

**CITY OF ONTARIO**  
**CITY COUNCIL AND HOUSING AUTHORITY**  
**AGENDA**  
**JUNE 5, 2018**

**Paul S. Leon**  
Mayor

**Alan D. Wapner**  
Mayor pro Tem

**Jim W. Bowman**  
Council Member

**Debra Dorst-Porada**  
Council Member

**Ruben Valencia**  
Council Member



**Scott Ochoa**  
City Manager

**John E. Brown**  
City Attorney

**Sheila Mautz**  
City Clerk

**James R. Milhiser**  
Treasurer

**WELCOME to a meeting of the Ontario City Council.**

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

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

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

**CALL TO ORDER (OPEN SESSION)**

**6:00 p.m.**

**ROLL CALL**

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

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

**CLOSED SESSION**

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *Briones v. City of Ontario, et al., U.S. District Court, Central District of California, Case No. 5:17-cv-00590-DMG-JPR*

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

**PLEDGE OF ALLEGIANCE**

Mayor pro Tem Wapner

**INVOCATION**

Rev Blair Stowe, First United Methodist Church

**REPORT ON CLOSED SESSION**

City Attorney

**PUBLIC COMMENTS**

**6:30 p.m.**

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

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

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

**CONSENT CALENDAR**

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

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

**1. APPROVAL OF MINUTES**

Minutes for the regular meeting of the City Council and Housing Authority of May 1, 2018, approving same as on file in the Records Management Department.

**2. BILLS/PAYROLL**

**Bills** April 8, 2018 through April 21, 2018 and **Payroll** April 8, 2018 through April 21, 2018, when audited by the Finance Committee.

**3. BIENNIAL CONFLICT OF INTEREST CODE REVIEW**

That the City Council receive the 2018 Local Agency Biennial Notice of the Political Reform Act requirement and direct staff to review the Conflict of Interest Code.

**4. RESOLUTIONS TO CALL AND GIVE NOTICE, CONSOLIDATE AND ADOPT REGULATIONS FOR CANDIDATE STATEMENTS FOR THE GENERAL MUNICIPAL ELECTION OF NOVEMBER 6, 2018**

That the City Council adopt resolutions to call and set the date of the General Municipal Election as November 6, 2018; request the San Bernardino County Registrar of Voters to consolidate the election with the Statewide General Election; and adopt regulations for candidate statements.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, PURSUANT TO §10403 OF THE ELECTIONS CODE.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES STATEMENT SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018.

**5. AN AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS WITH SC ONTARIO DEVELOPMENT COMPANY LLC FOR THE PURCHASE OF LAND FOR A FIRE STATION SITE AND A LICENSE AND REIMBURSEMENT AGREEMENT TO JOINTLY CONSTRUCT RELATED STREET AND OTHER UTILITY IMPROVEMENTS**

That the City Council authorize the City Manager to enter into an Agreement for Purchase and Sale and Joint Escrow Instructions with SC Ontario Development Company LLC, a Delaware limited liability company, for the purchase of a Fire Station Site in Ontario Ranch and a License and Reimbursement Agreement to jointly construct related street and other utility improvements to serve the site and the adjoining property.

**6. A RESOLUTION APPROVING AN APPLICATION FOR THE USED OIL PAYMENT PROGRAM CYCLE 9 (FISCAL YEAR 2018-19) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

That the City Council adopt a resolution approving a grant application for an estimated \$48,000 from the Used Oil Payment Program Cycle 9 (Fiscal Year 2018-19) through the State of California Department of Resources Recycling and Recovery (CalRecycle); and authorize the City Manager or his designee to execute all necessary documents to participate in the program.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN ANNUAL APPLICATION TO PARTICIPATE IN THE USED OIL PAYMENT PROGRAM CYCLE 9 (FISCAL YEAR 2018-19) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE).

**7. PURCHASE OF WATER METERS AND REPAIR PARTS/CORE & MAIN**

That the City Council approve and authorize the sole source purchase of new water meters and repair parts for a total not to exceed the amount of \$2,700,000 from Core & Main of Perris, CA.

