

**CITY OF ONTARIO
CITY COUNCIL AND HOUSING AUTHORITY
AGENDA
MARCH 17, 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

WELCOME to a meeting of the Ontario City Council.

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

Due to limited space in the Ontario City Council Chambers which may not meet social distancing requirements and the directives provided by the County of San Bernardino and Governor Gavin Newsom (Executive Order N-25-20), the City Council will be moving to alternative location, phone-in, and web-based meeting options.

We encourage members of the public to participate in the March 17, 2020 City Council meeting via webcast (www.OntarioCA.gov).

Members of the public who wish to attend in person must adhere to social distancing requirements. City Council Members will have the option of calling into the meeting via conference line.

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

PLEDGE OF ALLEGIANCE

Mayor pro Tem Dorst-Porada

INVOCATION

Pastor Mike Urciuoli, Calvary Chapel Ontario

PUBLIC COMMENTS

6:30 p.m.

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

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

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

CONSENT CALENDAR

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

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

1. APPROVAL OF MINUTES

Minutes for the regular meeting of the City Council and Housing Authority of February 18, 2020, and the special meeting of the City Council and Housing Authority of February 22, 2020, approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills February 14, 2020 through February 27, 2020 and **Payroll** February 2, 2020 through February 15, 2020, when audited by the Finance Committee.

3. DOWNTOWN ONTARIO RESTAURANT/BREWERY EQUIPMENT REBATE PROGRAM GUIDELINES AND APPLICATION

That the City Council:

- (A) Consider and approve the adoption of the Downtown Ontario Restaurant/Brewery Equipment Rebate Program Guidelines; and
- (B) Authorize the City Manager to make any necessary program adjustments and execute all necessary documents to implement the Downtown Ontario Restaurant/Brewery Equipment Rebate Program.

4. A CONSTRUCTION CONTRACT FOR THE ATP CYCLE III SAFE ROUTES TO SCHOOL PEDESTRIAN IMPROVEMENTS PROJECT

That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) with Epsilon Engineering of Moreno Valley, California, for the ATP Cycle III Safe Routes to School Pedestrian Improvements Project (ST1717) in the amount of \$697,921 plus a fifteen percent (15%) contingency of \$104,689, for a total authorized expenditure of \$802,610 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.

5. A CONSTRUCTION CONTRACT FOR THE BRIDGE PREVENTATIVE MAINTENANCE PROGRAM

That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) with Truesdell Corporation of California, Inc. of Tempe, Arizona, for the Bridge Preventative Maintenance Program (BPMP) in the amount of \$897,897 plus a fifteen percent (15%) contingency of \$134,685, for a total authorized expenditure of \$1,032,582; 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.

6. AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH GOODWIN CONSULTING GROUP FOR ANNUAL TAX ADMINISTRATION OF THE CITY'S COMMUNITY FACILITIES DISTRICTS

That the City Council authorize the City Manager to execute an amendment to the professional services agreement (on file in the Records Management Department) with Goodwin Consulting Group of Sacramento, California, in the amount of \$395,000 for annual tax administration of the City's Community Facilities Districts (CFDs).

7. PROFESSIONAL SERVICES AGREEMENT FOR HAZARDOUS MATERIALS COLLECTION AND DISPOSAL SERVICES

That the City Council award Contract No. 1242 to Environmental Logistics, Inc. of Bloomington, California, and authorize the City Manager to execute a one-year agreement (on file in the Records Management Department) for hazardous materials collection and disposal services with the option to extend for up to three additional one-year periods.

8. AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR EMPLOYEE SUPPORT SERVICES AND COUNSELING SERVICES

That the City Council authorize the City Manager to execute Amendment No. 3 (on file in the Records Management Department) adding \$100,000 to the existing Professional Services Agreement with The Counseling Team International (TCTI) for employee support services, for a revised contract authority of \$200,000 and extending the contract term to June 30, 2021.

9. AUTHORIZE THE PURCHASE OF COMPUTER NETWORK EQUIPMENT

That the City Council take the following actions:

- (A) Award Bid No. 1264 and authorize the purchase of server room network equipment from Dell Inc. of Round Rock, Texas, in the amount of \$309,923, and
- (B) Award Bid No. 1255 and authorize the purchase of access network equipment from Computacenter Fusionstorm of Westwood, Massachusetts, in the amount of \$115,108.

10. 2019 HOUSING ELEMENT ANNUAL PROGRESS REPORT

That the City Council consider and adopt a resolution authorizing staff to transmit the 2019 Housing Element Annual Progress Report to the California Department of Housing and Community Development and the Governor's Office of Planning and Research.

11. AWARD OF A CONSTRUCTION CONTRACT FOR THE DEMOLITION AND RENOVATION OF THE ANTHONY MUNOZ COMMUNITY CENTER

That the City Council take the following actions:

- (A) Reject AMG's protest against Hamel Contracting, Inc for D&C18-004 Anthony Munoz Community Center Renovation;
- (B) Authorize the City Manager to execute Construction Contract No. D&C18-004 Anthony Munoz Community Center Renovation with Hamel Contracting, Inc. of Murrieta, California, for the demolition and renovation of the Anthony Munoz Community Center in the amount of \$11,442,004;
- (C) Authorize a project reserve in the amount of \$1,105,725 for Furnishings, Fixtures and Equipment to provide items such as program relocation, material testing, additional design fees, and furnishings;
- (D) Authorize a 15% contingency of \$1,716,300 to address any unforeseen issues that may arise during construction; and
- (E) Authorize the City Manager or his designee to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

12. A RESOLUTION APPROVING THE SUBMITTAL OF AN APPLICATION FOR A LOCAL GOVERNMENT WASTE TIRE CLEANUP GRANT (FISCAL YEAR 2020-21) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVER (CALRECYCLE)

That the City Council adopt a resolution approving the submittal of an application for approximately \$45,000 for a Local Government Waste Tire Cleanup Grant (Fiscal Year 2020-21) from CalRecycle and authorize the City Manager or his designee to execute all necessary documents to participate in the program.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE SUBMITTAL OF AN APPLICATION FOR THE WASTE TIRE CLEANUP GRANT PROGRAM (FISCAL YEAR 2020-21) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE).

13. EXTENSION OF TOWING SERVICE AGREEMENTS

That the City Council authorize the City Manager to extend the existing towing services agreements with Certified Towing, Inc., Dietz Towing, Inc., Fogelsong Towing and Storage, Inc.; United Road Service, DBA Bill and Wags, Inc., and Pepe's Towing Services, Inc., through June 30, 2020.

14. RESOLUTIONS AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION AND ESTABLISHING AN ENVIRONMENTALLY PREFERABLE PURCHASING AND PRACTICES POLICY FOR DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE) GRANT PROGRAMS

That the City Council take the following actions:

- (A) Adopt a resolution authorizing the submittal of an Illegal Disposal Site Abatement Grant Program application and all eligible grant programs with CalRecycle effective for five years from the date of adoption;
- (B) Adopt a resolution to establish an Environmentally Preferable Purchasing and Practices Policy as required for CalRecycle grant programs; and
- (C) Authorize the City Manager to execute any documentation necessary for the implementation and completion of the program including, but not limited to, applications, agreements, amendments, and payment requests.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING SUBMITTAL OF APPLICATION(S) FOR ALL CALRECYCLE GRANTS FOR WHICH THE CITY OF ONTARIO IS ELIGIBLE.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ESTABLISHING AN ENVIRONMENTALLY PREFERABLE PURCHASING AND PRACTICES POLICY.

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.

15. A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 53 (TEVELDE FACILITIES); ADOPTION OF A RESOLUTION TO INCUR BONDED INDEBTEDNESS; AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES

That the City Council consider and:

- (A) Adopt a resolution establishing Community Facilities District No. 53 (Tevelde Facilities), authorizing the levy of special taxes within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution deeming it necessary to incur bonded indebtedness within Community Facilities District No. 53 (Tevelde Facilities);
- (C) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 53 (Tevelde Facilities);
- (D) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
- (E) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 53 (Tevelde Facilities); and
- (F) Adopt a resolution authorizing the execution and delivery of an acquisition and funding agreement with LS-Ontario LLC, a Delaware corporation.

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

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 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.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 53 (TEVELDE FACILITIES).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 53 (TEVELDE FACILITIES).

RESOLUTION NO. _____

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 53 (TEVELDE FACILITIES).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACQUISITION AND FUNDING AGREEMENT WITH LS-ONTARIO LLC.

16. A PUBLIC HEARING TO CONSIDER THE ISSUANCE OF REVENUE BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY (“CMFA”), IN AN AMOUNT NOT TO EXCEED \$25,000,000, TO FINANCE AND REFINANCE THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF CERTAIN RESIDENTIAL LIVING, ASSISTED LIVING AND SKILLED NURSING COMPONENTS OF A CONTINUING CARE RETIREMENT COMMUNITY, LOCATED AT 1950 SOUTH MOUNTAIN AVENUE, AND THE PROPERTIES ADJACENT THERETO, ALL FOR THE SAME USE, OWNED AND OPERATED BY INLAND CHRISTIAN HOME, INC. (“ICH”)

That the City Council:

- (A) Conduct a public hearing under the requirements of the Tax and Equity Fiscal Responsibility Act (“TEFRA”) and the Internal Revenue Code of 1986 as amended (the “Code”); and
- (B) Adopt a resolution approving the issuance of the bonds by the CMFA for the benefit of Inland Christian Home, a California nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, or a subsidiary or affiliate thereof (the “Borrower”), to provide for the financing and refinancing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Code and the California Government Code Section 6500 (and following). The resolution will also authorize the City Manager or his designee to execute the Joint Exercise of Powers Agreement with CMFA.

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

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING, AUTHORIZING, AND DIRECTING THE EXECUTION OF A JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY, APPROVING THE ISSUANCE OF QUALIFIED 501(C)(3) BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000 FOR THE PURPOSE OF FINANCING AND REFINANCING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF CERTAIN COMPONENTS OF A CONTINUING CARE RETIREMENT COMMUNITY, AND PROPERTIES ADJACENT THERETO, ALL FOR THE SAME USE, TO BE OWNED AND OPERATED BY INLAND CHRISTIAN HOME, INC. AND LOCATED IN THE CITY OF ONTARIO AND CERTAIN OTHER MATTERS PERTAINING THERETO.

ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

17. PREPARATION OF A DESIGN BUILD RFP PACKAGE FOR A PARKING STRUCTURE ON C-BLOCK

That the City Council authorize the City Manager to direct Transtech Engineers, Inc., to prepare a design-build Request for Proposal (RFP) package for a parking structure to be located on the downtown C-Block with an estimated cost for the effort of \$105,000.

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

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: DOWNTOWN ONTARIO RESTAURANT/BREWERY EQUIPMENT REBATE PROGRAM GUIDELINES AND APPLICATION

RECOMMENDATION: That the City Council:

- (A) Consider and approve the adoption of the Downtown Ontario Restaurant/Brewery Equipment Rebate Program Guidelines; and
- (B) Authorize the City Manager to make any necessary program adjustments and execute all necessary documents to implement the Downtown Ontario Restaurant/Brewery Equipment Rebate Program.

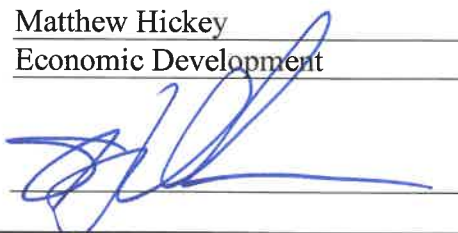
COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: The Downtown Restaurant/Brewery Equipment Rebate Program includes loans from the General Fund loans of up to \$10,000 to eligible business owners within the program area. Funding for the initial application period will come from the Economic Development Agency's current Fiscal Year 2019-20 operating budget. Program funding for future years and application periods will be contingent upon City Council approved budgets for the respective fiscal years.

BACKGROUND: To encourage the continued development of Downtown Ontario and to incentivize tenants to fill vacant commercial space with sustainable businesses, the City has developed a program to attract non-franchise and non-chain independent restaurants or wineries and craft breweries or distilleries to a designated area of Downtown Ontario within the boundaries extending to G Street on the north, Holt Boulevard to the south, Palm Avenue to the west and Plum Avenue to the east.

The City may in its sole and complete discretion enter into a "Restaurant/Brewery Equipment Rebate Program Loan Agreement" (Attachment A) for loans of up to \$10,000 to business owners who provide evidence of real property leases within the program area for which they have also made qualifying purchases of certain capital equipment. The balance of the loan will be reduced by 20% each year the

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

Prepared by: Matthew Hickey
Department: Economic Development
City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____

3

Borrower remains in business at the qualifying location. If the business remains at the qualifying location for five (5) consecutive years, the loan shall be cancelled, and the promissory note returned to the Borrower as paid in full. Should a recipient vacate the qualifying location or suspend business operations prior to the full 5 years, the loan amount remaining will be owed to the City of Ontario. Economic Development Agency staff will review all applications to ensure equipment is a qualified purchase which may include items such as commercial freezers, ranges, fermenters, walk-in coolers.

In order to proceed with the implementation of the program, program guidelines need to be adopted. The program guidelines contain details of eligibility requirements, the amount and type of financial assistance offered, eligible improvements, application procedures, and the procurement and award processes. Staff recommends that the City Council adopt both the Restaurant/Brewery Equipment Rebate Program Loan Agreement and Downtown Ontario Restaurant/Brewery Equipment Rebate Program Guidelines (Attachment B), to further the goal of revitalizing downtown and creating a destination for the community.

RESTAURANT/BREWERY REBATE PROGRAM

LOAN AGREEMENT

This AGREEMENT is made and entered into this ___ day of (month), (year) (the “Effective Date”) by the CITY OF ONTARIO through its Economic Development Agency (“City” or “Lender”), and _____ (or “Borrower”) and the Party or Parties, on the terms and conditions set out below.

RECITALS

A. To encourage the continued development of Downtown Ontario and to help fill vacant commercial space with sustainable business, the City has developed a program to attract small local restaurants and craft breweries, distilleries or wineries to a designated area of Downtown Ontario within the boundaries extending to G Street on the North, Holt Boulevard to the South, Palm Avenue to the West and Plum Avenue to the East (the “Restaurant/Brewery Rebate Program” or “Program”); and

B. The City may in its sole and complete discretion make loans of up to \$10,000 to business owners who provide evidence of leases within the Program area for which they have made qualifying purchases of certain capital equipment when such new businesses meet the applicable terms and conditions of the Program, including but not limited to, square footage and an administrative use permit (“AUP”); and

C. Borrower has obtained an AUP and has provided evidence of a lease within the qualifying location as well as of the purchase of a _____ in the amount of and has applied for the loan within one year of that purchase; and

D. After review, the City has verified and determined that Borrower is eligible for such a loan.

Now, therefore, the Parties agree as follows:

1. Recitals: The Recitals set out above are true and correct.
2. Loan. Lender loans to Borrower and Borrower borrows from Lender, on the terms and conditions set out here, the total amount of \$ _____. The loan proceeds may be used for any business purpose related to borrower’s business within the Program area
 - (a) The loan will be paid to Borrower in a lump sum upon execution of this Loan Agreement.
 - (b) The term of the loan is for a maximum of five (5) years commencing on the date of execution of this Loan Agreement.
 - (c) The loan will not bear interest.

(d) For each fiscal year after Effective Date of agreement (i.e. the first such year being July 1, 2020 through June 30, 2021), the balance of the loan shall be reduced by 20% if the Borrower has remained in business at the qualifying location. If the Borrower remains in business at the qualifying location for five (5) years from Effective Date, the loan shall be cancelled and the promissory note returned to the Borrower as paid in full.

3. Default. Borrowers shall be considered in default under (a), (b) or (c), as follows:

(a) In the event that the Borrower does not remain in business at the qualifying location at any time during the five (5) year period, the balance of the loan then owed shall be accelerated and due and payable in full, without interest to the City 30 calendar days from the date of closure or relocation of the business. In the event the loan is not paid within that 30-day time period, the balance shall bear simple interest at the rate of 10% per annum. Thereafter, any payment shall be applied first to interest and then to principal.

(b) The loan shall be considered in default and the balance due accelerated and due and payable within 30 calendar days in the event that the Borrower's ABC license is suspended or cancelled or the AUP is suspended or cancelled. In event that the loan is not paid within that 30-day time period, the balance shall bear simple interest at the rate of 10% per annum. Thereafter, any payment shall be applied first to interest and then to principal.

(c) Lender assigns the loan, the lease or sells or transfers the business.

(d) Borrower must notify Lender immediately in writing in the event that either (a) or (b) above occurs or applies.

(e) In the event of a default, Lender may pursue any legal remedy available to it to secure payment of any and all monies owed by Borrower. Nothing herein shall preclude Lender from waiving any breach or breaches which, in the sole judgment of Lender, are not substantial or do not affect the repayment of the loan herein prescribed. The remedies provided by this paragraph are cumulative and in addition to and independent of any other remedies given Lender by law.

4. Additional Terms and Conditions:

(a) Borrower shall indemnify, hold harmless, and defend (with counsel of City's choosing) Lender, its officers, officials, agents, volunteers and employees, from and against any and all claims, demands, damages, causes of action, costs, fines, expenses, liability or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of or pertaining to, the acquisition, development, operation or maintenance of the property described herein except for liability arising out of the sole negligence or willful misconduct of the Lender, its officers, officials, agents, volunteers or employees. In the event the City or its officers, officials, agents, volunteers or employees are named as co-defendant(s) in any court proceeding related to the business, the Borrower shall notify all affected parties of such fact and shall represent the Parties in such legal action unless the Parties undertake to represent themselves as co-defendant(s) in such legal action, in which event an individual Party shall bear its own litigation costs, expenses and attorney's fees.

(b) No delay or failure of City in the exercise of any right or remedy hereunder shall affect any such right or remedy and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof, and no action taken or omitted by City shall be deemed a waiver of any such right or remedy.

(c) Borrower waives demand, protest, presentment, notice of nonpayment, notice of protest, notice of dishonor, and diligence in bringing suit against any party and does hereby consent that time of payment of all or any part of said amount may be extended from time to time by the Lender hereof without notice.

(d) Borrower is responsible for any and all costs of collection of the loan amount, plus interest, including but not limited to any court costs and attorneys' fees.

(e) Any notice to the Borrower shall be given by personally delivering or mailing such notice by first-class mail, postage prepaid, addressed to the Borrower at the address set out below, or to such other address as the Borrower may designate by written notice to the Lender. Any notice to the Lender shall be given by mailing such notice by personal delivery or mailing such notice first class mail, postage prepaid, addressed to Lender at the address set out below. Notice shall be deemed received upon personal delivery or three (3) days after deposit in the U.S. Mail.

Borrower: _____

Lender: City of Ontario
303 E. "B" Street
Ontario, CA 91764

In witness whereof, the Parties signing below and authorized to do so have executed this Agreement as of the date(s) set forth below.

