in order to install necessary infrastructure improvements can be very costly when considering the anticipated future revenue of a billboard; and

WHEREAS, the City understands the public benefit in reducing the costs of public infrastructure; and

WHEREAS, the City recognizes an opportunity to reduce public infrastructure costs while, at the same time, reducing the overall number of billboards located within the City; 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, the Application is exempt from the requirements of CEQA pursuant to Section 15601(b)(3) (General Rule) based on the fact that it is not known whether an interagency billboard relocation agreement will be proposed, where the location of any new relocation might occur, and the total number and locations of billboards proposed for removal as part of such an agreement might be; and

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to review and approve the subject Application; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, 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 Ontario International Airport Land Use Compatibility Plan (hereinafter referred to as "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, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on January 28, 2020, the Planning Commission of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date. After considering all public testimony, the Planning Commission voted unanimously to adopt its Resolution No. PC20-002, recommending approval of the application to the City Council; and

WHEREAS, on April 7, 2020, 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 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 Project is exempt from environmental review pursuant to Section 15601(b)(3) (General Rule) of the CEQA Guidelines; and

b. The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

c. The determination of CEQA exemption reflects the independent judgment of the City Council.

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 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 is consistent with the goals and policies of the Development Code; and

c. The proposed Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

SECTION 3. City Council Action. Based upon the findings and conclusions set forth in Sections 1 through 2, above, the City Council hereby APPROVES the herein described Application, modifying Section 4.02.010(D)(2)(f) of the Development Code to read as follows:

(f) **Interagency Relocation Exception.** Notwithstanding the foregoing, a billboard may be relocated from inside or outside the City to any location within the City pursuant to an agreement, approved at the discretion of the City Council, between the City and another public agency so long as the following findings can be met:

(1) For a billboard that is to be relocated from within the City, a minimum of three (3) existing, legal nonconforming billboards currently located within the City shall be removed.

(2) For a billboard that is to be relocated from outside the City, a minimum of six (6) existing, legal nonconforming billboards shall be removed, at least five (5) of which must be currently located within the City.

(3) The billboard's relocation is necessitated by work being performed on the same freeway as the planned new site for the billboard.

(4) The public health, safety, and welfare are not impaired by the relocation.

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. 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 6. Effective Date. This Ordinance shall become effective 30 days following its adoption.

SECTION 7. *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 _____, 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 April 7, 2020, and adopted at the regular meeting held _____ 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)