**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.

**8. A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT AMENDMENT (SECOND AMENDMENT) BETWEEN THE CITY OF ONTARIO AND WESTERN PACIFIC HOUSING INC. TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO. 18419. THE PROJECT IS LOCATED WITHIN THE LOW DENSITY RESIDENTIAL DISTRICT OF PLANNING AREA 6A OF THE AVENUE SPECIFIC PLAN, LOCATED AT THE SOUTHEAST CORNER OF ARCHIBALD AVENUE AND SCHAEFER AVENUE (APN: 0218-201-15 AND 0218-201-44)**

That the City Council introduce and waive further reading of an ordinance approving the Second Amendment (File PDA07-001, on file with the Records Management Department) to the Development Agreement between the City of Ontario and Western Pacific Housing Inc., to extend the term of the Development Agreement to serve Tract Map No. 18419.

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

Written communication.

Oral presentation.

Public hearing closed.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT, FILE NO. PDA07-001, BETWEEN THE CITY OF ONTARIO AND WESTERN PACIFIC HOUSING, INC., TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO. 18419. THE PROJECT IS LOCATED WITHIN THE LOW DENSITY RESIDENTIAL DISTRICT OF PLANNING AREA 6A OF THE AVENUE SPECIFIC PLAN, LOCATED AT THE SOUTHEAST CORNER OF ARCHIBALD AVENUE AND SCHAEFER AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 0218-201-15 AND 0218-201-44.

**9. A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT AMENDMENT (SECOND AMENDMENT) BETWEEN THE CITY OF ONTARIO, GDC INVESTMENTS 6 L.P., AND LENNAR HOMES OF CALIFORNIA TO AMEND DEVELOPMENT AGREEMENT, FILE NO. PDA14-003, TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO'S. 17931, 17932 AND 17933. THE PROJECT IS LOCATED ON THE NORTHEAST AND SOUTHEAST CORNERS OF MILL CREEK AVENUE AND EUCALYPTUS AVENUE, WITHIN PLANNING AREAS 8, 9, AND 10 OF THE ESPERANZA SPECIFIC PLAN (APN: 0218-332-12 AND 0218-252-16)**

That the City Council introduce and waive further reading of an ordinance approving the Second Amendment (File PDA14-003, on file with the Records Management Department) to the Development Agreement between the City of Ontario, GDC Investments 6 L.P. and Lennar Homes of California to extend the term of the Development Agreement to serve Tract Map No's. 17931, 17932 and 17933.

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

Written communication.

Oral presentation.

Public hearing closed.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A SECOND AMENDMENT BETWEEN THE CITY OF ONTARIO AND GDC INVESTMENTS 6 L.P., AND LENNAR HOMES OF CALIFORNIA TO AMEND DEVELOPMENT AGREEMENT, FILE NO. PDA14-003, TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO'S. 17931, 17932 AND 17933. THE PROJECT IS LOCATED ON THE NORTHEAST AND SOUTHEAST CORNERS OF MILL CREEK AVENUE AND EUCALYPTUS AVENUE, WITHIN PLANNING AREAS 8, 9, AND 10 OF THE ESPERANZA SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0218-332-12 AND 0218-252-16.

**10. A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT AMENDMENT (SECOND AMENDMENT) BETWEEN THE CITY OF ONTARIO, GDC-RCCD, L.P., AND LENNAR HOMES OF CALIFORNIA TO AMEND DEVELOPMENT AGREEMENT, FILE NO. PDA14-004, TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO'S. 17749, 17935, 17936, 18876 AND 18878. THE PROJECT IS LOCATED ON THE NORTHWEST AND SOUTHWEST CORNERS OF HAMNER AVENUE AND EUCALYPTUS AVENUE, WITHIN PLANNING AREAS 4, 5, 6, AND 7 OF THE ESPERANZA SPECIFIC PLAN (APN: 0218-332-01 AND 0218-252-17)**

That the City Council introduce and waive further reading of an ordinance approving the Second Amendment (File PDA14-004, on file with the Records Management Department) to the Development Agreement between the City of Ontario, GDC-RCCD, L.P., and Lennar Homes of California, to extend the term of the agreement to serve Tract Map No's. 17749, 17935, 17936, 18876 and 18878.