Borrower:

Lender:

By: _____

By: City of Ontario _____

Date _____

Date _____

To encourage the continued development of Downtown Ontario and to help fill vacant commercial space with sustainable business, the City has developed a program to attract small local independent restaurants or wineries and craft breweries or distilleries to a designated area of Downtown Ontario within the boundaries extending to G Street on the North, Holt Boulevard to the South, Palm Avenue to the West and Plum Avenue to the East.

1. Program Details:

- The City may in its sole and complete discretion make loans of up to \$10,000 to business owners who provide evidence of leases within the Program area for which they have made qualifying purchases of certain capital equipment.
- The balance of the loan shall be reduced by 20% if the Borrower has remained in business at the qualifying location. If the Borrower remains in business at the qualifying location for five (5) years, the loan shall be cancelled, and the promissory note returned to the Borrower as paid in full. Should a recipient not stay in their location for the full 5 years, the amount remaining will be owed to the City of Ontario.
- Eligible equipment purchase must be necessary to the operation of the business. Examples of qualified equipment are provided as part of the application packet. Economic Development Agency staff will review all applications to ensure equipment is a qualified purchase.

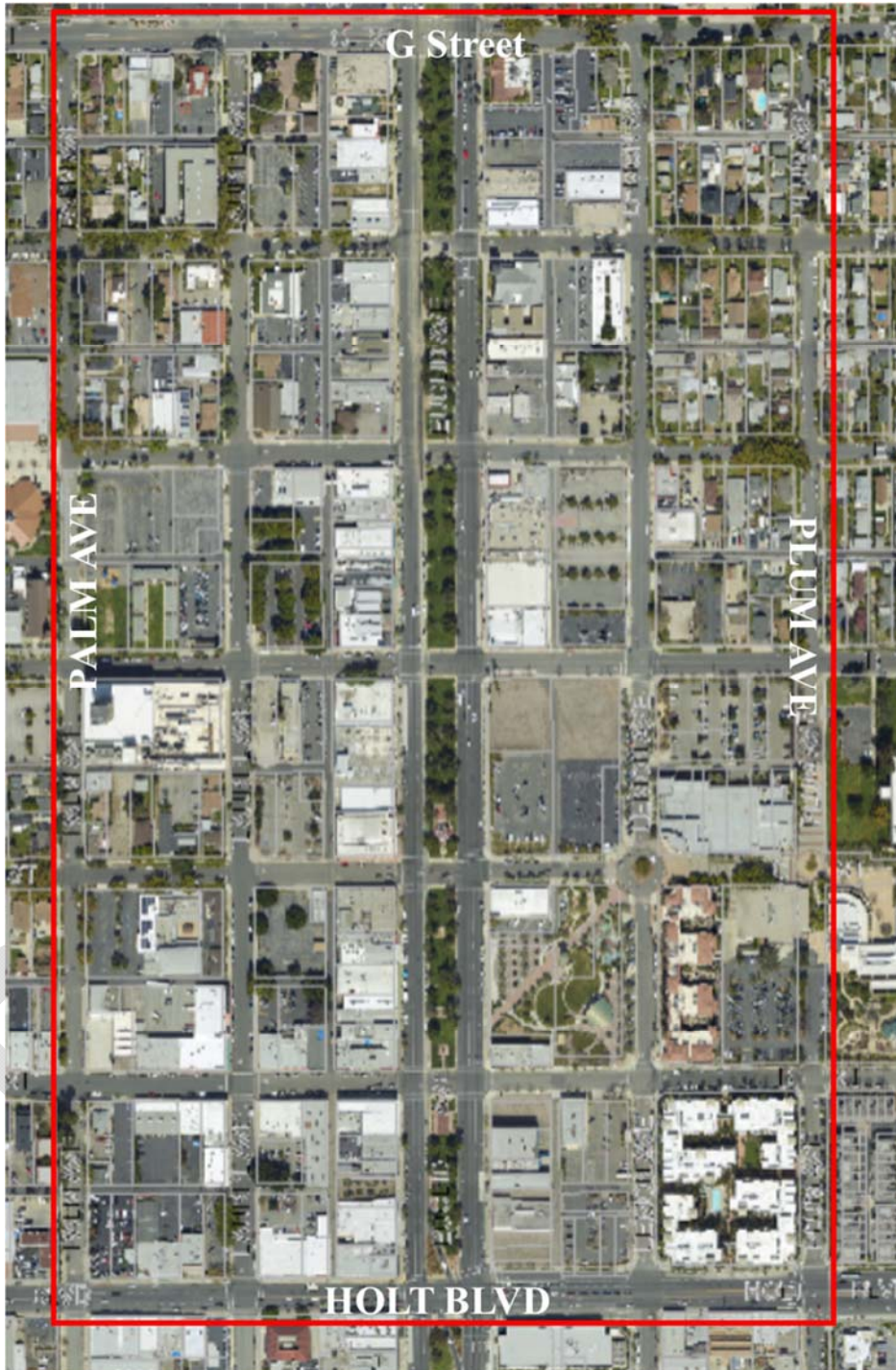
2. Qualifications and Requirements:

- Must have lease agreement equal to or greater than 5 years.
- Business must be under 10,000 square feet.
- Must be an approved business in the City of Ontario with current business license and applicable permits for location. This includes obtaining any necessary permits for installation of equipment.
- Applicants must be a fall into current industry definitions for Craft Brewery, Craft Distillery, or be a qualified Independent Restaurant or Winery.

3. Application Process:

- Complete the Restaurant/Brewery Equipment Purchase Program Application. Total cost of equipment purchases, and receipts will be included as part of application.
- Provide proof of 5 year or longer lease agreement.
- Provide description of equipment use for operation of business and proof of installation at location.
- Economic Development Agency Staff will review each application for accuracy and to ensure all eligibility requirements are met.
- Funding is subject to availability and will be paid to business upon approval of application and confirmation of receipts detailing purchases, including inspection and verification of installation of equipment by City Staff.

Map of Program Boundary



Examples of Qualified Commercial Equipment:

- Beer Keg Shelf
- Cookers (distilling)
- Crowler Machine
- Deep fryer
- Dishwasher
- Draft Faucet
- Faucet Draft Tower
- Fermenter
- Freezer (either a chest, upright, or walk-in)
- Grill
- Nitro Faucet
- Oven
- Power Pack (cooling system)
- Range
- Reach-in cooler
- Refrigerator
- Sink
- Steam table
- Still
- Walk-in cooler
- Wine Racks
- Wine Refrigerator



Downtown Ontario Equipment Rebate Program

APPLICATION SUBMITTAL CHECK LIST

- Completed Application
- Proof of 5 year or longer lease agreement
- Total Cost and Receipts for Equipment being requested for rebate
- Proof of Installation of equipment (City reserves right to inspect)
- Business must have current Business License and all associated permits for operation (City Staff will verify for accuracy)

Submit all applications to the City of Ontario Economic Development Agency, Attention: Equipment Rebate Program, 303 E. B Street Ontario, CA 91764.



Downtown Ontario Equipment Rebate Program

APPLICATION FOR EQUIPMENT REBATE PROGRAM

Date: __/__/____

APPLICANT NAME:	
Name of Business: _____	
Contact Person (if different from applicant): _____	
Email: _____ Phone: _____	
Square Footage of Business: _____	
Current Business Address:	
Application being submitted for:	
<input type="checkbox"/> Craft Brewery	
<input type="checkbox"/> Craft Distillery	
<input type="checkbox"/> Independent Restaurant	
<input type="checkbox"/> Independent Winery	
Please Describe Equipment Being Purchased (attach additional pages if needed):	
Describe Equipment's critical use in operation of the business (attach additional pages if needed):	
Amount requested (maximum request \$10,000)	
Signature of Applicant	Date

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: A CONSTRUCTION CONTRACT FOR THE ATP CYCLE III SAFE ROUTES TO SCHOOL PEDESTRIAN IMPROVEMENTS PROJECT.

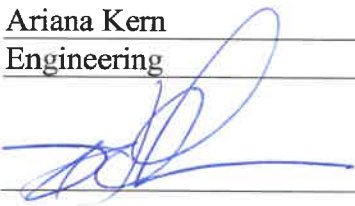
RECOMMENDATION: That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) with Epsilon Engineering of Moreno Valley, California, for the ATP Cycle III Safe Routes to School Pedestrian Improvements Project (ST1717) in the amount of \$697,921 plus a fifteen percent (15%) contingency of \$104,689, for a total authorized expenditure of \$802,610 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: Maintain the Current High Level of Public Safety
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: The Fiscal Year 2019-2020 Adopted Budget allocated funds for the ATP Cycle III Safe Routes to School Pedestrian Improvements Project in the amount of \$1,100,001 from General Fund Grants and \$196,000 from Gas Tax, for a total combined amount of \$1,296,001. The total recommended expenditure authorization consists of \$697,921, plus a 15% contingency of \$104,689, for a total authorized expenditure of \$802,610, consistent with the adopted budget. The City will be reimbursed 84.87% of the construction costs from the State of California.

BACKGROUND: The general scope of work to be performed consists of, but is not limited to, traffic control; clearing and grubbing; grading; protection and demolition of existing public improvements within the public right-of-way; modifications to existing irrigation systems; construction of PCC curb and gutter, sidewalk, drive approaches; driveways; ADA ramps; AC paving; signing and striping; rapid flashing beacons; and, any other appurtenances necessary to complete the improvements. A project location map is provided for reference as Exhibit "A". This project will provide school children and other pedestrians with a continuous, accessible and safe walking path to and from schools, community centers, parks and transit centers.

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

Prepared by: Ariana Kern
Department: Engineering
City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____

4

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

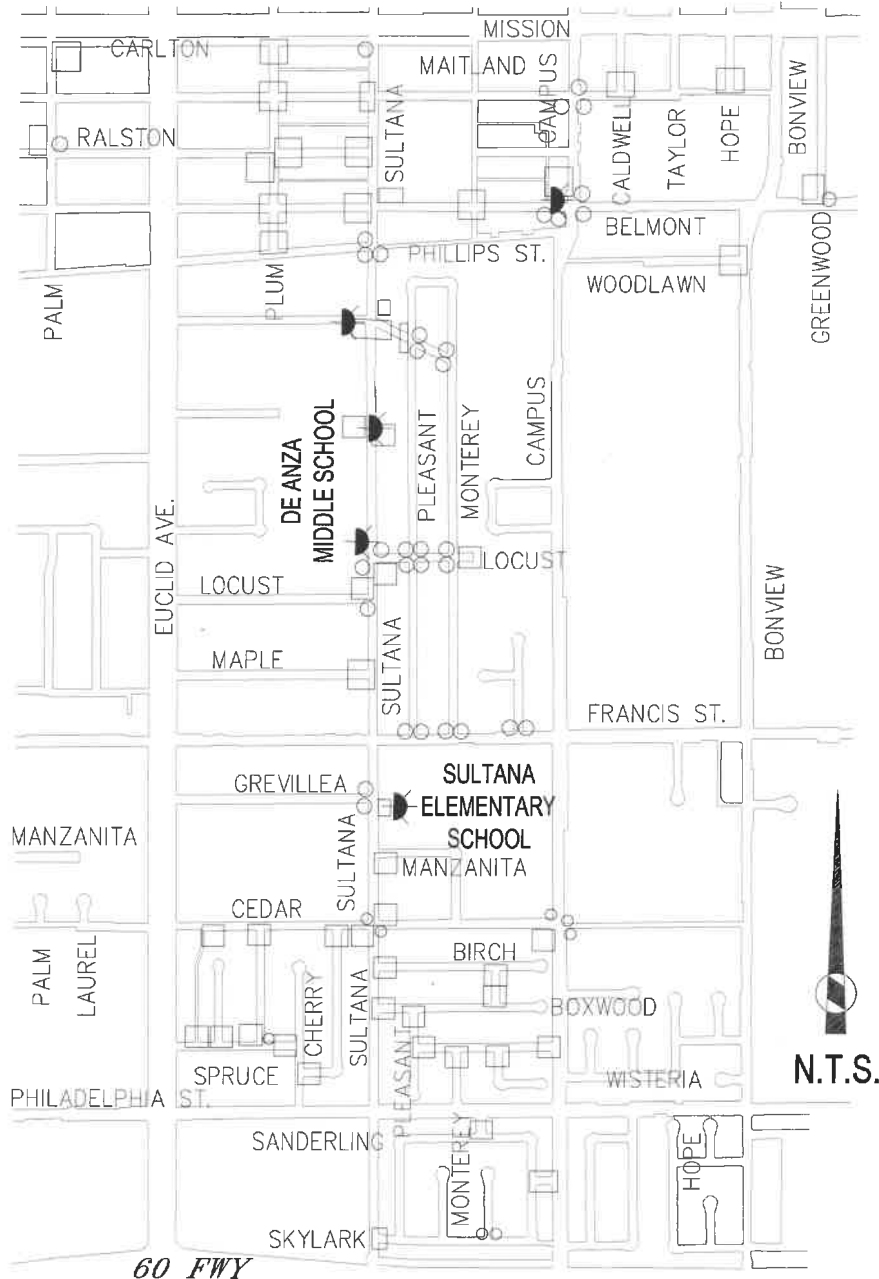
COMPANY	LOCATION	TOTAL BID AMOUNT
Epsilon Engineering	Moreno Valley, CA	\$697,921
Onyx Paving Company, Inc.	Anaheim, CA	\$777,000
Martinez Concrete, Inc.	Azusa, CA	\$833,106
Kalban, Inc.	Sun Valley, CA	\$888,378
H2M Construction, Inc.	Montclair, CA	\$1,027,000
Horizons Construction Co. Int'l, Inc.	Orange, CA	\$1,097,400
Hillcrest Contracting, Inc.	Corona, CA	\$1,159,135

Epsilon Engineering has submitted all the required documents and is deemed to be the lowest responsive bidder. This bidder has performed similar work in a satisfactory manner.




ENVIRONMENTAL REVIEW: The environmental impacts of this project were reviewed and staff determined that the project is categorically exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301 (Class 1, Existing Facilities) of the California Environmental Quality Act, whereas the project consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of lead agency's determination.

EXHIBIT "A"

ATP CYCLE III Safe Routes to School Pedestrian Improvements Project No. ST1717



LEGEND

-  ENHANCED CROSSWALK
-  HANDICAP RAMP
-  DOMES

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: A CONSTRUCTION CONTRACT FOR THE BRIDGE PREVENTATIVE MAINTENANCE PROGRAM

RECOMMENDATION: That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) with Truesdell Corporation of California, Inc. of Tempe, Arizona, for the Bridge Preventative Maintenance Program (BPMP) in the amount of \$897,897 plus a fifteen percent (15%) contingency of \$134,685, for a total authorized expenditure of \$1,032,582; 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: Maintain the Current High Level of Public Safety
Pursue City's Goals and Objectives by Working with Other Governmental Agencies
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Fiscal Year 2019-2020 Adopted Budget allocated funds for the Bridge Preventative Maintenance Program in the amount of \$1,206,889 from the Ground Access Fund and \$209,446 from Gas Tax, for a total combined allocation of \$1,416,335. The total recommended expenditure authorization consists of \$897,897, plus a 15% contingency of \$134,685, for a total authorized expenditure of \$1,032,582, consistent with the adopted budget. The City will be reimbursed 88% of the construction costs from the federally funded Highway Bridge Program using Surface Transportation Block Grant Program funds.

BACKGROUND: The BPMP includes the maintenance of 13 bridges throughout the City. The scope of work includes traffic control; bridge deck repair; constructing a polyester concrete expansion dam; removing and replacing joint seals; crack sealing; repairing bridge drainage inlets; signing and striping; and, any other appurtenances necessary to complete the improvements. This project will extend the lifespan of the bridge decks and prevent aging bridge structures from needing more costly repairs. A project location map is provided for reference as Exhibit "A".

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

Prepared by: Ariana Kern
Department: Engineering
City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____

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In January 2020, the City solicited bids for the project, and 2 bids were received. The following is a summary of the bid results:

COMPANY	LOCATION	TOTAL BID AMOUNT
Truesdell Corporation of California, Inc.	Tempe, AZ	\$897,897
Peterson-Chase General Engineering Construction, Inc.	Irvine, CA	\$923,420

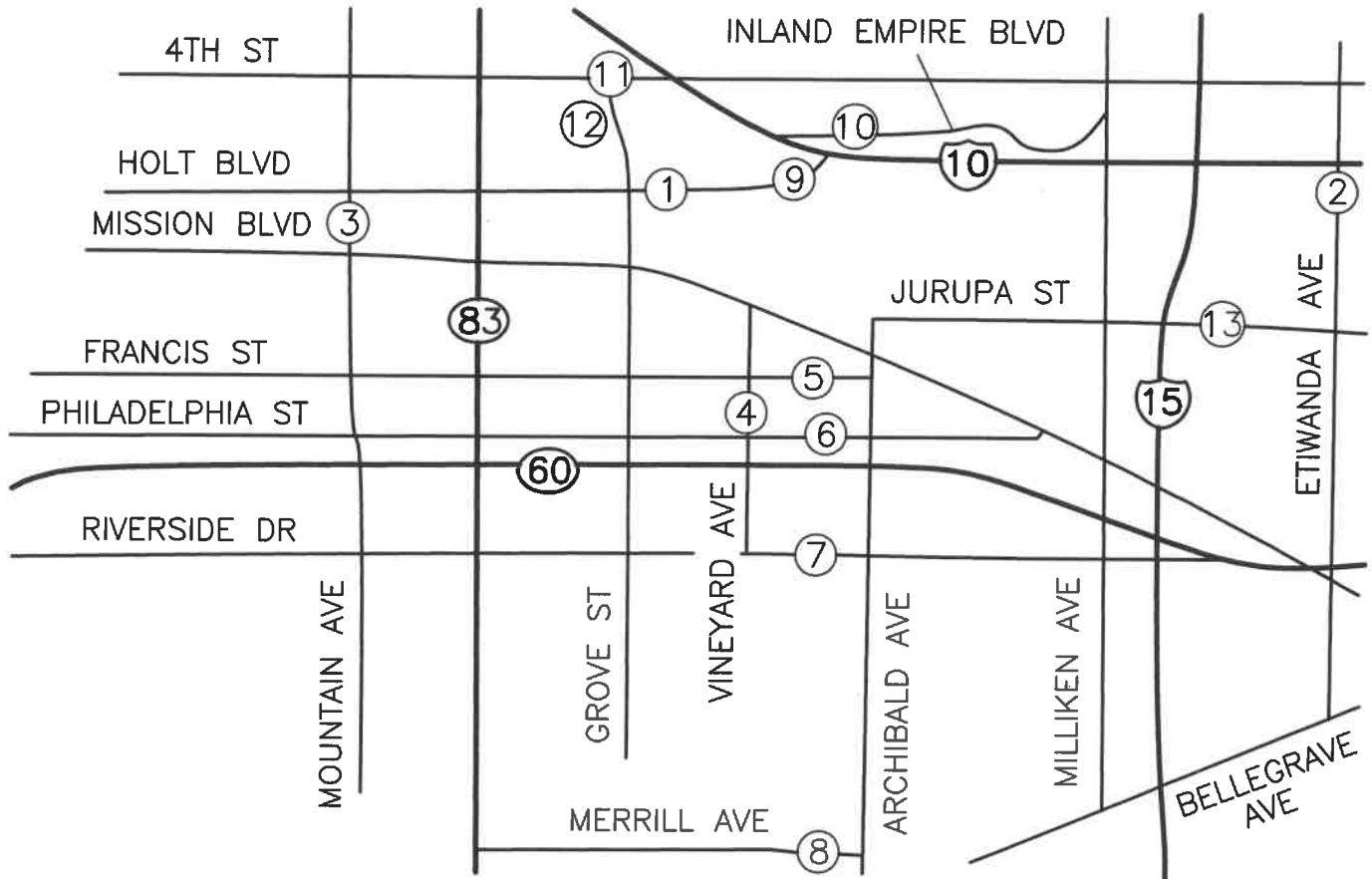
Truesdell Corporation of California, Inc. has submitted all the required documents and is deemed to be the lowest responsive bidder. This bidder has performed similar work in a satisfactory manner.

ENVIRONMENTAL REVIEW: The project is funded by the Federal STBG fund and is therefore subject to National Environmental Protection Act (NEPA) determination by Caltrans. The environmental impacts were reviewed and it was determined that the project has no significant impacts on the environment as defined by NEPA and that there are no unusual circumstances as described in 23 CFR 771.117(b). As such, the project is categorically excluded under NEPA.

The environmental impacts of this project were reviewed, and staff determined that the project is categorically exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301 (Class 1, Existing Facilities) of the California Environmental Quality Act, whereas the project consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of lead agency's determination.

EXHIBIT A

**BRIDGE PREVENTATIVE MAINTENANCE PROGRAM
Project No. ST-1610**



LOCATION MAP

MAP IDENTIFIER	BRIDGE NO.	DESCRIPTION
1	54C0057	HOLT BOULEVARD
2	54C0093K	LOOP DRIVE OH
3	54C0357	MOUNTAIN AVENUE OH
4	54C0395	VINEYARD AVENUE
5	54C0526	FRANCIS STREET
6	54C0527	PHILADELPHIA STREET
7	54C0528	RIVERSIDE DRIVE
8	54C0532	MERRILL AVENUE
9	54C0540R	HOLT BOULEVARD
10	54C0559	INLAND EMPIRE
11	54C0578	4TH STREET
12	54C0579	GROVE STREET
13	54C0603	JURUPA STREET

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH GOODWIN CONSULTING GROUP FOR ANNUAL TAX ADMINISTRATION OF THE CITY'S COMMUNITY FACILITIES DISTRICTS

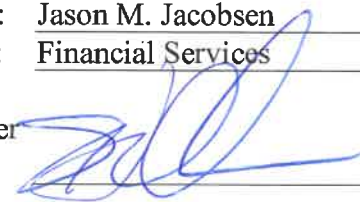
RECOMMENDATION: That the City Council authorize the City Manager to execute an amendment to the professional services agreement (on file in the Records Management Department) with Goodwin Consulting Group of Sacramento, California, in the amount of \$395,000 for annual tax administration of the City's Community Facilities Districts (CFDs).

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 Fiscal Year 2019-20 Adopted Operating Budget includes appropriations in the respective Community Facilities District funds for these services. This amendment adds \$395,000 for a new not to exceed contract total of \$494,150 to provide annual special tax administration through June 30, 2022. Annual tax administration services are paid for from special taxes levied on each taxable parcel within the City's CFDs. There is no impact to the General Fund.

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 CFDs for the purpose of levying special taxes to fund governmental services and to finance various kinds of public infrastructure facilities. On August 15, 2017, the City Council approved a five-year services agreement for annual special tax services, and this amendment will carry out the final two-year contract term. This amendment reflects the increase of CFDs within the Ontario Ranch project area. Tax administration service is a specialized field; and Goodwin Consulting Group offers a comprehensive service from structuring the Rate of Method of Apportionment (RMA) during CFD formation to tax administration including assessing annual levy based on RMA, preparing tax reports mandated by State Controller's

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. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____

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Office, and providing customer service to taxpayers' inquiries. In addition, they are one of the bond financing consultants approved by the City Council on January 19, 2016, to assist with the City's CFD formation process and structuring the RMA of Special Tax for CFDs. This agreement will help provide continued consistent administration of the City's annual CFD tax assessments, and disclosure of annual reports required under the CFD bond indentures.

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR HAZARDOUS MATERIALS COLLECTION AND DISPOSAL SERVICES

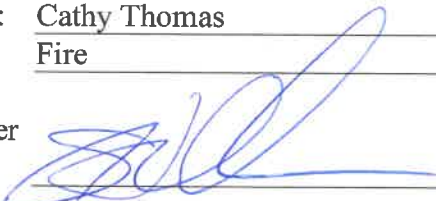
RECOMMENDATION: That the City Council award Contract No. 1242 to Environmental Logistics, Inc. of Bloomington, California, and authorize the City Manager to execute a one-year agreement (on file in the Records Management Department) for hazardous materials collection and disposal services with the option to extend for up to three additional one-year periods.

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

FISCAL IMPACT: The Fiscal Year 2019-20 Adopted Operating Budget includes appropriations for the containment, collection and disposal of hazardous materials. Funding for these services is included in the operating budgets for the Fire Department, Police Department, Public Works Agency, and the Ontario Municipal Utilities Company. The recommended agreement would establish labor, materials and equipment billing rates for the initial term as well as optional extension periods. Continuation of the agreement under the same fee structure would be contingent upon approval of the respective future fiscal years' budgets by the City Council. Contracting for goods and services on a multi-year basis allows the City to: limit yearly increases to the bid amount; eliminate man-hours in re-bidding the contract annually; and project estimated future costs. The amounts for future years will be based on City Council approved budget amounts and departmental requirements for service. Although the actual costs for any given fiscal year cannot be accurately predicted due to the variable demand for on-call service, the City spent on average \$65,000 during the last two fiscal years for reference.

BACKGROUND: The Ontario Fire Department's HazMat Team routinely responds to calls for service involving the illegal or accidental release of hazardous waste or materials on public property. These incidents require immediate action to contain and dispose of the hazardous materials. Additionally, the City's public household chemical collection center and fleet maintenance program generate materials and waste products that must be disposed of in accordance with State and Federal regulations.

STAFF MEMBER PRESENTING: Ray Gayk, Fire Chief

Prepared by: Cathy Thomas
Department: Fire
City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2020

Approved: _____

Continued to: _____

Denied: _____

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Accordingly, the Public Works Agency and the Ontario Municipal Utilities Company contracts for hazardous waste removal at regular intervals. To address both sets of needs, the various departments utilized a coordinated contracting approach with primary responsibility for contract management residing with the Fire Department.

In December 2019, the City solicited proposals through the City's bid management system. Proposals were based on the type and level of activity historically experienced. Viable proposals were received from only four of the 28 vendors showing interest.

Environmental Logistics, Inc., located in Bloomington, was recommended by a review committee consisting of representatives from various City departments which utilize hazardous materials collection and disposal services. Environmental Logistics, Inc. (formerly Filter Recycling Inc.) has been contracting with the City since July 2003, and the utilizing departments have been very satisfied with the level of services and value received. The selection committee also found their overall pricing to be favorable relative to the other proposals.

The recommended action covers an initial one-year term and permits the extension of services for up to three additional one-year periods at the sole discretion of the City.

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR EMPLOYEE SUPPORT SERVICES AND COUNSELING SERVICES

RECOMMENDATION: That the City Council authorize the City Manager to execute Amendment No. 3 (on file in the Records Management Department) adding \$100,000 to the existing Professional Services Agreement with The Counseling Team International (TCTI) for employee support services, for a revised contract authority of \$200,000 and extending the contract term to June 30, 2021.

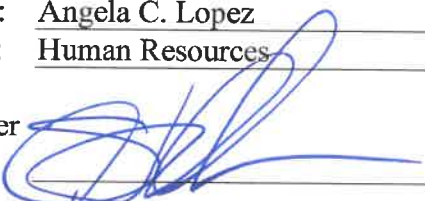
**COUNCIL GOALS: Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner**

FISCAL IMPACT: The Fiscal Year 2019-20 Adopted Operating Budget includes appropriations of \$42,000 in the General Fund for the remainder of the fiscal year. The estimated cost for the Fiscal Year 2020-21 is \$58,000. This recommended amendment increases the total authorized contract amount from \$100,000 to \$200,000 and extends the contract term through the end of Fiscal Year 2020-21. If approved, future appropriations are included in the General Fund annual baseline operating budget and will be presented in subsequent years' budgets to City Council for approval.

BACKGROUND: In 2018, the City renewed its contract with TCTI for employee support services such as Employee Assistance Program (EAP) services, critical incident intervention and debriefing, pre-employment applicant psychological testing, hostage negotiations and in-service trainings. TCTI provides employee support services to over 50 organizations including cities, counties, school districts, police and fire departments, and private companies. TCTI has contracted with the City for over 30 years, with a specialization in working with public safety/first responders.

The current contract term, as extended through Amendment No. 2 is June 30, 2020 with one (1) successive one (1) year extension. Amendment No. 1 and 2 extended the Agreement and revised the scope. This amendment will increase the authorized contract amount from \$100,000 to \$200,000. The

STAFF MEMBER PRESENTING: Angela C. Lopez, Executive Director Human Resources

Prepared by: Angela C. Lopez
Department: Human Resources
City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____

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increase reflects the volume of pre-employment psychological testing and employee use during the term of the contract.

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: AUTHORIZE THE PURCHASE OF COMPUTER NETWORK EQUIPMENT

RECOMMENDATION: That the City Council take the following actions:

- (A) Award Bid No. 1264 and authorize the purchase of server room network equipment from Dell Inc. of Round Rock, Texas, in the amount of \$309,923, and
- (B) Award Bid No. 1255 and authorize the purchase of access network equipment from Computacenter Fusionstorm of Westwood, Massachusetts, in the amount of \$115,108.

COUNCIL GOALS: Operate in a Businesslike Manner

FISCAL IMPACT: The Fiscal Year 2019-2020 Adopted Operating Budget includes appropriations from the Information Technology Fund for replacement of this City Hall computer network equipment for a total of \$425,031. The cost includes a 3-year warranty for the access layer network equipment and a 5-year warranty for the server room network hardware and software.

BACKGROUND: The manufacturer of the City's current network equipment has given notice that support services will no longer be offered soon. This recommended replacement equipment includes a state-of-the-art Software Defined Network (SDN) system for the server room as well as carrier grade Juniper switch hardware for the switches to support the City Hall and City Hall Annex buildings.

The SDN will allow for easy management of the City's network and enhance the City's cyber security stance.

STAFF MEMBER PRESENTING: Colin Fernandes, Executive Director Information Technology

Prepared by: Dale Wishner
Department: Information Technology

City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2019

Approved: _____

Continued to: _____

Denied: _____

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(A) In February 2020, the City solicited bids for the Big Switch server room solution, and four (4) bids were received. Three bids were considered responsive since Zones, Inc. submitted a bid of \$0.

<u>Vendor</u>	<u>Location</u>	<u>Amount</u>
Dell, Inc.	Round Rock, TX	\$309,923
Mvation Worldwide	Glen Cove, NY	\$377,928
Charity IT	Long Beach, CA	\$444,991

Staff recommends award of Bid No. 1264 to Dell Inc. as they submitted the lowest responsive bid.

(B) In January 2020, the City solicited bids for the Juniper network equipment, and eight (8) bids were received.

<u>Vendor</u>	<u>Location</u>	<u>Amount</u>
Computacenter Fusionstorm	Westwood, MA	\$115,108
Netxperts, Inc.	Walnut Creek, CA	\$126,914
Charity IT	Long Beach, CA	\$158,905
Zones, Inc.	Auburn, WA	\$178,316
CCT Technologies, Inc.	San Jose, CA	\$191,592
Axelliant LLC	Torrance, CA	\$192,709
Howard Industries, Inc.	Laurel, MS	\$203,943
Bear Cloud	Bakersfield, CA	\$248,922

Staff recommends award of Bid No. 1255 to Computacenter Fusionstorm Inc. as they submitted the lowest responsive bid.

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: 2019 HOUSING ELEMENT ANNUAL PROGRESS REPORT

RECOMMENDATION: That the City Council consider and adopt a resolution authorizing staff to transmit the 2019 Housing Element Annual Progress Report to the California Department of Housing and Community Development and the Governor's Office of Planning and Research.

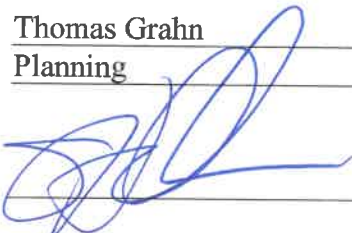
COUNCIL GOALS: Operate in a Businesslike Manner
Pursue City's Goals and Objectives by Working with Other Government Agencies
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: None.

BACKGROUND: The 2013-2021 Housing Element was adopted by City Council on October 15, 2013 and Certified by the State of California. In accordance with California Government Code Section 65400, a report analyzing the City's progress towards compliance with the adopted Housing Element must be submitted to the California Department of Housing and Community Development ("HCD") and the Office of Planning and Research ("OPR") on an annual basis. Cities and counties with compliant housing elements and up-to-date Housing Element Annual Progress Report ("APR") submissions gain access to State grant funding (e.g., SB 2 Building Homes and Jobs Act and the Local Early Action Planning grants program). The APR for calendar year 2019 is the sixth progress report to the 2013 to 2021 Housing Element. The entire APR report is on file with the Records Management Department.

Per the requirements of SB 35 and AB 879, effective January 1, 2018, the State reporting requirements for the APR significantly increased. Previously, reporting on issued Building Permits and the status of Housing Programs identified in The Ontario Plan was required. For the current 2019 calendar year, reporting also requires tracking Assessor Parcel Numbers and dates at various steps in the entitlement and permitting process for all residential projects including application submittals, approvals, denials, issuance of building permits, certificates of occupancy, and projects eligible for new streamlining provisions.

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

Prepared by: Thomas Grahn
Department: Planning
City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____

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The APR (Resolution Attachment "A") tracks housing activity for the period beginning January 1, 2019 and ending on December 31, 2019. The tables in the APR include the following:

Table A – Housing Element Implementation: This table tracks applications submitted during the reporting period. The table identifies each application submitted, unit type, application submittal date, unit count (including affordability by housing income), total units, units approved, units disapproved, and project streamlining.

The City received applications for 2,951 units during the reporting period. All units were in the Above Moderate-Income category. Of those units submitted, 1,857 were approved and 1,094 were still awaiting final approval.

Table A2 – Annual Building Activity Report Summary – New Construction, Entitled, Permits, and Completed Units: This table identifies each project submitted, unit type, affordability by household income for completed entitlement, affordability by household income for building permits, affordability by household income for certificates of occupancy, streamlining, financial assistance, deed restrictions, and demolished/destroyed units.

Entitlements were approved for 3,031 units (this total includes applications submitted in prior years). Building permits were issued for 1,552 units (100 of those units were in the Low and Very Low income categories). Certificates of Occupancy were issued for 1,327 units. Table A2 is not attached to this report due to its size and printing limitations; however, copies are available with the Records Management Department.

Table B – Regional Housing Needs Allocation Progress Permitted Units Issued by Affordability: This table provides a summary of the City's progress towards meeting the Regional Housing Needs Allocation (RHNA). The table identifies the number of units permitted by affordability category during the reporting period.

The report identifies progress on identified implementation programs and progress toward the City's RHNA allocation. This report covers year 6 of an 8-year cycle (75% of the Housing Element/RHNA cycle). Cumulatively, between 2014 and 2019, the City developed 57% of the identified RHNA allocation.

During 2019, the City issued building permits for a total of 1,452 units in the Above Moderate-Income category (households earning above 120% of the Area Median Income (AMI)), including 1,063 single family units, 31 ADU's (Accessory Dwelling Units), and 358 multi-family units. Additionally, permits were issued for 58 units in the Very Low-Income category (households earning less than 50% of the AMI), and 42 units in the Low-Income category (households earning between 51% and 80% of the AMI).

Table C – Sites Identified or Rezoned to Accommodate Shortfall Housing Need: This table identifies those parcels rezoned during the year to address a shortfall of available sites to meet the City's RHNA allocation.

No properties were rezoned during the calendar year as the City's Housing Element identifies adequate sites to meet the City's RHNA requirements.

Table D – Program Implementation Status pursuant to GC Section 65583: This table provides a summary of the City's annual progress in the implementation of programs and statutory requirements of the 2013-2021 Housing Element.

The Housing Element identified four major categories of housing goals and includes 31 implementing programs to accomplish these goals. The four major categories include: 1) Neighborhoods and Housing, 2) Housing Supply and Diversity, 3) Government Constraints, and 4) Housing Assistance. The attached narrative includes more detailed explanation on each of the Housing Programs, its objective, timeframe, and status.

Table E – Commercial Development Bonus Approved pursuant to GC Section 65915.7: This table identifies those commercial sites receiving a development bonus for contributing to or providing affordable housing.

There were no projects to report on during the reporting period.

Table F – Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites pursuant to Government Code Section 65583.1(c)(2): This table is optional and allows jurisdictions to list (for informational purposes) units that were substantially rehabilitated, acquired, or preserved but do not count towards the RHNA. Units may only be credited towards the RHNA when they are included as part of a specific program that meets GC section 65583.1(c)(2).

Building permits were issued for the rehabilitation of the 86-unit Ontario Townhouses complex. There are two overlapping restrictions for this project. First, a Project-Based Section 8 Preservation Renewal Agreement as of 04/01/2019, which expires after 20 years, requires that 80 units be restricted to Very Low-Income tenants (below 50% AMI) and 4 units be restricted to Low Income tenants (below 80% AMI). Second, the Regulatory Agreement and Declaration of Restrictive Covenants related to Multifamily Tax-Exempt Mortgage-Backed Bonds dated 03/01/2019, expires after 55 years, requires that 35 units be reserved for tenants below 60% AMI.

SUMMARY: This table auto fills from Tables A thru F and summarizes the APR including a completed entitlements issued by affordability summary, housing applications summary, use of SB 35 streamlining provisions, and units constructed – SB 35 streamlining permits.