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

Written communication.

Oral presentation.

Public hearing closed.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT, FILE NO. PDA14-004, BETWEEN THE CITY OF ONTARIO AND GDC-RCCD, L.P., AND LENNAR HOMES OF CALIFORNIA, TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO'S. 17749, 17935, 17936, 18876 AND 18878. THE PROJECT IS LOCATED ON THE NORTHWEST AND SOUTHWEST CORNERS OF HAMNER AVENUE AND EUCALYPTUS AVENUE, WITHIN PLANNING AREAS 4, 5, 6, AND 7 OF THE ESPERANZA SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 0218-332-01 AND 0218-252-17.

**STAFF MATTERS**

City Manager Ochoa

**COUNCIL MATTERS**

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

**ADJOURNMENT**

**CITY OF ONTARIO**  
**CLOSED SESSION REPORT**  
City Council // Housing Authority // Other // (GC 54957.1)  
**JUNE 5, 2018**

**ROLL CALL:** Wapner \_\_, Bowman \_\_, Dorst-Porada \_\_, Valencia \_\_, Mayor / Chairman Leon \_\_.

**STAFF:** City Manager / Executive Director \_\_, City Attorney \_\_

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

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION:  
*Briones v. City of Ontario, et al., U.S: District Court, Central District of California, Case No. 5:17-cv-00590 –DMG-JPR*

No Reportable Action	Continue	Approved
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Disposition: \_\_\_\_\_

Reported by:

\_\_\_\_\_  
City Attorney / City Manager / Executive Director

# CITY OF ONTARIO

Agenda Report  
June 5, 2018

SECTION:  
CONSENT CALENDAR

**SUBJECT: BIENNIAL CONFLICT OF INTEREST CODE REVIEW**

**RECOMMENDATION:** That the City Council receive the 2018 Local Agency Biennial Notice of the Political Reform Act requirement and direct staff to review the Conflict of Interest Code.

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

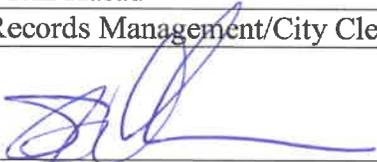
**FISCAL IMPACT:** The nominal costs associated with staff review of the City's Conflict of Interest Code are included in the Records Management Department's annual baseline operating budget.

**BACKGROUND:** The Political Reform Act requires every local government agency to review its conflict of interest code biennially to determine if it is accurate or, alternatively, if the code must be amended. The City's Conflict of Interest Code was last amended October 4, 2016. To meet the requirements of the Political Reform Act, it is necessary to again review the Conflict of Interest Code to determine whether amendments are necessary based on the following:

- The addition, deletion or modification of the specific types of investments, business positions, interests in real property and sources of income which are reportable for the designated positions.
- The reclassification, renaming or deletion of previously designated positions.

Any recommendations for updates or confirmation that the current Conflict of Interest Code is accurate will be presented to the City Council for review before the State's deadline of October 1, 2018.

**STAFF MEMBER PRESENTING:** Al C. Boling, Assistant City Manager

Prepared by: Vicki Kasad  
Department: Records Management/City Clerk  
City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2018  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

# CITY OF ONTARIO

Agenda Report  
June 5, 2018

SECTION:  
CONSENT CALENDAR

**SUBJECT: RESOLUTIONS TO CALL AND GIVE NOTICE, CONSOLIDATE AND ADOPT REGULATIONS FOR CANDIDATE STATEMENTS FOR THE GENERAL MUNICIPAL ELECTION OF NOVEMBER 6, 2018**

**RECOMMENDATION:** That the City Council adopt resolutions to call and set the date of the General Municipal Election as November 6, 2018; request the San Bernardino County Registrar of Voters to consolidate the election with the Statewide General Election; and adopt regulations for candidate statements.

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

**FISCAL IMPACT:** The cost for election services to be provided by the County of San Bernardino is anticipated to be \$100,000. If approved, appropriations will be included in the Fiscal Year 2018-19 Proposed Budget.

**BACKGROUND:** California Government Code provides that general law cities conduct elections every two years for the purpose of electing their public officials. Elections in Ontario are conducted in accordance with the California Elections Code. Additionally, the City Council adopted Ordinance No. 2392 on July 21, 1987, providing for consolidation of general municipal elections with the state's General Elections. In the November 2018 election, the community will be asked to elect a Mayor and two Members of the City Council each for four-year terms.

The proposed resolutions are required by the California Elections Code and cover the options available for the translation, printing and payment for candidate statements. As in past elections, candidates have the option of submitting a candidate statement for inclusion in the voter information pamphlet. State law also requires that a Spanish language translation of each candidate statement be included in the voter information pamphlet. The cost of translation and printing of candidate statements has historically been the responsibility of the candidate. The cost of translation and printing of candidate statements varies

**STAFF MEMBER PRESENTING:** Al C. Boling, Assistant City Manager

Prepared by: Vicki Kasad  
Department: Records Management/City Clerk  
City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2018  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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each election based on a number of factors including actual printing costs, the number of candidates statements submitted and the number of registered voters.

Election Code Section 13307 (a) (1) allows the government body of a local agency to determine either a 200 or 400 word limitation for candidate statements. Consistent with past City Council direction, staff recommends that the word count limitation for candidate statements be 400 words. The County has not yet estimated the cost for translating and publishing a 400 word candidate statement for this year's elections.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES.

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a General Municipal election shall be held on November 6, 2018, for the election of Municipal Officers.

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

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Ontario, California, on Tuesday, November 6, 2018 a General Municipal Election for the purpose of electing a Mayor for the full term of four years; and two Members of the City Council for the full term of four years.

SECTION 2. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 3. That the City Clerk is authorized, instructed and directed to coordinate with the County of San Bernardino Registrar of Voters to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 4. That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Election Code § 10242, except as provided in §14401 of the Elections Code of the State of California.

SECTION 5. That all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 6. That notice of the time and place of holding the election is given and the City Clerk is authorized instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 7. That in the event of a tie vote (if any two or more persons receive an equal and the highest number of votes for an office) as certified by the Sam Bernardino Registrar of Voters, in accordance with Election Code §15651 (a) shall set a date and

time and place and summons the candidates who have received the tie votes to appear and will determine the tie by lot.

SECTION 8. The City Council authorizes the City Clerk or her designee to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

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

PASSED, APPROVED, AND ADOPTED this 5<sup>th</sup> day of June 2018.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held June 5, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held June 5, 2018.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, PURSUANT TO §10403 OF THE ELECTIONS CODE.

WHEREAS, the City Council of the City of Ontario has called a General Municipal Election to be held on November 6, 2018, for the purpose of the election of a Mayor and two Members of the City Council; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places and election officers of the two elections be the same and that the county election department of the County of San Bernardino canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election;

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

SECTION 1. That pursuant to the requirements of §10403 of the Elections Code, the Board of Supervisors of the County of San Bernardino is hereby requested to consent and agree to the consolidation of a General Municipal Election with the statewide General election on Tuesday, November 6, 2018 for the purpose of the election of a Mayor and two Members of the City Council for a term of office which ends November, 2022.

SECTION 2. That the county election department is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the statewide election.

SECTION 3. That the Board of Supervisors is requested to issue instructions to the county election department to take any and all steps necessary for the holding of the consolidated election.

SECTION 4. That the City of Ontario recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 5. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the county election department of the County of San Bernardino.