Staff requests that the City Council authorize the submittal of the APR to HCD and OPR in compliance with State law.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE 2019 HOUSING ELEMENT ANNUAL PROGRESS REPORT (FILE NO. PADV20-001) AND AUTHORIZING STAFF TO SUBMIT THE REPORT TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE OFFICE OF PLANNING AND RESEARCH.

WHEREAS, the City of Ontario adopted the 2013-2021 Housing Element of the General Plan pursuant to Section 65352 of the Government Code in October of 2013; and

WHEREAS, the California Department of Housing and Community Development certified that the adopted 2013-2021 Housing Element was in full compliance with state housing law in November 2013; and

WHEREAS, the City is required to submit an annual report on the progress of the Housing Element per Government Code Section 65400(b)(1); and

WHEREAS, the proposed 2019 Housing Element Annual Progress Report (Attachment "A") has been prepared in accordance with Government Code Section 65400(b)(1); and

WHEREAS, the proposed 2019 Housing Element Annual Progress Report is the sixth progress report for the 2013-2021 Housing Element Cycle; and

WHEREAS, the proposed 2019 Housing Element Annual Progress Report is categorically exempt from California Environmental Quality Act (CEQA), as amended (Section 15306, Information Collection); and

WHEREAS, on March 17, 2020, the City Council of the City of Ontario conducted a hearing to review the proposed 2019 Housing Element Annual Progress Report and accept public comments on the Housing Element Annual Report and concluded said hearing on that date.

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

SECTION 1. Environmental Determination and Findings. As the 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:

- (1) The administrative record has been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

- (2) The Project is categorically exempt from environmental review pursuant to Section 15306. (Class 6—Information Collection) of the CEQA Guidelines; and
- (3) The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and
- (4) The determination of CEQA exemption reflects the independent judgement of the City Council.

SECTION 2. City Council Action. Based upon the findings and conclusions set forth in Section 1 above and upon the substantial evidence presented to the City Council including the 2019 Housing Element Annual Progress Report (Report) and public comments during the above-referenced hearing, the City Council hereby APPROVES the herein described Report attached hereto as “Attachment A,” and incorporated herein by this reference; and Planning staff is hereby authorized to submit the Report to the California Department of Housing and Community Development (HCD) and the Office of Planning and Research (OPR).

SECTION 3. 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 4. Certification to Adoption. The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 17th day of March 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 March 17, 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 March 17, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

ATTACHMENT A

2019 Housing Element Annual Progress Report

(Document follows this page)

Please Start Here

General Information	
Jurisdiction Name	Ontario
Reporting Calendar Year	2019
Contact Information	
First Name	Cathy
Last Name	Wahlstrom
Title	Planning Director
Email	cwahlstrom@ontarioca.gov
Phone	9093952036
Mailing Address	
Street Address	303 East B Street
City	Ontario
Zipcode	91764

Optional: Click here to import last year's data. This is best used when the workbook is new and empty. You will be prompted to pick an old workbook to import from. Project and program data will be copied exactly how it was entered in last year's form and must be updated.

v 12_23_19

Jurisdiction	Ontario	
Reporting Year	2019	(Jan. - Dec. 31)

**ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation**

(CCR Title 25 §6202)

Note: "+" indicates an optional field
Cells in grey contain auto-calculation formulas

**Table A
Housing Development Applications Submitted**

Project Identifier				Unit Types		Date Application Submitted	Proposed Units - Affordability by Household Incomes								Total Approved Units by Project	Total Disapproved Units by Project	Streamlining	Notes												
1	2			3	4	5								6	7	8	9	10												
Prior APN [†]	Current APN	Street Address	Project Name [†]	Local Jurisdiction Tracking ID [†]	Unit Category (SFA, SFD, 2 to 4, 5+ ADU, MH)	Tenure (R=Renter, O=Owner)	Date Application Submitted	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Total PROPOSED Units by Project	Total APPROVED Units by Project	Total DISAPPROVED Units by Project (Auto-calculated Can Be Overwritten)	Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	Notes [†]											
Summary Row: Start Data Entry Below																0	0	0	0	0	0	0	0	0	2951	2951	1857	0	0	
	101138204	1055 West Mission Boulevard		PDEV19-002	5+	R	1/8/2019							68	68		0	No	In Process											
	21827122	Addresses to be assigned at Building Permit		PDEV19-008	SFD	O	1/29/2019							432	432	432	0	No												
	21827102 21821105	Addresses to be assigned at Building Permit		PDEV19-010	5+	R	2/22/2019							204	204	204	0	No												
	21821102 21821105	Addresses to be assigned at Building Permit		PDEV19-011	SFA	O	2/22/2019							61	61	61	0	No												
	21821102 21821105	Addresses to be assigned at Building Permit		PDEV19-012	5+	R	2/22/2019							168	168		0	No												
	101419107	Addresses to be assigned at Building Permit		PDEV19-016	SFD	O	3/8/2019							6	6		0	No	In Process											
	21811156	9510 East Chino Avenue		PDEV19-023	SFD	O	4/10/2019							37	37		0	No	In Process											
	11031152 11031153 11031104 11031105	Addresses to be assigned at Building Permit		PDEV19-025	5+	R	5/2/2019							925	925	925	0	No												
	104846117 104849123	Addresses to be assigned at Building Permit		PDEV19-028	5+	R	5/14/2019							5	5		0	No	In Process											
	21830201	Addresses to be assigned at Building Permit		PDEV19-030	5+	R	5/29/2019							126	126		0	No	In Process											
	101137115 101137116	Addresses to be assigned at Building Permit		PDEV19-031	5+	R	6/5/2019							49	49		0	No	In Process											
	21801425	Addresses to be assigned at Building Permit		PDEV19-039	SFD	O	7/5/2019							67	67	67	0	No												
	104717217 104717222	Addresses to be assigned at Building Permit		PDEV19-043	5+	O	7/19/2019							18	18		0	No	In Process											
	10848118 10848119 10848120 10848121 10848122 10848123 10848124 10848125 10848126 10848127	Addresses to be assigned at Building Permit		PDEV19-047	SFD	O	8/6/2019							10			0	No	In Process											
	101136101	Addresses to be assigned at Building Permit		PDEV19-049	5+	R	9/3/2019							30	30		0	No	In Process											
	21020440	Addresses to be assigned at Building Permit		PDEV19-054	5+	O	10/1/2019							72	72		0	No	In Process											
	101136115	1445 West Mission Boulevard		PDEV19-060	5+	R	10/15/2019							23	23		0	No	In Process											
	21020426	Addresses to be assigned at Building Permit		PDEV19-061	5+	O	10/16/2019							110	110		0	No	In Process											
	21823112 21823114 21823117 21823118 21823119 21823120 21823121 21823122 21823128 21823129 21823131 21823133 21823135	Addresses to be assigned at Building Permit		PDEV19-064	SFD	O	11/13/2019							540	540		0	No	In Process											
														0	0		0		In Process											
														0	0		0													
														0	0		0													
														0	0		0													

Jurisdiction	Ontario	
Reporting Year	2019	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
 (CCR Title 25 §6202)

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.
 Please contact HCD if your data is different than the material supplied here

Table B													
Regional Housing Needs Allocation Progress													
Permitted Units Issued by Affordability													
		1	2								3	4	
Income Level		RHNA Allocation by Income Level	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	2592						100	58			158	2434
	Non-Deed Restricted												
Low	Deed Restricted	1745						48	42			90	1655
	Non-Deed Restricted												
Moderate	Deed Restricted	1977										1434	543
Above Moderate	Non-Deed Restricted	4547		364	138	340	520	72				1452	
Total RHNA		10861		163	420	287	1136	1168	1452			4626	
Total Units				527	558	627	1656	1388	1552			6308	4632

Note: units serving extremely low-income households are included in the very low-income permitted units totals
 Cells in grey contain auto-calculation formulas

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction	Ontario
Reporting Year	2019 (Jan. 1 - Dec. 31)

Table D

Program Implementation Status pursuant to GC Section 65583

Housing Programs Progress Report

Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.

1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
1. Code Enforcement	Continue Code Enforcement using a progressive approach of voluntary compliance, citations, and court action, if needed. Continue to apply for funding.	Ongoing, inspect properties annually	Community Improvement conducted 5,283 inspections and 2,145 cases were closed in 2019. As part of the Rental Inspection Program 5,134 housing units were inspected and violations were abated in 4,083 units.
2. Quiet Home	Completed	Completed	Since the program began in 1994, 1,599 units have been insulated and 256 properties were acquired. The Program has sold 30 parcels for future airport compatible development. Program was terminated in September 2015 due to updated NEM eligibility noise contour which eliminated funding for the program.
3. Historic Preservation	Continue to Implement Program	Ongoing	City staff continues to implement the Historic Preservation program, including: 6 properties on the Ontario Register were reviewed for historic significance, 2 were removed, 1 was added and 3 received a Tier Determination, 4 Mills Act Contracts (preservation agreement) were approved, Annual Mills Act Contract Monitoring of 20 contracts were completed, and staff continues to implement design review for historic properties. Completion of community outreach activities including: Historic Preservation Month Photo Contest, Model Colony Awards program, participation in the Ontario Showcase/Heritage Celebration and the Ontario Festival of the Arts.
4. Housing Rehabilitation Loan and Grants	Continue to Implement Program, as funding is available.	Ongoing	The City of Ontario designed the Community Improvement Code Abatement Loan Program. This program was approved during this reporting period. During 2019, zero (0) homes were rehabilitated through this program. The City's largest housing rehabilitation program, the CARES Program continues to remain on hold. Funding for this program had been provided through the Ontario Redevelopment Agency's Low and Moderate-Income Housing Fund (LMIFH). To date, no replacement funding has been identified and secured.
5. CARES	Continue program implementation, as funding is available.	Ongoing	As stated earlier, this program was funded with LMIFH. At this time, the program is on hold and no activity took place during 2019.

6. Neighborhood Plans	Designate focus neighborhoods, outreach plan and process, and initiate survey efforts. Evaluate the potential of creating neighborhood improvement plans.	Ongoing	The primary Neighborhood Planning programs implemented during 2018 include the HEAL Zone, Zoning Consistency, Transformative Climate Communities (TCC) and Active Transportation Program (ATP). Through the HEAL Zone and TCC programs, feedback from community leaders helped inform decision makers on policy and capital improvements. In 2018, the Zoning Consistency program (created to make zoning consistent with The Ontario Plan (General Plan)) with a major goal of protecting residential areas was completed. The ATP program conducted surveys on pedestrian safety and bicycle routes which will help to support an ATP grant application to be submitted in 2020, that will provide missing sidewalks, ADA ramps, new street lights and parkway shade trees. Design and ROW acquisition was completed for ATP Cycle 3 that will make pedestrian improvements around 1 elementary and 1 middle school. Community outreach and most of the walk audits around public schools was completed as part of the Active Transportation Master Plan. The final segment of the G Street Crosstown Bike Route was completed in 2019. Consultant was hired and work began on a Multimodal Transportation Center Needs Assessment and Siting Criteria project began in 2019 that will centralize multimodal options for residents and employees of and visitors to Ontario.
7. Neighborhood Stabilization	Designate focus neighborhoods, outreach plan and process, and initiate survey efforts. Evaluate the potential of creating neighborhood improvement plans.	Ongoing	During 2019, the City Council approved the Neighborhood Preservation Strategy Plan, which designated four focus neighborhoods (Downtown, Nocta, Mission-Mountain, and Fourth-Grove).
8. Community Oriented Policing	Continue implementation of COPs Program; coordinate marketing efforts with the new Quadrennial Inspection Program.	Ongoing	The Community Oriented Policing (COPS) Division takes a pro-active approach by partnering with building and property owners to prevent, deter, and solve crimes. Additionally during inspections, onsite improvements are identified under the concept of Crime Prevention Through Environmental Design (CPTED). In 2019, two Crime Free Multi-Housing classes were hosted by the Ontario Police Department, providing property owners/managers the tools to take a proactive approach on crime prevention. A total of 13 properties were enrolled in the Crime Free Multi-Housing Program and 16 properties enrolled in the Trespassing Enforcement Program. A total of 527 individuals were served with forbidden trespass forms.
9. Downtown Plan	Downtown planning to facilitate new mixed-use and residential development; continue to acquire property and assemble sites to facilitate new housing.	Ongoing	The objective of the downtown planning effort is to facilitate new mixed-use and residential development and continue to acquire property and assemble sites to facilitate new housing. To facilitate new development and establish new businesses within the downtown area the HEART (Historic Euclid Avenue Revitalization Team) Initiative was established in 2015. HEART leverages resources, services and activities to enhance the downtown experience. Through improved transit and placemaking efforts that integrate arts and culture, the HEART Initiative is creating an environment that attracts new housing, improves existing housing, and encourages a mix of uses and activities. A strategic plan is underway to diversify land uses and improve mobility and connectivity downtown, which is scheduled for approval in 2020. Construction of a 100% affordable (low and very-low income) 101-unit TOD project began in 2019 (Virginia/Holt), a 153-unit mixed use development is expected to be entitled towards the end of 2020 (C1 Block), and, construction of 100% affordable (low and very-low income) 75-unit project (Vine/Holt), is underway with an anticipated completion date in Summer 2020. And finally, the Downtown Plan area is included in a \$35 million Transformative Climate Communities Grant awarded to the City to increase prosperity, improve transportation and housing within a disadvantaged community. The TCC program includes affordable housing, active transportation improvements, mobility hub, urban greening, carbon farm, solar photovoltaic, and transit improvements. This grant is a collaborative effort with public and community-based organizations developing and implementing project in support of reducing greenhouse gas emissions and enhancing overall quality of life.
10. Mountain and Euclid Corridors	Re-designate corridors for medium- and high-density residential uses and develop a lot consolidation ordinance to facilitate the assemblage of lots into larger parcels.	Completed	All sites on the Housing Element Available Land Inventory along these corridors have been rezoned to medium density residential, high density residential, or mixed use designations consistent with The Ontario Plan (which includes the General Plan).
11. Holt Blvd.	Re-designate as High Density and Mixed Use and develop a lot consolidation ordinance to assemble parcels.	Completed	All sites on the Housing Element Available Land Inventory along the Holt Boulevard corridor have been rezoned to accommodate higher densities.

12. New Model Colony	Continue to review, approve, and implement plans to develop the New Model Colony.	Ongoing	City staff continues to review and process applications for development in the New Model Colony. Permits were issued for 1,398 units within the NMC in 2019.
13. Downtown Core Catalyst Project	Continue to implement the programs identified in the Downtown Core Catalyst Project as funding is available.	Completed	The Catalyst program was completed on June 30, 2017. There was no activity on this program during 2019.
14. Design Review	Continue to implement design review process.	Ongoing	City staff continues to implement design review.
15. Green Building	Promote green building practices in the private sector and explore point-of-sale energy retrofits for residences. Renewable energy incentive and energy efficiency programs. Develop a citywide 20-year energy plan. Support pilot development project as a net-zero-energy community and formulate solar site orientation guideline.	Ongoing	The City continues to trend towards the Climate Action Plan target of 30% greenhouse gas reduction below Year 2020 business as usual by Year 2020 and in the process of updating our Climate Action Action Plan assess our success and plan for the 2030 GHG reduction Target of 40% below 1990 levels. The City is also initiating The Ontario Plan Update in support of a more resilient future. The City is in the first year of implementation of the GGRF Transformative Climate Communities Grant encompassing a variety of programs from developing 101-units of affordable housing, single family solar installations, and increasing transit/bicycle options to developing a 2-acre carbon farm. This multi-year grant program is anticipated to reduce approximately 19,737 MTCO _{2e} , providing healthy air and pathways for low-income residences to thrive.
16. Land Monitoring Program to Meet the RHNA	Ensure there is sufficient supply of multi-family zoned land to meet the housing needs identified in the Regional Housing Needs Allocation.	Ongoing	City staff monitors entitlement applications to ensure that the Available Land Inventory is maintained and verifies that development of identified sites complies with the minimum density indicated in the Available Land Inventory or identifies alternate sites to meet the City's RHNA needs. Safeguards have been incorporated into the City's Discretionary Permit Application which includes an affidavit regarding compliance with the Available Land Inventory.
17. Incentives	Offer financial and regulatory incentives for residential projects that meet City housing and affordable housing goals.	Ongoing	The City continues to offer financial incentives for affordable housing projects where feasible and as funding is available. Housing incentives have also been included in the comprehensive Development Code update which was adopted in 2016 which continues to be implemented in 2019.
18. Land Acquisition	Continue to approve financial incentives for residential projects that meet City housing and affordable housing goals.	Ongoing	City staff will implement programs as funds become available.
19. Planned Unit Development (PUD)	Continue to utilize the PUD to create tailored development standards to facilitate new housing.	Ongoing	The PUD continues to be a viable tool to implement new multi-family housing.
20. Mixed-Use and High-Density Residential Zone and Standards	Develop new mixed-use and high-density residential development zone and standards to implement the General Plan. Allow residential uses by right in both zones.	Ongoing	New General Plan land use designations were adopted in 2010. The 2016 comprehensive update to the Development Code implements the new General Plan land use designations and allows residential uses by right within the High Density Residential and Mixed Use zones. The City continues its efforts in processing Zone Changes to bring alignment with the adopted General Plan. In 2019 no additional parcels outside the Euclid Avenue, Mountain Avenue, and Holt Boulevard corridors were rezoned to High Density Residential or Mixed Use zones.
21. Public Housing	Continue to assist up to 600 households under the public housing program and seek additional vouchers as available.	Ongoing	Public housing programs in Ontario are administered through the Housing Authority of the County of San Bernardino (HACSB). During 2019, the HACSB managed approximately 676 Housing Choice Vouchers within Ontario.
22. Homeownership	Implement down payment assistance programs Citywide and for the Town Square project.	Ongoing	The CalHome Mortgage Assistance program ended on April 5, 2017. City staff continue tracking the use of loan funds paid off in a reuse account for use on eligible projects.