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

PASSED, APPROVED, AND ADOPTED this 5<sup>th</sup> day of June 2018.

\_\_\_\_\_  
PAUL S. LEON, MAYOR

ATTEST:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2018-    was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held June 5, 2018 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. 2018-    duly passed and adopted by the Ontario City Council at their regular meeting held June 5, 2018.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES STATEMENT SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018.

WHEREAS, §13307 of the Elections Code of the State of California provides that the governing body of any local agency adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidate's statement.

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

SECTION 1. General Provisions. That pursuant to §13307 of the Elections Code of the State of California, each candidate for elective office to be voted for at an Election to be held in the City of Ontario on November 6, 2018 may prepare a candidate's statement on an appropriate form provided by the City Clerk's office. The statement may include the name, age and occupation of the candidate and a brief description of no more than 400 words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed in typewritten form in the office of the City Clerk at the time the candidate's nomination papers are filed. The statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:00 p.m. of the next working day after the close of the nomination period.

SECTION 2. Foreign Language Policy.

A. Pursuant to the Federal Voting Rights Act, candidates' statements will be translated into the languages required by the County of San Bernardino. The county is required to translate candidate's statements into the following language: Spanish.

B. The County will mail separate voter information guides and candidates statements in Spanish to only those voters who are on the county voter file as having requested a voter information guide in Spanish. The county will also make the voter information guides and candidates statements in Spanish available at all polling places on the County's website and in the Election Official's office.

SECTION 3. Payment.

A. Translation. The candidate shall be required to pay for the cost of translating the candidate's statement into any required foreign language as specified in (A) or (B) of Section 2 above pursuant to Federal and/or State law.

B. Printing.

1. The candidate shall be require to pay for the cost of printing the candidate's statement in English in the main voter pamphlet.

2. The candidate shall be required to pay for the cost of printing the candidates statement in a foreign language required in (A) of Section 2 above in the main voter pamphlet.

SECTION 4. Miscellaneous.

A. All translations shall be provided by professionally certified translators.

B. The City Clerk's office shall not allow bold type, underlining, capitalizations, indentations, bullets, or leading hyphens.

C. The City Clerk's office shall comply with all recommendations and standards set forth by the California Secretary of State regarding occupational designations and other matters relating to elections.

SECTION 5. Additional Materials. No candidate will be permitted to include additional materials in the voter information guide.

SECTION 6. The City Clerk's office shall provide each candidate or the candidate's representative a copy of this Resolution at the time nomination petitions are issued.

SECTION 7. That all previous resolutions establishing council policy on payment for candidate's statements are repealed.

SECTION 8. That this resolution shall apply only to the election to be held on November 6, 2018 and shall then be repealed.

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

PASSED, APPROVED, AND ADOPTED this 5<sup>th</sup> day of June 2018.

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PAUL S. LEON, MAYOR

# CITY OF ONTARIO

Agenda Report  
June 5, 2018

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS WITH SC ONTARIO DEVELOPMENT COMPANY LLC FOR THE PURCHASE OF LAND FOR A FIRE STATION SITE AND A LICENSE AND REIMBURSEMENT AGREEMENT TO JOINTLY CONSTRUCT RELATED STREET AND OTHER UTILITY IMPROVEMENTS**

**RECOMMENDATION:** That the City Council authorize the City Manager to enter into an Agreement for Purchase and Sale and Joint Escrow Instructions with SC Ontario Development Company LLC, a Delaware limited liability company, for the purchase of a Fire Station Site in Ontario Ranch and a License and Reimbursement Agreement to jointly construct related street and other utility improvements to serve the site and the adjoining property.

**COUNCIL GOALS:** Invest in the Growth and Evolution of the City's Economy  
Maintain the Current High Level of Public Safety  
Invest in the City's Infrastructure (Water, Streets, Sewer, Parks, Storm Drains, and Public Facilities)

**FISCAL IMPACT:** NMC Builders has provided to the City funding in the amount of \$7,274,480 for the purchase of the Fire Station Site as well as the design and construction costs of the Fire Station, including related street and utility improvements. If the actual costs for Fire Station construction, including the purchase of the Fire Station Site, ultimately exceed the amount of funding already provided by NMC Builders, the City will require the additional funding from NMC Builders.