23. Preservation of At-Risk Housing	Monitor the status of at-risk projects and, if they are at imminent risk of conversion, provide technical assistance and/or financial assistance to preserve the properties as deemed feasible.	Ongoing	There are a total of 1,836 assisted, multi-family rental units in the City, of which no units were “at-risk” of conversion to market rate during calendar year 2019. To address the preservation of public housing for very low- and low-income persons, the City of Ontario maintains contact with owners of at-risk units as the use restriction expiration date approaches to communicate with the owner the importance of the units to the supply of affordable housing in Ontario, as well as its desire to preserve the units as affordable. The City will make every effort in using local incentives that can be offered to property owners to preserve any at risk units. During 2019, City staff continued to work with the National Foundation for Affordable Housing to assist with the rehabilitation of the Ontario Townhouses project, a project-based Section 8 voucher property, including an extension of the PBV contract for an additional 20 years. The project is expected to be complete during early 2020.
24. Jack Galvin Accord	Continue to implement the Jack Galvin Accord and monitor the effectiveness of the accord.	Ongoing	City staff administered the Accord that covers 1,697 mobile home units located in 10 mobile home parks throughout Ontario. City staff distributed the annual rent adjustments allowed as part of the Accord and designed to limit rental increases within the participating mobile home parks. The Accord was approved for a 5-year extension on November 15, 2019 with an expiration date of January 5, 2025.
25. Fair Housing	Continue to contract with fair housing providers.	Ongoing	The City of Ontario has worked in conjunction with the Inland Fair Housing and Mediation Board to affirmatively further fair housing opportunities in this community. The Inland Fair Housing and Mediation Board “actively supports and promotes freedom of residence through education, advocacy and litigation to the end that all persons have the opportunity to secure the housing they desire and can afford, without regard to their race, color, religion, gender, sexual orientation, national origin, familial status, marital status, disability, ancestry, age, source of income or other characteristics protected by law.”
26. Homeless Continuum of Care	Continue to fund Mercy House to implement the Continuum of Care program for homeless residents and other programs as funding is available.	Ongoing	<p>During 2019, the following achievements were made within the Ontario Homeless Continuum of Care (CoC) programs:</p> <ul style="list-style-type: none"> * Mercy House Ontario Access Center – Provided basic needs and services to 683 new (unduplicated) clients; * Assisi House and Aftercare Services Program – Provided transitional housing and aftercare services to 59 new (unduplicated) clients; * HOME TBRA – Provided tenant based rental assistance to 25 households; * Project Gateway – Assisted 12 chronically homeless individuals with disabilities and their families secure permanent housing with wrap around services through HUD’s Shelter Plus Care Program; and * Permanent Housing Units – Continued to operate 76 permanent housing units in cooperation with the Ontario Housing Authority, Mercy House, and Mercy House CHDO. These units assist in providing priority occupancy to participants in the CoC Project Gateway. <p>In addition, we also created new programs to assist in the delivery of services designed to house persons experiencing homelessness within Ontario, including:</p> <ul style="list-style-type: none"> * Street Outreach – Increased funding of the street outreach team to 40 hours per week; * Created the Extreme Weather Motel Voucher Program – Assisted 11 persons with a total of 58 bed nights. All individuals assisted are provided with the opportunity for case management focused on connecting the individuals to housing; * Created a utility assistance program to facilitate persons experiencing homelessness with zero income to participate in the existing HOME TBRA program operated as part of the CoC; * Partnered with local school district to identify homeless families and assist these families with rental subsidies through the HOME TBRA Program; and * Facilitated monthly meetings with Ontario focused homeless providers and governmental agencies to coordinate services to transition individuals/families from homelessness into a stable housing program.
27. Senior Housing	Continue to provide a full range of housing support services.	Ongoing	During calendar year 2019, the City continued to monitor 762 units of affordable senior housing.

Jurisdiction	Ontario	
Reporting Period	2019	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
 (CCR Title 25 §6202)

Note: "+" indicates an optional field
 Cells in grey contain auto-calculation formulas

Table F
Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites pursuant to Government Code section 65583.1(c)(2)

This table is optional. Jurisdictions may list (for informational purposes only) units that do not count toward RHNA, but were substantially rehabilitated, acquired or preserved. To enter units in this table as progress toward RHNA, please contact HCD at APR@hcd.ca.gov. HCD will provide a password to unlock the grey fields. Units may only be credited to the table below when a jurisdiction has included a program in its housing element to rehabilitate, preserve or acquire units to accommodate a portion of its RHNA which meet the specific criteria as outlined in Government Code section 65583.1(c)(2).

Activity Type	Units that Do Not Count Towards RHNA ⁺ Listed for Informational Purposes Only				Units that Count Towards RHNA ⁺ Note - Because the statutory requirements severely limit what can be counted, please contact HCD to receive the password that will enable you to populate these fields.				The description should adequately document how each unit complies with subsection (c)(7) of Government Code Section 65583.1 ⁺
	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	
Rehabilitation Activity		80	4	84					Permits were issued to substantially rehabilitate 86 units (including 2 management units) for the Ontario Townhomes complex operated by the Ontario Housing Agency.
Preservation of Units At-Risk									
Acquisition of Units									
Total Units by Income		80	4	84					

Jurisdiction	Ontario	
Reporting Year	2019	(Jan. 1 - Dec. 31)

Completed Entitlements Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	0
Above Moderate		3031
Total Units		3031

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Housing Applications Summary	
Total Housing Applications Submitted:	19
Number of Proposed Units in All Applications Received:	2,951
Total Housing Units Approved:	1,857
Total Housing Units Disapproved:	0

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	Rental	Ownership	Total
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: AWARD OF A CONSTRUCTION CONTRACT FOR THE DEMOLITION AND RENOVATION OF THE ANTHONY MUNOZ COMMUNITY CENTER

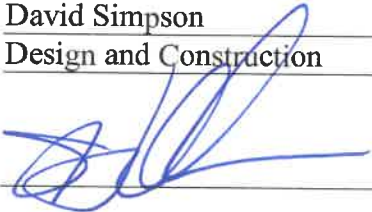
RECOMMENDATION: That the City Council take the following actions:

- (A) Reject AMG's protest against Hamel Contracting, Inc for D&C18-004 Anthony Munoz Community Center Renovation;
- (B) Authorize the City Manager to execute Construction Contract No. D&C18-004 Anthony Munoz Community Center Renovation with Hamel Contracting, Inc. of Murrieta, California, for the demolition and renovation of the Anthony Munoz Community Center in the amount of \$11,442,004;
- (C) Authorize a project reserve in the amount of \$1,105,725 for Furnishings, Fixtures and Equipment to provide items such as program relocation, material testing, additional design fees, and furnishings;
- (D) Authorize a 15% contingency of \$1,716,300 to address any unforeseen issues that may arise during construction; and
- (E) Authorize the City Manager or his designee to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related 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 estimated construction cost for Anthony Munoz renovation is \$14,264,029 (including a 15% contingency of \$1,716,300 for unforeseen work that might be needed due to weather, events, or extraordinary circumstances). The Fiscal Year 2019-20 Adopted Budget includes

STAFF MEMBER PRESENTING: Tito Haes, Executive Director Public Works

Prepared by: David Simpson
Department: Design and Construction
City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____

11

appropriations of \$8,967,878 in the Capital Projects Fund and \$1,300,000 in the Public Meeting Development Impact Fund. Additional appropriations of \$3,996,151 are required, and available bond proceeds from the 2013 Lease Revenue Bonds have been earmarked for this project. This additional amount will be included in the next quarterly budget update report to the City Council.

BACKGROUND: The Anthony Munoz Community Center was built in 1970, and is the oldest community center that has not yet been renovated. The proposed project will demolish the existing facility and replace it with a new building twice as large. The new center will contain amenities such as a 50 ft. X 75 ft. resort style swimming pool, two large dividable multi-purpose rooms that open to a north facing fenced-in terrace, a demonstration kitchen, and an enlarged tiny tots' room with its own fenced-in playground.

In preparation for the demolition and renovation, the programs currently being offered at Anthony Munoz have been relocated to nearby facilities for the duration of construction.

On January 16, 2020, the City solicited bids for the demolition and renovation of the Munoz Center. Six bids were received and Hamel Contracting Inc. of Murrieta (Hamel) was the apparent low bidder. On January 24, 2020, the City received a protest letter from AMG & Associates, Inc. (AMG) stating Hamel entered \$10,702,584 into PlanetBids, but wrote down \$10,767,770.62 in the paperwork they submitted as part of their \$11,442,004 bid. The difference of \$62,289 would make the amount Hamel entered into PlanetBids lower than the pricing in their paperwork. AMG contended this discrepancy should disqualify Hamel and since the second lowest bidder had similar issue, AMG would then become the lowest responsible bidder. Staff consulted the City Attorney who wrote AMG a letter on February 4, 2020, stating that because Hamel is honoring the lower amount, the dollar difference is inconsequential, and because the change did not provide an unfair advantage to Hamel, AMG's protest is without merit and the Hamel remains the lowest responsive bidder.

All the bids received are listed below:

<u>Vendor</u>	<u>Location</u>	<u>Amount</u>
Hamel Contracting Inc.	Murrieta, CA	\$11,442,004
W. D. Gott Construction	Upland, CA	\$12,932,163
AMG & Associates	Santa Clarita, CA	\$12,935,000
PCN3 INC.	Los Alamitos, CA	\$13,451,470
Horizons Construction	Orange, CA	\$14,359,877
Morillo Construction	Pasadena, CA	\$15,881,000

Hamel Contracting Inc. located in Murrieta, California, submitted the lowest bid that met all the required specifications with a base cost of \$11,442,004. Based on the bid, credentials, pricing and favorable reference checks, staff recommends awarding Construction Contract No. D&C18-004 Anthony Munoz Community Center Renovation to Hamel Contracting Inc., staff anticipates that the Anthony Munoz Community Center will be operational by Fall of 2021.

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING THE SUBMITTAL OF AN APPLICATION FOR A LOCAL GOVERNMENT WASTE TIRE CLEANUP GRANT (FISCAL YEAR 2020-21) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVER (CALRECYCLE)


RECOMMENDATION: That the City Council adopt a resolution approving the submittal of an application for approximately \$45,000 for a Local Government Waste Tire Cleanup Grant (Fiscal Year 2020-21) from CalRecycle and authorize the City Manager or his designee to execute all necessary documents to participate in the program.

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

FISCAL IMPACT: The City is applying for a Local Government Waste Tire Cleanup Grant for approximately \$45,000 for the eligible reimbursement costs related to the cleanup and recycling or disposal of waste tires. The grant funds will help offset the cost of personnel who are directly involved in collection and cleanup activities, as well as the recycling or disposal of the waste tires. There are no additional costs or matching fund requirements for the City to participate in this grant program. If approved, the associated revenue and expenditure appropriations will be included in the subsequent quarterly budget update report to the City Council.

BACKGROUND: CalRecycle administers the Local Government Waste Tire Cleanup Grant program to help pay for the cost of cleanup, abatement and other remedial actions related to the recycling or proper disposal of waste tires. Each year, the City handles approximately 6,500 waste tires, many of which have been illegally dumped around town. Although used tires are not collected as a part of the City's regular trash collection program, residents can either: return used tires to their place of purchase; bring their tires, not to exceed 4 tires per trip, to the City's Service Center at 1425 South Bon View Avenue; contact a local permitted used tire hauler and pay to have them collected; or take them to the West Valley Transfer Station located at 13373 Napa Street in Fontana and pay for disposal, currently listed as \$11.00 per tire.

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Thomas Coates
Department: MU/Integrated Waste
City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE SUBMITTAL OF AN APPLICATION FOR THE WASTE TIRE CLEANUP GRANT PROGRAM (FISCAL YEAR 2020-21) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE).

WHEREAS, Public Resources Code (PRC) Sections 40000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various Grant Programs (grants) in furtherance of the State of California's (State) efforts to reduce, recycle and reuse solid waste generated in the State thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority, CalRecycle is required to establish procedures governing the administration of the Waste Tire Cleanup Grant Program; and

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

NOW, THEREFORE, BE IT RESOLVED that the City of Ontario is authorized to submit an application to CalRecycle for the Waste Tire Cleanup Grant Program; and

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

BE IT FURTHER RESOLVED that this authorization is effective until rescinded by the signature authority or this Governing Body.

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

PASSED, APPROVED AND ADOPTED this 17th day of March 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 March 17, 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 March 17, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: EXTENSION OF TOWING SERVICE AGREEMENTS

RECOMMENDATION: That the City Council authorize the City Manager to extend the existing towing services agreements with Certified Towing, Inc., Dietz Towing, Inc., Fogelsong Towing and Storage, Inc.; United Road Service, DBA Bill and Wags, Inc., and Pepe's Towing Services, Inc., through June 30, 2020.

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

FISCAL IMPACT: None.

BACKGROUND: On April 7, 2015, the City Council executed towing services agreements with Certified Towing, Inc.; Dietz Towing, Inc.; Fogelsong Towing and Storage, Inc.; United Road Service, DBA Bill and Wags, Inc.; and Pepe's Towing Services, Inc. for a period of five years. The agreements were effective April 7, 2015 and will expire on April 6, 2020. The recommended extension period will allow staff to conduct a comprehensive public procurement process, including the issuance of a request for proposals, review of submittals, and the issuance of towing services agreements consistent with the Ontario Municipal Code provisions. The extension will also achieve the City Council's goal to Operate in a Businesslike Manner by aligning the towing services agreement dates with the start of the upcoming fiscal year. Staff anticipates that the procurement process will be completed in May 2020, with new agreements to become effective on July 1, 2020.

STAFF MEMBER PRESENTING: Derek Williams, Chief of Police

Prepared by: Douglas Sorel
Department: Police Department
City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
CONSENT CALENDAR

SUBJECT: RESOLUTIONS AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION AND ESTABLISHING AN ENVIRONMENTALLY PREFERABLE PURCHASING AND PRACTICES POLICY FOR DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE) GRANT PROGRAMS

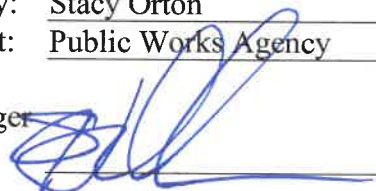
RECOMMENDATION: That the City Council take the following actions:

- (A) Adopt a resolution authorizing the submittal of an Illegal Disposal Site Abatement Grant Program application and all eligible grant programs with CalRecycle effective for five years from the date of adoption;
- (B) Adopt a resolution to establish an Environmentally Preferable Purchasing and Practices Policy as required for CalRecycle grant programs; and
- (C) Authorize the City Manager to execute any documentation necessary for the implementation and completion of the program including, but not limited to, applications, agreements, amendments, and payment requests.

COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Pursue City's Goals and Objectives by Working with Other Governmental Agencies
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: CalRecycle offers funding opportunities authorized by legislation to assist public and private entities in the safe and effective management of the waste stream. The Illegal Disposal Site Abatement Grant Program pursuant to section 48020 of the Public Resources Code provides for reimbursement grants on a competitive basis with potential grant request amounts up to, but not more than \$500,000. The recommended project is the implementation of new and additional illegal dumping measures with requested grant funds not to exceed \$443,734. There is no matching fund requirement for

STAFF MEMBER PRESENTING: Tito Haes, Executive Director Public Works

Prepared by: Stacy Orton
Department: Public Works Agency
City Manager: 
Approval: _____

Submitted to Council/O.H.A. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____

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the City to participate in this program. If awarded, appropriations and corresponding revenue will be included in the next quarterly budget update report to the City Council.

BACKGROUND: The intent of the CalRecycle Illegal Disposal Site Abatement Grant Program is to finance the cleanup of solid waste sites and solid waste at co-disposal sites where the responsible party either cannot be identified or is unwilling or unable to pay for timely remediations and where cleanup is needed to protect public health and safety and/or the environment. The recommended project is consistent with the grant program criteria including contract illegal dumping waste removal and disposal services for alleyways and other public right-of-way areas as well as implementation of security measures such as cameras and warning signage to prevent recurring illegal dumping in hot spot areas. The recommended resolutions are mandatory requirements of the CalRecycle grant application process.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING SUBMITTAL OF APPLICATION(S) FOR ALL CALRECYCLE GRANTS FOR WHICH THE CITY OF ONTARIO IS ELIGIBLE.

WHEREAS, Public Resources Code sections 48000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California's (state) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Ontario hereby authorizes the submittal of application(s) to CalRecycle for all grants for which City of Ontario is eligible, and

1. Delegates the authority to the City Manager is hereby authorized and empowered to execute in the name of the City of Ontario all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project; and

2. Agrees that these authorizations are effective for five (5) years from the date of adoption of this Resolution.

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

PASSED, APPROVED, AND ADOPTED this 17th day of March 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 March 17, 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 March 17, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,
CALIFORNIA, ESTABLISHING AN ENVIRONMENTALLY PREFERABLE
PURCHASING AND PRACTICES POLICY.

WHEREAS, Public Resources Code sections 48000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California's (state) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant's governing body to adopt an Environmentally Preferable Purchasing and Practices Policy;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Ontario hereby adopts an Environmentally Preferable Purchases and Practices Policy as follows:

SECTION 1. Purpose: As a large consumer of goods and services and the purchasing decisions and practices of City employees can affect the environment. By including environmental considerations in procurement decisions wherever possible, along with traditional concerns of price, performance, and availability, we will remain fiscally responsible while promoting practices that improve public health and safety, reduce pollution, and conserve natural resources. The purpose of this resolution is to establish environmentally based purchasing guidelines.

To meet these objectives, looking at alternatives for purchasing environmentally preferable ("green") and energy efficient products and services during procurement wherever feasible and cost-effective.

Purchasing objectives will include looking into alternatives for goods and services that:

- Conserve natural resources;
- Minimize environmental impacts such as greenhouse gas emissions, pollution and use of water and energy;
- Reduce materials that are put into landfills; and
- Increase the use and availability of environmentally preferable products that protect the environment

SECTION 2. Balancing Environmental Considerations with Performance, Availability and Financial Cost: A commitment to procuring environmentally preferable good and services where they meet performance standards and requirements of the City

at a competitive cost. Nothing in this policy shall be construed as requiring the City to procure products that do not perform adequately for their intended use, or are not available at a reasonable price, or within a reasonable period of time.

SECTION 3. Defining Environmentally Preferable Products and Services: In general, environmentally preferable products and services are those that would have a reduced effect on human health and the environment when compared with competing products and services.

In practice, the objective is to consider purchasing products that have a reduced adverse environmental impact. The City will seek products that minimize pollution and waste, maximize use of recycled materials, conserve energy and water, and reduce the consumption or disposal of hazardous materials.

SECTION 4. Departmental Responsibilities: Wherever practicable and cost-effective, departments are responsible to institute practices that reduce waste and result in the purchase of products without compromising safety and quality.

Each department will be responsible to exercise due diligence in their procurement decisions, promoting the purchase and use of environmentally preferable products and services wherever cost effective, and to the extent practicable, apply to all activities completed on behalf of the City.

SECTION 5. Program Evaluation: Each Department shall periodically evaluate the success of this policy implementation and work with appropriate personnel to address obstacles in carrying out policy objectives.

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

PASSED, APPROVED, AND ADOPTED this 17th day of March 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 March 17, 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 March 17, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 53 (TEVELDE FACILITIES); ADOPTION OF A RESOLUTION TO INCUR BONDED INDEBTEDNESS; AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES

RECOMMENDATION: That the City Council consider and:

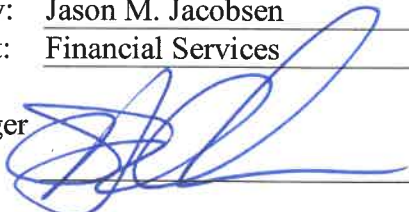
- (A) Adopt a resolution establishing Community Facilities District No. 53 (Tevelde Facilities), authorizing the levy of special taxes within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution deeming it necessary to incur bonded indebtedness within Community Facilities District No. 53 (Tevelde Facilities);
- (C) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 53 (Tevelde Facilities);
- (D) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
- (E) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 53 (Tevelde Facilities); and
- (F) Adopt a resolution authorizing the execution and delivery of an acquisition and funding agreement with LS-Ontario LLC, a Delaware corporation.

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)

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. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____

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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 bonds 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. With the adoption of Resolution 2019-005 on February 5, 2019, the City Council authorized the levy of special taxes to fund various city services for the district. Under the Mello-Roos Act, the initial steps in the formation of a community facilities district to finance public improvements are adopting resolutions declaring the intention to establish a community facilities district, authorize the levy of special taxes, and to issue bonds. Accordingly, on 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 Resolution No. 2020-012, declaring the City Council's intention to issue bonds for the district. The Resolution of Intention set the public hearing date for the regularly scheduled City Council meeting on March 17, 2020, to consider formation matters.

In the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony ("First Amended and Restated Construction Agreement") between the City and NMC Builders LLC, the City agreed to cooperate with the members of NMC Builders, LLC in the formation of community facilities districts to assist in the financing of the public improvements included in the agreement. LS-Ontario LLC and ARROYO CAP VII, LLC, have provided written petitions to the City requesting formation of a community facilities district for the Tevelde project in Ontario Ranch. 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.

Included, as part of the resolution of formation is the proposed Rate and Method of Apportionment of Special Tax for the District. Under the proposed Rate and Method of Apportionment, the portion of the maximum annual special tax rates which will be used to fund debt service payments on the bonds is fixed and will not increase over time. As proposed, the amount of bonds authorized for the district (\$70 million) is set intentionally higher than the current estimated bond amount (approximately \$18.5 million) in order to allow future City Councils the option, without increasing the amount of the annual special taxes, to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund City services. The term and structure of the Rate and Method of Apportionment of Special Tax for the Tevelde project is consistent with those of previously adopted Rates and Methods of Apportionment for Ontario Ranch community facilities districts. This ensures that the special tax rates levied on all residential property owners in community facilities districts in Ontario Ranch are developed in a consistent and equivalent manner. In addition, under the provisions of the Mello-Roos Act, to ensure that home buyers are making an informed

decision, all residential builders in the Ontario Ranch districts will be required to disclose the maximum annual special tax amount to each homeowner before entering into a sales contract.

Attached are five resolutions and an ordinance. The first resolution establishes the community facilities district, with the rate and method of apportionment of special taxes, and authorizes the levy of special taxes within the district. The second resolution deems the necessity of incurring bonded indebtedness for the district. The third calls for a special landowner election to be held on March 17, 2020. The fourth resolution declares the results of the election, including a statement from the City Clerk as to the canvass of ballots, and directs the recording of the Notice of Special Tax Lien. The ordinance authorizes the levying of special taxes, and the final resolution authorizes the execution and delivery of an acquisition and funding agreement with LS-Ontario LLC.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 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.

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" (the "Resolution of Intention"), stating its intention to establish a community facilities district (the "Community Facilities District") proposed to be named City of Ontario Community Facilities District No. 53 (Tevelde Facilities), to authorize the levy of special taxes within the Community Facilities District to finance certain public facilities and services and setting the date for a public hearing to be held on the establishment of the Community Facilities District; and

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

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

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

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

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

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

WHEREAS, there has been filed with the City Clerk of the City a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of February 24, 2020, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the proposed Community Facilities District for each of the 90 days preceding the close of said public hearing; and

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

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

WHEREAS, the City and LS-ONTARIO LLC (“LS-ONTARIO”) entered into a Deposit and Reimbursement Agreement, dated as of February 1, 2020 (the “Deposit Agreement”), that provides for the advancement of funds by LS-ONTARIO 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 LS-ONTARIO of such funds advanced, without interest, from the proceeds of any such bonds issued by the Community Facilities District; and

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

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

SECTION 1. The foregoing recitals are true and correct.

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

SECTION 3. The Community Facilities District is hereby named "City of Ontario Community Facilities District No. 53 (Tevelde Facilities)."

SECTION 4. The public facilities (the "Facilities") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Facilities" on Exhibit A hereto, which is by this reference incorporated herein. Those Facilities proposed to be purchased as completed public facilities are described under the caption "Facilities to be Purchased" on Exhibit A hereto. The services (the "Services") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Services" on Exhibit A hereto. The incidental expenses proposed to be incurred are identified under the caption "Incidental 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 5. The proposed special tax to be levied within the Community Facilities District has not been precluded by majority protest pursuant to Section 53324 of the Act.

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

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

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

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

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

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

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

SECTION 12. The boundary map of the Community Facilities District has been recorded in San Bernardino County in Book 89 at Page 11 of Maps of Assessments and Community Facilities Districts in the San Bernardino County Recorder's Office (Document No. 2020-0044799).

SECTION 13. The annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the Community Facilities District is hereby established at \$70,000,000.

SECTION 14. Pursuant to the provisions of the Act, the levy of the special tax and a proposition to establish the appropriations limit specified above shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of February 24, 2020, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the

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

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

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

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

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

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

PASSED, APPROVED and ADOPTED this 17th day of March 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 March 17, 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 March 17, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

FACILITIES, SERVICES AND INCIDENTAL EXPENSES

Facilities

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

Facilities to be Purchased

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

Services

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

Incidental Expenses

The incidental expenses proposed to be incurred include the following:

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

EXHIBIT B

PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT B

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT No. 53 (TEVELDE 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. 53 (Tevelde Facilities) ("CFD No. 53") 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. 53, 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. 53: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 53 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. 53 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 53 of complying with City, CFD No. 53, 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. 53 related to the analysis and reduction, if any, of the Special Tax on Residential Property in accordance with Section C.1 herein; the costs of the City or CFD No. 53 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. 53; and amounts estimated or advanced by the City or CFD No. 53 for any other administrative purposes

of CFD No. 53, 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. 53 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. 53 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. 53" means City of Ontario Community Facilities District No. 53 (Tevelde 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. 53.

"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 432 Buildable Lots of Residential Property or, as determined by the CFD Administrator, the number of Buildable Lots of Residential Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

“**Facilities**” means the public facilities authorized to be financed, in whole or in part, by CFD No. 53.

“**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.

“Other 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 Detached One Story Property and Single Family Detached Property, or for purposes of constructing one or more non-residential structures or facilities.

“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. 53 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. 53 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 53, (ii) the City, (iii) any owner of real property in CFD No. 53, or (iv) any real property in CFD No. 53, and (e) is not connected with CFD No. 53 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 53 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. 53 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. 53 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 residential Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be as set forth in the building permit(s) issued for such Assessor’s Parcel, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 53. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor’s Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

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

“Services” means the services authorized to be financed, in whole or in part, by CFD No. 53.

“Single Family Detached One Story Property” means all Assessor’s Parcels of Residential 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, contains one floor of living area at the time the Unit is constructed, and is located within TTM 18929 or TTM 18930.

“Single Family Detached Property” means all Assessor’s Parcels of Residential 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, and is not Single Family Detached One Story Property.

“Special Tax” means the special tax authorized by the qualified electors of CFD No. 53 to be levied within the boundaries of CFD No. 53.

“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. 53 to: (i) pay debt service on all Outstanding Bonds which is due in the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including, but not limited to, credit enhancement and rebate payments on the

Bonds; (iii) pay Administrative Expenses; (iv) provide any amounts required to establish or replenish any reserve fund for the Bonds; (v) pay directly for acquisition or construction of Facilities, or the cost of Services, to the extent that the inclusion of such amounts does not increase the Special Tax levy on Final Mapped Property or Undeveloped Property; (vi) provide an amount equal to Special Tax delinquencies based on the historical delinquency rate for the Special Tax as determined by the CFD Administrator.

“Square Footage” or “Sq. Ft.” means the floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 53, issued for construction of Residential Property or Other Property, plus any square footage subsequently added to a building of Other 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. 53 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 18929” means Tentative Tract Map No. 18929, the area of which is located within CFD No. 53.

“**TTM 18930**” means Tentative Tract Map No. 18930, the area of which is located within CFD No. 53.

“**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. 53 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 18, and Assessor’s Parcels of Single Family Detached One Story Property shall be assigned to Land Use Classes 19 through 22, as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor’s Parcels. Other Property shall be assigned to Land Use Class 23.

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. 53 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class. If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to Units within one or more Land Use Classes of Residential Property to be constructed within CFD No. 53 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. 53. Upon receipt thereof, if in satisfactory form, CFD No. 53 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. 53.

The Special Tax reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien which CFD No. 53 shall cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by CFD No. 53. The reductions in this section apply to Residential Property, but not to Other 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	\$2,529 per Unit
2	Single Family Detached Property	2,201 – 2,300	\$2,642 per Unit
3	Single Family Detached Property	2,301 – 2,400	\$2,798 per Unit
4	Single Family Detached Property	2,401 – 2,500	\$2,956 per Unit
5	Single Family Detached Property	2,501 – 2,600	\$3,049 per Unit

6	Single Family Detached Property	2,601 – 2,700	\$3,094 per Unit
7	Single Family Detached Property	2,701 – 2,800	\$3,260 per Unit
8	Single Family Detached Property	2,801 – 2,900	\$3,329 per Unit
9	Single Family Detached Property	2,901 – 3,000	\$3,484 per Unit
10	Single Family Detached Property	3,001 – 3,100	\$3,639 per Unit
11	Single Family Detached Property	3,101 – 3,200	\$3,657 per Unit
12	Single Family Detached Property	3,201 – 3,300	\$3,770 per Unit
13	Single Family Detached Property	3,301 – 3,400	\$3,974 per Unit
14	Single Family Detached Property	3,401 – 3,500	\$3,998 per Unit
15	Single Family Detached Property	3,501 – 3,600	\$4,108 per Unit
16	Single Family Detached Property	3,601 – 3,700	\$4,221 per Unit
17	Single Family Detached Property	3,701 – 3,800	\$4,356 per Unit
18	Single Family Detached Property	> 3,800	\$4,437 per Unit
	Single Family Detached:		
19	One Story Property	< 2,201	\$2,946 per Unit
20	One Story Property	2,201 – 2,300	\$3,042 per Unit
21	One Story Property	2,301 – 2,400	\$3,123 per Unit
22	One Story Property	> 2,400	\$3,198 per Unit
23	Other Property TTM 18929 TTM 18930		\$33,652 per Acre \$33,652 per Acre

3) *Backup Special Tax*

The Backup Special Tax shall be \$3,412 per Unit for Residential Property. However, if the Expected Residential Lot Count does not equal 432, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Residential Property shall be calculated according to the following formula:

$$\begin{aligned} \text{Backup Special Tax} &= \$33,652 \\ &\times \text{Acreage of Designated Buildable Lots} \\ &\quad \text{of Residential Property} \\ &\div \text{Expected Residential Lot Count for} \\ &\quad \text{Residential Property} \end{aligned}$$

If any portion of a Final Subdivision Map, or any area expected by CFD No. 53 to become Final Mapped Property, such as the area within TTM 18929, TTM 18930, or any other Tentative Tract Map, changes any time after the City has issued Bonds, causing an

adjustment to the number of Designated Buildable Lots, then the Backup Special Tax for all Designated Buildable Lots of Residential Property subject to the change shall be calculated according to the following steps:

Step 1: Determine the total Backup Special Taxes that could have been collected from Designated Buildable Lots, separately for each Tentative Tract Map, prior to the Final Subdivision Map or expected Final Mapped Property change.

Step 2: Divide the amount(s) determined in Step 1 by the number of Designated Buildable Lots, separately for each Tentative Tract Map, that exists after the Final Subdivision Map or expected Final Mapped Property change.

Step 3: Apply the amount(s) determined in Step 2 as the Backup Special Tax per Unit for Residential Property for each Tentative Tract Map.

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

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

The Maximum Special Tax for Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property shall be \$33,652 per Acre for such property in TTM 18929, and \$33,652 per Acre for such property in TTM 18930, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

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

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

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Each Fiscal Year, beginning with Fiscal Year 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 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. 53 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 24.26 Acres of Public Property and up to 8.74 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. 53 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 \$20,542,000 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. 53.

“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. 53 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. 53, 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. 53, excluding any Assessor’s Parcels which have been prepaid.
4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the “Bond Redemption Amount”).
5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the “Redemption Premium”).
6. Compute the current Future Facilities Costs.
7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the “Future Facilities Amount”).

8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.
10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the "Defeasance Amount".
11. Verify the administrative fees and expenses of CFD No. 53, 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. 53.

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. 53 (after excluding 24.26 Acres of Public Property and 8.74 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. 53 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. 53 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. 53 (Tevelde Facilities) (“CFD No. 53”), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 53 has been modified.
 - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 53, as stated in Section C.1.a.2 of the Rate and Method, 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 – 2,300	[\$] per Unit
3	Single Family Detached Property	2,301 – 2,400	[\$] per Unit
4	Single Family Detached Property	2,401 – 2,500	[\$] per Unit
5	Single Family Detached Property	2,501 – 2,600	[\$] per Unit
6	Single Family Detached Property	2,601 – 2,700	[\$] per Unit
7	Single Family Detached Property	2,701 – 2,800	[\$] per Unit
8	Single Family Detached Property	2,801 – 2,900	[\$] per Unit
9	Single Family Detached Property	2,901 – 3,000	[\$] per Unit
10	Single Family Detached Property	3,001 – 3,100	[\$] per Unit
11	Single Family Detached Property	3,101 – 3,200	[\$] per Unit
12	Single Family Detached Property	3,201 – 3,300	[\$] per Unit
13	Single Family Detached Property	3,301 – 3,400	[\$] per Unit
14	Single Family Detached Property	3,401 – 3,500	[\$] per Unit
15	Single Family Detached Property	3,501 – 3,600	[\$] per Unit
16	Single Family Detached Property	3,601 – 3,700	[\$] per Unit

EXHIBIT A

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

17	Single Family Detached Property	3,701 – 3,800	\$[] per Unit
18	Single Family Detached Property	> 3,800	\$[] per Unit
	Single Family Detached:		
19	One Story Property	< 2,201	\$[] per Unit
20	One Story Property	2,201 – 2,300	\$[] per Unit
21	One Story Property	2,301 – 2,400	\$[] per Unit
22	One Story Property	> 2,400	\$[] per Unit
23	Other Property TTM 18929 TTM 18930		\$[] per Acre \$[] 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 Residential Property. However, if the Expected Residential Lot Count does not equal 432, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Residential Property shall be calculated according to the following formula:

$$\text{Backup Special Tax} = \$[\text{_____}]$$

× Acreage of Designated Buildable Lots
of Residential Property

÷ Expected Residential Lot Count for
Residential Property

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 53 Bonds.
3. Upon execution of this Certificate by CFD No. 53, CFD No. 53 shall cause an amended notice of Special Tax lien for CFD No. 53 to be recorded reflecting the modifications set forth herein.

EXHIBIT A

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

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. 53
(TEVELDE FACILITIES)

By: _____

Date: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 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 authorize the levy of special taxes within the Community Facilities District to finance certain public facilities and services; and

WHEREAS, on February 4, 2020, the City Council also adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, to Incur Bonded Indebtedness of the Proposed City of Ontario Community Facilities District No. 53 (Tevelde Facilities)" (the "Resolution to Incur Bonded Indebtedness") declaring the necessity for incurring bonded indebtedness and setting the date for a public hearing to be held on the proposed debt issue; and

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

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

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

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

WHEREAS, on this date, the City Council adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 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”); and

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

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of February 24, 2020, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of said public hearing; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on March 17, 2020, and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on March 17, 2020.

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

SECTION 1. The foregoing recitals are true and correct.

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

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

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

SECTION 5. The maximum aggregate amount of debt to be incurred is \$70,000,000.

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

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

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

SECTION 9. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of February 24, 2020, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings held by the City Council on the proposed debt issue for the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 10. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), and (b) to the holding of said election on March 17, 2020. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on March 17, 2020.

SECTION 11. The date of the special community facilities district election (which shall be consolidated with the special district election to levy a special tax within the Community Facilities District) at which time the proposition shall be submitted to the voters is March 17, 2020.

SECTION 12. The election is to be conducted by mail ballot. The mailed ballots are required to be received in the office of the City Clerk no later than 7:30 p.m. on March 17, 2020; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

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

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

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

PASSED, APPROVED and ADOPTED this 17th day of March 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 March 17, 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 March 17, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,
CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 53 (TEVELDE FACILITIES).

WHEREAS, on this date, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 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"), establishing City of Ontario Community Facilities District No. 53 (Tevelde Facilities) (the "Community Facilities District"), authorizing the levy of a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District; and

WHEREAS, on this date, the City Council also adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 53 (Tevelde Facilities)" (the "Resolution Deeming it Necessary to Incur"), deeming it necessary to incur bonded indebtedness in the maximum amount of \$70,000,000; and

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

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

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of February 24, 2020, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings on the establishment of the Community Facilities District and the proposed debt issue for the Community Facilities District; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on March 17, 2020 and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on March 17, 2020; and

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

SECTION 1. Pursuant to Sections 53351, 53326 and 53325.7 of the Act, the propositions to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District shall be submitted to the qualified electors of the Community Facilities District at an election called therefor as provided below.

SECTION 2. The City Clerk is hereby designated as the official to conduct said election.

SECTION 3. As authorized by Section 53353.5 of the Act, the propositions to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District shall be combined into one ballot proposition.

SECTION 4. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of February 24, 2020, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings heretofore held by the City Council on the establishment of the Community Facilities District and the proposed debt issue for the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 5. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), (b) to the holding of said election on March 17, 2020, and (c) to the waiver of any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on March 17, 2020.

SECTION 6. The City Council hereby calls a special election to submit to the qualified electors of the Community Facilities District the combined proposition to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District, which election shall be held at 303 East B Street, Ontario, California, on March 17, 2020. The City Council has caused to be provided to the City Clerk, as the official to conduct said election, the Resolution of Formation, the Resolution of Deeming it Necessary to Incur, a certified map

of sufficient scale and clarity to show the boundaries of the Community Facilities District, and a sufficient description to allow the City Clerk to determine the boundaries of the Community Facilities District.

The voted ballots shall be returned to the City Clerk not later than 7:30 p.m. on March 17, 2020; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 7. Pursuant to Section 53326 of the Act, the election shall be conducted by mail or hand-delivered ballot pursuant to Section 4000 *et. seq.* of the California Elections Code. Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election.

SECTION 8. The form of the ballot for said election is attached hereto as Exhibit A and by this reference incorporated herein, and such form of ballot is hereby approved. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective landowner to which it pertains.