The street and utility improvements will serve the Fire Station, the Great Park, and SC Ontario Development LLC's ("SC Ontario") adjoining property; each contributing one-third. Accordingly, two-thirds of the actual costs of the related street and utility improvements will be reimbursed by SC Ontario.

**BACKGROUND:** Build-out of the Ontario Ranch area of the City will require the construction of five additional Fire Stations to serve the area. Fire Station No. 9, the first fire station in the Ontario Ranch

**STAFF MEMBER PRESENTING:** Al C. Boling, Assistant City Manager

Prepared by: Al Boling  
Department: City Manager's Office  
City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2018  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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area is to be located on the west side of Archibald Avenue and south of Ontario Ranch Road. Park Vista Drive and Loyalty Place are to be constructed and will provide the entrance to Fire Station No. 9. Park Vista Drive and Loyalty Place will also provide an entrance to the Great Park and a secondary entrance to SC Ontario's development in the Parkside Specific Plan area. The City initially prepared the designs for Fire Station No. 9 and for the related street and utility improvements with funding provided by NMC Builders.

The provisions of the Amended and Restated Construction Agreement between NMC Builders and the City require that NMC Builders provide funding for the acquisition of the property for the Fire Station Site as well as the design and construction of Fire Station No. 9. In recognition of the funding provided by NMC Builders, the City has provided DIF Credit in the Fire DIF category to NMC Builders. NMC Builders has allocated such DIF Credit to NMC Builders members for use as credit towards the DIF obligations of NMC Builders members in the Fire DIF category.

The Fire Station Site to be purchased from SC Ontario is approximately 1.38 acres and has a negotiated purchase price of \$828,000. NMC Builders has provided written consent for the purchase price of \$600,000 per acre. The Purchase and Sale Agreement includes the following provisions:

- Initial Deposit of \$100,000 with the remainder to be paid at close of the escrow period,
- Escrow (Due Diligence period) to be 45 days, and
- Deed restrictions requiring construction of a Fire Station in accordance with the approved plans and a restriction on use of the property for operation of a fire station for a minimum of 10 years.

The License and Reimbursement Agreement requires that the City construct the street improvements and utility extensions for Park Vista Drive and Loyalty Place as part of the Fire Station No. 9 construction. The projected costs of the street improvements are \$950,000, with the property for the street and utility improvements already having been dedicated to the City. The License and Reimbursement Agreement provides that the cost of the improvements will be divided three ways; with one-third of the costs assigned to the Fire Station; one third assigned to the Great Park; and one-third of the costs assigned to SC Ontario. SC Ontario is required to reimburse the City for two-thirds of the costs (the Great Park and SC Ontario portions). In turn, SC Ontario will be provided with DIF Credit in the Park DIF category for the one-third share allocated to the Great Park.

At this time, the Chino Desalter Authority ("CDA") is also pursuing the purchase of additional property from SC Ontario for a CDA project site. It is contemplated that the utilities may be required to be upsized to also serve the needs of a CDA project adjacent to Fire Station No. 9. A separate cooperative agreement will be required in the future if the CDA project is constructed in the currently planned location.

To begin the construction of Fire Station No. 9, it is recommended that the City Council authorize the City Manager execute by and between the City and SC Ontario: an Agreement for Purchase and Sale and Joint Escrow Instructions for the purchase of the Fire Station Site and a License and Reimbursement Agreement to jointly construct related street and other utility improvements to serve the site and the adjoining property.

## **NMC Builders, LLC**

c/o SC Ontario Development Company, LLC  
1156 North Mountain Avenue • Upland, California 91785-0670  
Phone 909.985.0971 • Fax 909.931.5516

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May 21, 2018

**Mr. Scott Ochoa**  
**City Manager**  
**City of Ontario**  
303 E. B Street  
Ontario, CA 91764

**Re: Fire Station No. 9 Non-Program Interests Land Value Increase**

Dear Mr. Ochoa,

The purpose of this letter is to memorialize that NMC Builders LLC acknowledges and agrees that the purchase price for the land for Fire Station No. 9, from Lewis Companies to the City of Ontario, is \$600,000 per acre. \$600,000 per acre is above the City's current Non-Program Interests Land Value of \$400,000 per acre and NMC Builders LLC agrees to a future increase in the City's DIF Program cost for the additional amount paid over the Non-Program Interests for the Fire Station No. 9 FS-001 land valuation.

Thank you and please feel free to call me with any questions you may have.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Cisakowski", is written over a circular blue stamp or seal.

**Richard Cisakowski**  
**NMC Builders, LLC**

Cc: Al Boling – City of Ontario  
Scott Murphy – City of Ontario  
Scott Burton – City of Ontario  
Bob Heitzman – RH Consulting  
Leon Swails – NMC Builders  
Omar Dandashi – NMC Builders

# CITY OF ONTARIO

Agenda Report  
June 5, 2018

SECTION:  
CONSENT CALENDAR

**SUBJECT: A RESOLUTION APPROVING AN APPLICATION FOR THE USED OIL PAYMENT PROGRAM CYCLE 9 (FISCAL YEAR 2018-19) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

**RECOMMENDATION:** That the City Council adopt a resolution approving a grant application for an estimated \$48,000 from the Used Oil Payment Program Cycle 9 (Fiscal Year 2018-19) through the State of California Department of Resources Recycling and Recovery (CalRecycle); and authorize the City Manager or his designee to execute all necessary documents to participate in the program.

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

**FISCAL IMPACT:** The City is eligible to receive approximately \$48,000 in per capita funding through the Used Oil Payment Program to fund qualifying expenses made between July 1, 2018 and June 30, 2020. There are no additional costs and no matching funds required from the City to participate in this grant program. If approved, the additional appropriations and corresponding revenue will be included in the next budget update. There is no impact to the General Fund.

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

**STAFF MEMBER PRESENTING:** Scott Burton, Utilities General Manager

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

Submitted to Council/O.H.A. 06/05/2018  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN ANNUAL APPLICATION TO PARTICIPATE IN THE USED OIL PAYMENT PROGRAM CYCLE 9 (FISCAL YEAR 2018-19) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE).

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

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

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

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

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

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

PASSED, APPROVED AND ADOPTED on the 5<sup>th</sup> day of June 2018.

\_\_\_\_\_  
PAUL S. LEON, MAYOR

ATTEST:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2018-    was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held June 5, 2018 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. 2018-    duly passed and adopted by the Ontario City Council at their regular meeting held June 5, 2018.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

# CITY OF ONTARIO

Agenda Report  
June 5, 2018

SECTION:  
CONSENT CALENDAR

**SUBJECT: PURCHASE OF WATER METERS AND REPAIR PARTS**

**RECOMMENDATION:** That the City Council approve and authorize the sole source purchase of new water meters and repair parts for a total not to exceed the amount of \$2,700,000 from Core & Main of Perris, CA.

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

**FISCAL IMPACT:** The actual cost of meters to be purchased will be determined based on unit pricing for the various sizes of meters and actual meter repair, replacement and new installation needs. If approved, the proposed Fiscal Year 2018-19 Water Operating and Capital Improvement Program budgets will include \$2,700,000 for the purchase of new and replacement meters and repair parts. Development projects pay for new meter installations while the cost of meter testing, repair and replacement is included in the rates the City bills for water service. There is no impact to the General Fund.

**BACKGROUND:** There are over 32,500 water meters citywide, which includes 4,500 meters that serve industrial and commercial businesses as well as landscape areas. Approximately 28,000 meters are used for residential. The accuracy of meters has a direct relationship with accounting and billing for water service. To maintain accuracy and functionality, meters need to be replaced approximately every ten years, and they are repaired as needed.