Each ballot shall be accompanied by all supplies and written instructions necessary for the use and return of the ballot. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the return postage prepaid, and shall contain: (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the voter, (d) the date of signing and place of execution of the declaration described in clause (b) above, and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

Analysis and arguments with respect to the ballot proposition are hereby waived, as provided in Section 53327 of the Act.

SECTION 9. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk at 303 East B Street, Ontario, California, to and including 7:30 p.m. on March 17, 2020, whether said ballots be personally delivered or received by mail. The City Clerk shall have available ballots which may be marked at said location on the election day by said qualified electors.

SECTION 10. The City Council hereby determines that the facilities and services financed by the Community Facilities District are necessary to meet increased demands placed upon local agencies as a result of development occurring in the Community Facilities District.

SECTION 11. The specific purposes of the bonded indebtedness proposed to be incurred is the financing of the Facilities (as defined in the Resolution of Formation), including all costs and estimated costs incidental to, or connected with, the accomplishment of such purpose, and the proceeds of such bonded indebtedness shall be applied only to such specific purposes.

Upon approval of the proposition to incur bonded indebtedness, and the sale of any bonds evidencing such indebtedness, the City Council shall take such action as may be necessary to cause to be established an account for deposit of the proceeds of sale of the bonds. For so long as any proceeds of the bonds remain unexpended, the Management Analyst, Financial Services of the City shall cause to be filed with the City Council, no later than January 1 of each year, a report stating (a) the amount of bond proceeds received and expended during the preceding year, and (b) the status of any project funded or to be funded from bond proceeds. Said report may relate to the calendar year, fiscal year, or other appropriate annual period, as the Management Analyst, Financial Services of the City shall determine, and may be incorporated into the annual budget, audit, or other appropriate routine report to the City Council.

SECTION 12. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 13. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED and ADOPTED this 17th day of March 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 March 17, 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 March 17, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

OFFICIAL BALLOT

CITY OF ONTARIO
March 17, 2020

SPECIAL ELECTION

This ballot is for a special, landowner election. The number of votes to be voted pursuant to this ballot is ____.

INSTRUCTIONS TO VOTERS:

To vote on the measure, mark a cross (+ or X) in the voting square after the word "YES" or after the word "NO". All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Ontario and obtain another.

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 53
(TEVELDE FACILITIES)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 53 (Tevelde Facilities) (the "Community Facilities District") be authorized to incur bonded indebtedness in a maximum aggregate amount of not to exceed \$70,000,000 and levy a special tax in order to finance certain facilities and services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$70,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 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" and the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 53 (Tevelde Facilities)," each adopted by the City Council of the City of Ontario on March 17, 2020?

Yes:

No:

RESOLUTION NO. _____

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

WHEREAS, on March 17, 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, Calling Special Election for City of Ontario Community Facilities District No. 53 (Tevelde Facilities)" (the "Resolution Calling Election"), calling for a special election of the qualified electors within City of Ontario Community Facilities District No. 53 (Tevelde Facilities) (the "Community Facilities District"); and

WHEREAS, pursuant to the terms of the Resolution Calling Election and the provisions of the Act, the special election was held on March 17, 2020; and

WHEREAS, the City Clerk of the City (the "City Clerk") has certified the canvass of the returns of the election and has filed a Canvass and Statement of Results of Election (the "Canvass"), a copy of which is attached hereto as Exhibit A; and

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

SECTION 1. The City Council has received, reviewed and hereby accepts the Canvass.

SECTION 2. The City Council hereby finds and declares that the ballot proposition submitted to the qualified electors of the Community Facilities District pursuant to the Resolution Calling Election has been passed and approved by such electors in accordance with Section 53328, Section 53355 and Section 53325.7 of the Act.

SECTION 3. The City Clerk is hereby directed to execute and cause to be recorded in the office of the County Recorder of the County of San Bernardino a notice of special tax lien in the form required by the Act, said recording to occur no later than fifteen days following adoption by the City Council of this Resolution.

SECTION 4. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 5. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED and ADOPTED this 17th day of March 2020.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

COLE HUBER LLP
CITY ATTORNEY

EXHIBIT A

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 53
(TEVELDE FACILITIES)

CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on March 17, 2020, I canvassed the returns of the special election held on March 17, 2020, for the City of Ontario Community Facilities District No. 53 (Tevelde Facilities), that the total number of ballots cast in said Community Facilities District and the total number of votes cast for and against the proposition are as follows and that the totals as shown for and against the proposition are true and correct:

	Qualified Landowner <u>Votes</u>	Votes <u>Cast</u>	<u>YES</u>	<u>NO</u>
City of Ontario Community Facilities District No. 53 (Tevelde Facilities) Special Election, March 17, 2020	70	—	—	—

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 53 (Tevelde Facilities) (the "Community Facilities District") be authorized to incur bonded indebtedness in a maximum aggregate amount of not to exceed \$70,000,000 and levy a special tax in order to finance certain facilities and services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$70,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 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" and the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 53 (Tevelde Facilities)," each adopted by the City Council of the City of Ontario on March 17, 2020?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 17th day of March 2020.

BY: _____
SHEILA MAUTZ, CITY CLERK

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 March 17, 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 March 17, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

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.

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

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 March 17, 2020 and adopted at the regular meeting held _____, 2020 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of the Ordinance No. _____ duly passed and adopted by the Ontario City Council at their regular meeting held _____ and that Summaries of the Ordinance were published on _____ and _____ in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACQUISITION AND FUNDING AGREEMENT WITH LS-ONTARIO LLC.

WHEREAS, certain real property within the boundaries of the City located generally south of State Route 60 is commonly known as the New Model Colony; and

WHEREAS, the City has approved a General Plan Amendment for the New Model Colony, which has been supplemented by certain water, recycled water and sewer master plans (as so supplemented, the "General Plan Amendment") and has certified an Environmental Impact Report and adopted a Mitigated Negative Declaration in connection with the General Plan Amendment (together, the "Environmental Impact Report"); and

WHEREAS, the City has specified in the General Plan Amendment and the Environmental Impact Report the major backbone transportation, water, sewer, storm drainage, parks, public safety infrastructure and fiber optic systems required to serve the New Model Colony; and

WHEREAS, the New Model Colony is now commonly referred to as the Ontario Ranch; and

WHEREAS, LS-ONTARIO LLC, a Delaware limited liability company ("LS-ONTARIO"), is developing certain of the property within the Ontario Ranch (the "Property"); and

WHEREAS, certain of such major backbone infrastructure is required to serve the Property; and

WHEREAS, the City and LS-ONTARIO desire to provide a mechanism to fund, in a timely manner, the costs of certain of such major backbone infrastructure required to serve the Ontario Ranch (the "Facilities") so that such development may occur; and

WHEREAS, in order to provide such a mechanism, the City has, pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 (the "Act"), established City of Ontario Community Facilities District No. 53 (Tevelde Facilities) (the "Community Facilities District"), the boundaries of which include a portion of the Property; and

WHEREAS, the Community Facilities District is authorized to levy special taxes within the Community Facilities District (the "Special Taxes") and issue special tax bonds (the "Bonds") secured by the Special Taxes in order to finance certain of the Facilities; and

WHEREAS, it is anticipated that Special Taxes will be levied by the Community Facilities District and that, from time to time, Bonds will be issued by the Community Facilities District; and

WHEREAS, LS-ONTARIO proposes to construct, or cause to be constructed, certain of the Facilities proposed to be financed by the Community Facilities Districts pursuant to the Act, and the City proposes to purchase such Facilities from LS-ONTARIO pursuant to an Acquisition and Funding Agreement by and between the City and LS-ONTARIO (such Acquisition and Funding Agreement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the "Acquisition Agreement"); and

WHEREAS, the City Council is the legislative body of the Community Facilities District; and

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

SECTION 1. The Acquisition Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. Each of the Mayor of the City, and such other member of the City Council as the Mayor may designate, the City Manager of the City and the Executive Director of Finance of the City, and such other officer or employee of the City as the City Manager may designate (the "Authorized Officers") is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the City, to execute and deliver the Acquisition Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Acquisition Agreement by such Authorized Officer.

SECTION 2. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 3. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED and ADOPTED this 17th day of March, 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 March 17, 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 March 17, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER THE ISSUANCE OF REVENUE BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY (“CMFA”), IN AN AMOUNT NOT TO EXCEED \$25,000,000, TO FINANCE AND REFINANCE THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF CERTAIN RESIDENTIAL LIVING, ASSISTED LIVING AND SKILLED NURSING COMPONENTS OF A CONTINUING CARE RETIREMENT COMMUNITY, LOCATED AT 1950 SOUTH MOUNTAIN AVENUE, AND THE PROPERTIES ADJACENT THERETO, ALL FOR THE SAME USE, OWNED AND OPERATED BY INLAND CHRISTIAN HOME, INC. (“ICH”)

RECOMMENDATION: That the City Council:

- (A) Conduct a public hearing under the requirements of the Tax and Equity Fiscal Responsibility Act (“TEFRA”) and the Internal Revenue Code of 1986 as amended (the “Code”); and
- (B) Adopt a resolution approving the issuance of the bonds by the CMFA for the benefit of Inland Christian Home, a California nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, or a subsidiary or affiliate thereof (the “Borrower”), to provide for the financing and refinancing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Code and the California Government Code Section 6500 (and following). The resolution will also authorize the City Manager or his designee to execute the Joint Exercise of Powers Agreement with CMFA.

COUNCIL GOALS: Pursue City’s Goals and Objectives by Working with Other Governmental Agencies
Focus Resources in Ontario’s Commercial and Residential Neighborhoods

STAFF MEMBER PRESENTING: Julie Bjork, Executive Director Housing and Neighborhood Preservation

Prepared by: Julie Bjork
Department: Housing and Neighborhood Preservation

City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2020
Approved: _____

Continued to: _____
Denied: _____

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FISCAL IMPACT: All costs and expenses related to the financing will be paid by Inland Christian Home (the “Borrower”). The City will have no liability for payment of the Bonds as the Bonds are payable solely from funds provided by the Borrower. The City will receive 25% of the issuance fee from CMFA (estimated at \$8,000) payable upon issuance of the bond. These funds will be deposited into the General Fund.

BACKGROUND: The Borrower requested that the CMFA serve as the municipal issuer of the Bonds in an aggregate principal amount not to exceed \$25,000,000 of tax-exempt revenue bonds. The proceeds of the Bonds will be used to enable the Borrower to finance and refinance the acquisition, construction, improvement and equipping of certain residential living, assisted living and skilled nursing components of a continuing care retirement community, located at 1950 South Mountain Avenue, Ontario, California 91762, and the properties adjacent thereto, all for the same use, to be owned and operated by the Borrower.

In order for all or a portion of the Bonds to qualify as tax-exempt bonds, the City of Ontario must conduct a public hearing (the “TEFRA Hearing”) providing for the members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project. Prior to such TEFRA Hearing, reasonable notice must be provided to the members of the community. Following the close of the TEFRA Hearing, an “applicable elected representative” of the governmental unit hosting the Project must provide its approval of the issuance of the Bonds for the financing and refinancing of the Project.

ICH provides independent living, assisted living, memory care, adult day care, skilled nursing, and custodial home care to approximately 250 residents and clients. ICH is a non-profit organization and all revenues are reinvested back into the operations of the facility. The operations are governed by a volunteer Board of Directors. The President of the Board is Joe De Hoog and the Executive Director of the facility is David Stienstra.

Many areas of the ICH campus require modernization and modification to meet current standards and the expanded campus size. A portion of these funds will allow ICH to complete the following construction projects that address parking, information technology, ADA compliance, security and safety, and modernization of aging areas. These projects are essential to ICH’s long-range success and sustained relevance.

The CMFA was created on January 1, 2004 pursuant to a joint exercise of powers agreement to promote economic, cultural and community development through the financing of economic development and charitable activities throughout California. To date, over 300 municipalities have become members of CMFA. The CMFA was formed to assist local governments, non-profit organizations and businesses with the issuance of taxable and tax-exempt bonds aimed at improving the standard of living in California.

For the CMFA to have the authority to serve as the issuer of the Bonds for the Project, it is necessary for the City of Ontario to become a member of the CMFA. Attached to this report is a copy of the Joint Exercise of Powers Agreement to be executed by a designated signatory of the City.

The Joint Exercise of Powers Agreement provides that the CMFA is a public entity, separate and apart from each member executing such agreement. The debts, liabilities and obligations of the CMFA do not constitute debts, liabilities or obligations of the City.

The Bonds to be issued by the CMFA for the Project will be the sole responsibility of the Borrower, and the City will have no financial, legal, moral obligation, liability or responsibility for the Project or the

repayment of the Bonds for the financing of the Project. All financing documents with respect to the issuance of the Bonds will contain clear disclaimers that the Bonds are not obligations of the City or the State of California but are to be paid for solely from funds provided by the Borrower.

There are no costs associated with membership in the CMFA and the City will not be exposed to any financial liability by reason of its membership in the CMFA. In addition, participation by the City in the CMFA will not impact the City's appropriations limits and will not constitute any type of indebtedness by the City. Outside of holding the TEFRA hearing, adopting the required resolution and executing the Joint Exercise of Powers Agreement of the CMFA, no other participation or activity of the City or the City Council with respect to the issuance of the Bonds will be required.

The Joint Exercise of Powers Agreement expressly provides that any member may withdraw from such agreement upon written notice to the Board of Directors of the CMFA. In the case of the proposed bond financing for the Borrower, the City following its execution of the Joint Exercise of Powers Agreement, could, at any time following the issuance of the Bonds, withdraw from the CMFA by providing written notice to the Board of Directors of the CMFA.

Staff recommends with the adoption of the resolution in order to support efforts to provide quality senior care and services within Ontario.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING, AUTHORIZING, AND DIRECTING THE EXECUTION OF A JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY, APPROVING THE ISSUANCE OF QUALIFIED 501(C)(3) BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000 FOR THE PURPOSE OF FINANCING AND REFINANCING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF CERTAIN COMPONENTS OF A CONTINUING CARE RETIREMENT COMMUNITY, AND PROPERTIES ADJACENT THERETO, ALL FOR THE SAME USE, TO BE OWNED AND OPERATED BY INLAND CHRISTIAN HOME, INC. AND LOCATED IN THE CITY OF ONTARIO AND CERTAIN OTHER MATTERS PERTAINING THERETO.

WHEREAS, pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), certain public agencies (the "Members") have entered into a Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority dated as of January 1, 2004 (the "Agreement") in order to form the California Municipal Finance Authority (the "CMFA"), for the purpose of promoting economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes or other evidences of indebtedness.

WHEREAS, the City of Ontario (the "City") proposes to become a Member of the Authority pursuant to Section 12 of the Agreement.

WHEREAS, Inland Christian Home, Inc. (the "Borrower"), a nonprofit public benefit corporation organized and existing under the laws of the State of California and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code"), has requested that the CMFA issue and sell its qualified 501(c)(3) bonds as defined in Section 145 of the Code for hospitals and health care facilities, in one or more series, in an aggregate principal amount not to exceed \$25,000,000 (the "Bonds") for the purpose of making a loan to the Borrower to enable the Borrower to finance and refinance the costs of the acquisition, construction, improvement and equipping of certain residential living, assisted living and skilled nursing components of a continuing care retirement community with the street address of 1950 South Mountain Avenue, Ontario, California 91762, and properties adjacent to such location, for the same use, all to be owned and operated by the Borrower (the "Project"). The Project location is located entirely within the territorial limits of the City of Ontario.

WHEREAS, in order for the interest on the Bonds to be tax-exempt, Section 147(f) of the Code requires that an "applicable elected representative" of the governmental unit, the geographic jurisdiction of which contains the site of facilities to be financed and refinanced with the proceeds of the Bonds, hold a public hearing on the issuance of the Bonds and approve the issuance of the Bonds following such hearing.

WHEREAS, the CMFA has determined that the City Council can be the “applicable elected representatives” for purposes of holding such public hearing.

WHEREAS, the CMFA has requested that the City Council approve the issuance of the Bonds by the CMFA in order to satisfy the public approval requirement of Section 147(f) of the Code, and the requirements of Section 4 of the Agreement.

WHEREAS, notice of such public hearing has been duly given as required by the Code, and this City Council has heretofore held such public hearing at which all interested persons were given an opportunity to be heard on all matters relative to the financing or refinancing of the Project and the CMFA’s issuance of the Bonds therefor.

WHEREAS, it is in the public interest and there are significant public benefits from the issuance of the Bonds for the financing and refinancing of the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ONTARIO AS FOLLOWS:

SECTION 1. The City Council of the City of Ontario hereby finds, determines and declares that the above recitals are true and correct.

SECTION 2. The Agreement, attached hereto as Exhibit A, is hereby approved and the City Manager, the City Clerk and all the other proper officers and officials of the City, or a designee thereof, are hereby authorized and directed to execute and deliver the Agreement. The City hereby requests to become a Member of the Authority pursuant to Section 12 of the Agreement. The City Council hereby approves the addition of the City as a Member of the Authority.

SECTION 3. The City Council hereby approves the issuance of the Bonds by the CMFA and finds the Project will create the significant public benefits set forth in foregoing recitals. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds (a) by an “applicable elected representative” of the governmental unit having jurisdiction over the area in which the Project is located in accordance with Section 147(f) of the Code; and (b) by the City Council in accordance with Section 4 of the Agreement.

SECTION 4. The issuance of the Bonds shall be subject to approval by the CMFA of all financing documents relating thereto to which the CMFA is a party. The City shall have no responsibility or liability whatsoever with respect to the Bonds. The City does not bear any responsibility for the tax-exempt status of the Bonds, the debt service on the Bonds or any other matter related to the Bonds.

SECTION 5. The adoption of this Resolution shall not obligate the City or any official, officer, employee, agent or department thereof to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, construction, improvement and equipping or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the CMFA; or (iv) take any further action with respect to the CMFA or its membership therein.

SECTION 6. The City Manager, the City Clerk, and all other proper officers and officials of the City are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary to effect the purposes of this Resolution and the transactions herein authorized.

SECTION 7. The Clerk shall forward a certified copy of this Resolution to each of (i) CMFA in care of its special counsel and (ii) bond counsel:

Ronald E. Lee, Esq.
Jones Hall, a Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, CA 94111

Mayling Leong
Orrick, Herrington & Sutcliffe, LLP
400 Capitol Mall, Suite 3000
Sacramento, CA 95814

SECTION 8. This Resolution shall take effect immediately upon its passage.

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

PASSED, APPROVED, AND ADOPTED this 17th day of February 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 March 17, 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 March 17, 2020.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

**JOINT EXERCISE OF POWERS AGREEMENT
RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY**

THIS AGREEMENT, dated as of January 1, 2004, among the parties executing this Agreement (all such parties, except those which have withdrawn as provided herein, are referred to as the "Members" and those parties initially executing this Agreement are referred to as the "Initial Members"):

WITNESSETH

WHEREAS, pursuant to Title 1, Division 7, Chapter 5 of the California Government Code (in effect as of the date hereof and as the same may from time to time be amended or supplemented, the "Joint Exercise of Powers Act"), two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, each of the Members is a "public agency" as that term is defined in Section 6500 of the Joint Exercise of Powers Act; and

WHEREAS, each of the Members is empowered by law to promote economic, cultural and community development, including, without limitation, the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, the increase of the tax base, and the promotion of opportunities for education, cultural improvement and public health, safety and general welfare; and

WHEREAS, each of the Members may accomplish the purposes and objectives described in the preceding preamble by various means, including through making grants, loans or providing other financial assistance to governmental and nonprofit organizations; and

WHEREAS, each Member is also empowered by law to acquire and dispose of real property for a public purpose; and

WHEREAS, the Joint Exercise of Powers Act authorizes the Members to create a joint exercise of powers entity with the authority to exercise any powers common to the Members, as specified in this Agreement and to exercise the additional powers granted to it in the Joint Exercise of Powers Act and any other applicable provisions of the laws of the State of California; and

WHEREAS, a public entity established pursuant to the Joint Exercise of Powers Act is empowered to issue or execute bonds, notes, commercial paper or any other evidences of indebtedness, including leases or installment sale agreements or certificates of participation therein (herein "Bonds"), and to otherwise undertake financing programs under the Joint Exercise of Powers Act or other applicable provisions of the laws of the State of California to accomplish its public purposes; and

WHEREAS, the Members have determined to specifically authorize a public entity authorized pursuant to the Joint Exercise of Powers Act to issue Bonds pursuant to the Joint Exercise of Powers Act or other applicable provisions of the laws of the State of California; and

WHEREAS, it is the desire of the Members to use a public entity established pursuant to the Joint Exercise of Powers Act to undertake the financing and/or refinancing of projects of any nature, including, but not limited to, capital or working capital projects, insurance, liability or retirement programs or facilitating Members use of existing or new financial instruments and mechanisms; and

WHEREAS, it is further the intention of the Members that the projects undertaken will result in significant public benefits to the inhabitants of the jurisdictions of the Members; and

WHEREAS, by this Agreement, each Member desires to create and establish the “California Municipal Finance Authority” for the purposes set forth herein and to exercise the powers provided herein;

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

Section 1. Purpose.

This Agreement is made pursuant to the provisions of the Joint Exercise of Powers Act. The purpose of this Agreement is to establish a public entity for the joint exercise of powers common to the Members and for the exercise of additional powers given to a joint powers entity under the Joint Powers Act or any other applicable law, including, but not limited to, the issuance of Bonds for any purpose or activity permitted under the Joint Exercise of Powers Act or any other applicable law. Such purpose will be accomplished and said power exercised in the manner hereinafter set forth.

Section 2. Term.

This Agreement shall become effective in accordance with Section 17 as of the date hereof and shall continue in full force and effect until such time as it is terminated in writing by all the Members; provided, however, that this Agreement shall not terminate or be terminated until all Bonds issued or caused to be issued by the Authority (defined below) shall no longer be outstanding under the terms of the indenture, trust agreement or other instrument pursuant to which such Bonds are issued, or unless a successor to the Authority assumes all of the Authority’s debts, liabilities and obligations.

Section 3. Authority.

A. CREATION AND POWERS OF AUTHORITY.

Pursuant to the Joint Exercise of Powers Act, there is hereby created a public entity to be known as the “California Municipal Finance Authority” (the “Authority”), and said Authority shall be a public entity separate and apart from the Members. Its

debts, liabilities and obligations do not constitute debts, liabilities or obligations of any Members.

B. BOARD.

The Authority shall be administered by the Board of Directors (the “Board,” or the “Directors” and each a “Director”) of the California Foundation for Stronger Communities, a nonprofit public benefit corporation organized under the laws of the State of California (the “Foundation”), with each such Director serving in his or her individual capacity as a Director of the Board. The Board shall be the administering agency of this Agreement and, as such, shall be vested with the powers set forth herein, and shall administer this Agreement in accordance with the purposes and functions provided herein. The number of Directors, the appointment of Directors, alternates and successors, their respective terms of office, and all other provisions relating to the qualification and office of the Directors shall be as provided in the Articles and Bylaws of the Foundation, or by resolution of the Board adopted in accordance with the Bylaws of the Foundation.

All references in this Agreement to any Director shall be deemed to refer to and include the applicable alternate Director, if any, when so acting in place of a regularly appointed Director.

Directors may receive reasonable compensation for serving as such, and shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a Director, if the Board shall determine that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

The Foundation may be removed as administering agent hereunder and replaced at any time by amendment of this Agreement approved as provided in Section 16; provided that a successor administering agent of this Agreement has been appointed and accepted its duties and responsibilities under this Agreement.

C. OFFICERS; DUTIES; OFFICIAL BONDS.

The officers of the Authority shall be the Chair, Vice-Chair, Secretary and Treasurer (defined below). The Board, in its capacity as administering agent of this Agreement, shall elect a Chair, a Vice-Chair, and a Secretary of the Authority from among Directors to serve until such officer is re-elected or a successor to such office is elected by the Board. The Board shall appoint one or more of its officers or employees to serve as treasurer, auditor, and controller of the Authority (the “Treasurer”) pursuant to Section 6505.6 of the Joint Exercise of Powers Act to serve until such officer is re-elected or a successor to such office is elected by the Board.

Subject to the applicable provisions of any resolution, indenture, trust agreement or other instrument or proceeding authorizing or securing Bonds (each such resolution, indenture, trust agreement, instrument and proceeding being herein referred to as an “Indenture”) providing for a trustee or other fiscal agent, and except as may otherwise be

specified by resolution of the Board, the Treasurer is designated as the depository of the Authority to have custody of all money of the Authority, from whatever source derived and shall have the powers, duties and responsibilities specified in Sections 6505, 6505.5 and 6509.5 of the Joint Exercise of Powers Act.

The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond with the Secretary of the Authority in the amount specified by resolution of the Board but in no event less than \$1,000.

The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

The Board shall have the power, by resolution, to the extent permitted by the Joint Exercise of Power Act or any other applicable law, to delegate any of its functions to one or more of the Directors or officers, employees or agents of the Authority and to cause any of said Directors, officers, employees or agents to take any actions and execute any documents or instruments for and in the name and on behalf of the Board or the Authority.

D. MEETINGS OF THE BOARD.

(1) Ralph M. Brown Act.

All meetings of the Board, including, without limitation, regular, adjourned regular, special, and adjourned special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code of the State of California), or any successor legislation hereinafter enacted (the "Brown Act").

(2) Regular Meetings.

The Board shall provide for its regular meetings; provided, however, it shall hold at least one regular meeting each year. The date, hour and place of the holding of the regular meetings shall be fixed by resolution of the Board. To the extent permitted by the Brown Act, such meetings may be held by telephone conference.

(3) Special Meetings.

Special meetings of the Board may be called in accordance with the provisions of Section 54956 of the Government Code of the State of California. To the extent permitted by the Brown Act, such meetings may be held by telephone conference.

(4) Minutes.

The Secretary of the Authority shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director.

(5) Quorum.

A majority of the Board shall constitute a quorum for the transaction of business. No action may be taken by the Board except upon the affirmative vote of a majority of the Directors constituting a quorum, except that less than a quorum may adjourn a meeting to another time and place.

E. RULES AND REGULATIONS.

The Authority may adopt, from time to time, by resolution of the Board such rules and regulations for the conduct of its meetings and affairs as may be required.

Section 4. Powers.

The Authority shall have the power, in its own name, to exercise the common powers of the Members and to exercise all additional powers given to a joint powers entity under any of the laws of the State of California, including, but not limited to, the Joint Exercise of Powers Act, for any purpose authorized under this Agreement. Such powers shall include the common powers specified in this Agreement and may be exercised in the manner and according to the method provided in this Agreement. The Authority is hereby authorized to do all acts necessary for the exercise of such power, including, but not limited to, any of all of the following: to make and enter into contracts; to employ agents and employees; to acquire, construct, provide for maintenance and operation of, or maintain and operate, any buildings, works or improvements; to acquire, hold or dispose of property wherever located; to incur debts, liabilities or obligations; to receive gifts, contributions and donations of property, funds, services, and other forms of assistance from person, firms, corporations and any governmental entity; to sue and be sued in its own name; to make grants, loans or provide other financial assistance to governmental and nonprofit organizations (e.g., the Members or the Foundation) to accomplish any of its purposes; and generally to do any and all things necessary or convenient to accomplish its purposes.

Without limiting the generality of the foregoing, the Authority may issue or cause to be issued Bonds, and pledge any property or revenues as security to the extent permitted under the Joint Exercise of Powers Act, or any other applicable provision of law; provided, however, the Authority shall not issue Bonds with respect to any project located in the jurisdiction of one or more Members unless the governing body of any such Member, or its duly authorized representative, shall approve, conditionally or unconditionally, the project, including the issuance of Bonds therefor. Such approval may be evidenced by resolution, certificate, order, report or such other means of written approval of such project as may be selected by the Member (or its authorized representative) whose approval is required. No such approval shall be required in

connection with Bonds that refund Bonds previously issued by the Authority and approved by the governing board of a Member.

The manner in which the Authority shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which a California general law city could exercise such powers and perform such duties. The manner in which the Authority shall exercise its powers and perform its duties shall not be subject to any restrictions applicable to the manner in which any other public agency could exercise such powers or perform such duties, whether such agency is a party to this Agreement or not.

Section 5. Fiscal Year.

For the purposes of this Agreement, the term “Fiscal Year” shall mean the fiscal year as established from time to time by resolution of the Board, being, at the date of this Agreement, the period from July 1 to and including the following June 30, except for the first Fiscal Year which shall be the period from the date of this Agreement to June 30, 2004.

Section 6. Disposition of Assets.

At the end of the term hereof or upon the earlier termination of this Agreement as set forth in Section 2, after payment of all expenses and liabilities of the Authority, all property of the Authority both real and personal shall automatically vest in the Members in the manner and amount determined by the Board in its sole discretion and shall thereafter remain the sole property of the Members; provided, however, that any surplus money on hand shall be returned in proportion to the contributions made by the Members.

Section 7. Bonds.

From time to time the Authority shall issue Bonds, in one or more series, for the purpose of exercising its powers and raising the funds necessary to carry out its purposes under this Agreement.

The services of bond counsel, financing consultants and other consultants and advisors working on the projects and/or their financing shall be used by the Authority. The expenses of the Board shall be paid from the proceeds of the Bonds or any other unencumbered funds of the Authority available for such purpose.

Section 8. Bonds Only Limited and Special Obligations of Authority.

The Bonds, together with the interest and premium, if any, thereon, shall not be deemed to constitute a debt of any Member or pledge of the faith and credit of the Members or the Authority. The Bonds shall be only special obligations of the Authority, and the Authority shall under no circumstances be obligated to pay the Bonds except from revenues and other funds pledged therefor. Neither the Members nor the Authority shall be obligated to pay the principal of, premium, if any, or interest on the Bonds, or other costs incidental thereto, except from the revenues and funds pledged therefor, and neither the faith and credit nor the taxing power of the Members nor the faith and credit of the Authority shall be pledged to the payment of the

principal of, premium, if any, or interest on the Bonds nor shall the Members or the Authority in any manner be obligated to make any appropriation for such payment.

No covenant or agreement contained in any Bond or related document shall be deemed to be a covenant or agreement of any Director, or any officer, employee or agent of the Authority in his or her individual capacity and neither the Board of the Authority nor any Director or officer thereof executing the Bonds shall be liable personally on any Bond or be subject to any personal liability or accountability by reason of the issuance of any Bonds.

Section 9. Accounts and Reports.

All funds of the Authority shall be strictly accounted for. The Authority shall establish and maintain such funds and accounts as may be required by good accounting practice and by any provision of any Indenture (to the extent such duties are not assigned to a trustee of Bonds). The books and records of the Authority shall be open to inspection at all reasonable times by each Member.

The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Authority by a certified public accountant or public accountant in compliance with the provisions of Section 6505 of the Joint Exercise of Powers Act. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as a public record with each Member and also with the county auditor of each county in which a Member is located; provided, however, that to the extent permitted by law, the Authority may, instead of filing such report with each Member and such county auditor, elect to post such report as a public record electronically on a website designated by the Authority. Such report if made shall be filed within 12 months of the end of the Fiscal Year or Years under examination.

The Treasurer is hereby directed to report in writing on the first day of July, October, January, and April of each year to the Board and the Members which report shall describe the amount of money held by the Treasurer for the Authority, the amount of receipts since the last such report, and the amount paid out since the last such report (which may exclude amounts held by a trustee or other fiduciary in connection with any Bonds to the extent that such trustee or other fiduciary provided regular reports covering such amounts.)

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

In any Fiscal Year the Board may, by resolution adopted by unanimous vote, replace the annual special audit with an audit covering a two-year period.

Section 10. Funds.

Subject to the applicable provisions of any Indenture, which may provide for a trustee or other fiduciary to receive, have custody of and disburse Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds pursuant to the accounting procedures developed under Sections 3.C and 9, and shall make the disbursements required by this Agreement or otherwise necessary to carry out any of the provisions of purposes of this Agreement.

Section 11. Notices.

Notices and other communications hereunder to the Members shall be sufficient if delivered to the clerk of the governing body of each Member; provided, however, that to the extent permitted by law, the Authority may, provide notices and other communications and postings electronically (including, without limitation, through email or by posting to a website).

Section 12. Additional Members/Withdrawal of Members.

Qualifying public agencies may be added as parties to this Agreement and become Members upon: (1) the filing by such public agency with the Authority of an executed counterpart of this Agreement, together with a copy of the resolution of the governing body of such public agency approving this Agreement and the execution and delivery hereof; and (2) adoption of a resolution of the Board approving the addition of such public agency as a Member. Upon satisfaction of such conditions, the Board shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

A Member may withdraw from this Agreement upon written notice to the Board; provided, however, that no such withdrawal shall result in the dissolution of the Authority so long as any Bonds remain outstanding. Any such withdrawal shall be effective only upon receipt of the notice of withdrawal by the Board which shall acknowledge receipt of such notice of withdrawal in writing and shall file such notice as an amendment to this Agreement effective upon such filing.

Section 13. Indemnification.

To the full extent permitted by law, the Board may authorize indemnification by the Authority of any person who is or was a Director or an officer, employee of other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a Director or an officer, employee or other agent of the Authority, against expenses, including attorneys fees, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of an action by or in the right of the Authority, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Section 14. Contributions and Advances.

Contributions or advances of public funds and of the use of personnel, equipment or property may be made to the Authority by the Members for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution or advance. Any such advance may be made subject to repayment, and in such case shall be repaid, in the manner agreed upon by the Authority and the Member making such advance at the time of such advance. It is mutually understood and agreed to that no Member has any obligation to make advances or contributions to the Authority to provide for the costs and expenses of administration of the Authority, even though any Member may do so. The Members understand and agree that a portion of the funds of the Authority that otherwise may be allocated or distributed to the Members may instead be used to make grants, loans or provide other financial assistance to governmental units and nonprofit organizations (e.g., the Foundation) to accomplish any of the governmental unit's or nonprofit organization's purposes.

Section 15. Immunities.

All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, and other benefits which apply to the activity of officers, agents or employees of Members when performing their respective functions within the territorial limits of their respective public agencies, shall apply to the same degree and extent to the Directors, officers, employees, agents or other representatives of the Authority while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

Section 16. Amendments.

Except as provided in Section 12 above, this Agreement shall not be amended, modified, or altered, unless the negative consent of each of the Members is obtained. To obtain the negative consent of each of the Members, the following negative consent procedure shall be followed: (a) the Authority shall provide each Member with a notice at least sixty (60) days prior to the date such proposed amendment is to become effective explaining the nature of such proposed amendment and this negative consent procedure; (b) the Authority shall provide each Member who did not respond a reminder notice with a notice at least thirty (30) days prior to the date such proposed amendment is to become effective; and (c) if no Member objects to the proposed amendment in writing within sixty (60) days after the initial notice, the proposed amendment shall become effective with respect to all Members.

Section 17. Effectiveness.

This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of each of the Members on the date that the Board shall have received from two of the Initial Members an executed counterpart of this Agreement, together with a certified copy of a resolution of the governing body of each such Initial Member approving this Agreement and the execution and delivery hereof.

Section 18. Partial Invalidity.

If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 19. Successors.

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no Member may assign any right or obligation hereunder without the consent of the other Members.

Section 20. Miscellaneous.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

This Agreement shall be governed under the laws of the State of California.

This Agreement is the complete and exclusive statement of the agreement among the Members, which supercedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the Members relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the City of Ontario has caused this Agreement to be executed and attested by its duly authorized representatives as of the ___ day of _____, 2020.

Member:

CITY OF ONTARIO

By _____

Name: Scott Ochoa

Title:

ATTEST:

By _____

Name:

Title:

CITY OF ONTARIO

Agenda Report
March 17, 2020

SECTION:
ADMINISTRATIVE REPORTS
DISCUSSION/ACTION

SUBJECT: PREPARATION OF A DESIGN BUILD RFP PACKAGE FOR A PARKING STRUCTURE ON C-BLOCK

RECOMMENDATION: That the City Council authorize the City Manager to direct Transtech Engineers, Inc., to prepare a design-build Request for Proposal (RFP) package for a parking structure to be located on the downtown C-Block with an estimated cost for the effort of \$105,000.


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

FISCAL IMPACT: The cost for the recommended Design-Build RFP package for a parking structure on C-Block is \$105,000. If approved, appropriations of \$105,000 will be included in the FY 2019-20 Third Quarter Budget Update Report to the City Council.

BACKGROUND: The City is preparing for the construction of a three-level, 300 to 350 space parking structure to facilitate the continuing redevelopment in downtown Ontario. It is anticipated that the structure will be used as a parking resource for existing businesses and projects planned for the immediate future. Staff considered different design and construction methods for the parking structure: Design-Bid-Build, Design-Build, and Public-Private-Partnership. Staff chose the Design-Build option because it was the most efficient in terms of cost and time.

On October 1, 2019, the City Council approved a professional services agreement with Transtech Engineers, Inc. to provide on-call professional project management services. Transtech has extensive experience working with municipalities to construct public parking structures in downtown areas including the cities of Alhambra, San Bernardino, and Whittier. Because of their experience with similar projects, staff requested Transtech Engineers, Inc. to submit a proposal for the preparation of a design-build RFP package for a parking structure on C-Block as part of the existing Professional Services Agreement. Transtech's submitted proposal cost is \$105,000.

STAFF MEMBER PRESENTING: Tito Haes, Executive Director Public Works

Prepared by: Tito Haes
Department: Public Works Agency
City Manager Approval: 

Submitted to Council/O.H.A. 03/17/2020
Approved: _____
Continued to: _____
Denied: _____