In Fiscal Year 2018-19, approximately 3,250 meters are planned to be installed to replace existing meters as part of the ten-year meter replacement program, and up to 1,000 new meters are planned to be installed for development projects in the Old Model Colony and Ontario Ranch.

The Master Meter Radio Read Meter was selected as the City standard specification for all new and replacement meter installations as a result of a public bid process and product evaluation that took place

**STAFF MEMBER PRESENTING:** Scott Burton, Utilities General Manager

Prepared by: Tom O'Neill  
Department: MU/Engineering  
City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2018  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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in 2001 when six different vendors and product lines were evaluated. To maintain consistency with our standardized meters that are already in place throughout the City, the purchase of these new meters can only be made directly through the manufacturer. Section 2-6.11 (b) (2) of the Ontario Municipal Code states that sole source purchases are authorized if there is only one procurement source. Core & Main is the exclusive distributor in California for Master Meter Radio Read Meters; and staff has reviewed pricing and recommends this sole source award to Core & Main.

# CITY OF ONTARIO

Agenda Report  
June 5, 2018

SECTION:  
PUBLIC HEARINGS

**SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT AMENDMENT (SECOND AMENDMENT) BETWEEN THE CITY OF ONTARIO AND WESTERN PACIFIC HOUSING INC. TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO. 18419. THE PROJECT IS LOCATED WITHIN THE LOW DENSITY RESIDENTIAL DISTRICT OF PLANNING AREA 6A OF THE AVENUE SPECIFIC PLAN, LOCATED AT THE SOUTHEAST CORNER OF ARCHIBALD AVENUE AND SCHAEFER AVENUE (APN: 0218-201-15 AND 0218-201-44)**

**RECOMMENDATION:** That the City Council introduce and waive further reading of an ordinance approving the Second Amendment (File PDA07-001, on file with the Records Management Department) to the Development Agreement between the City of Ontario and Western Pacific Housing Inc., to extend the term of the Development Agreement to serve Tract Map No. 18419.

**COUNCIL GOALS:** Invest in the Growth and Evolution of the City's Economy

Operate in a Businesslike Manner

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 proposed Development Agreement Amendment will extend the term of the Development Agreement to serve Tract Map No. 18419. In addition, the City will receive Public Service Funding fees plus development impact, compliance processing, licensing, and permitting fees. No Original Model Colony revenue will be used to support the Ontario Ranch development. The Development Agreement and the related tract map(s) conditions require the developer to construct public infrastructure.

**BACKGROUND:** On December 9, 2006, the City Council approved The Avenue Specific Plan and Environmental Impact Report (EIR). The Avenue Specific Plan established the land use designations,

**STAFF MEMBER PRESENTING:** Cathy Wahlstrom, Planning Director

Prepared by: Rudy Zeledon  
Department: Planning  
City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2018  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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development standards, and design guidelines for 568 acres, which includes the potential development of 2,875 dwelling units and approximately 131,000 square feet of commercial. Subsequently, on June 19, 2007 the City Council approved a Development Agreement, File No. PDA07-001, between the City of Ontario and Distinguished Land Development, Inc., the original applicant for the property. In December of 2010, Ontario Schaefer Holdings LLC acquired the property from Distinguished Land Development, Inc.

On March 4, 2014, the City Council approved a First Amendment to the Development that included updates to certain provisions of the Development Agreement to conform to the construction agreement within NMC Builders.

On October 3, 2017, Ontario Schaefer Holdings LLC, transferred the property to Lennar Western Pacific Housing, Inc., and assigned certain rights and obligations of the original Development Agreement to Western Pacific Housing, Inc.

As the current owner of the property, Western Pacific Housing, Inc., desires to amend the term of the provisions to the original Development Agreement and is requesting to extend the terms of the Development Agreement for an additional five (5) year period to serve Tentative Tract Map No. 18419. The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force.

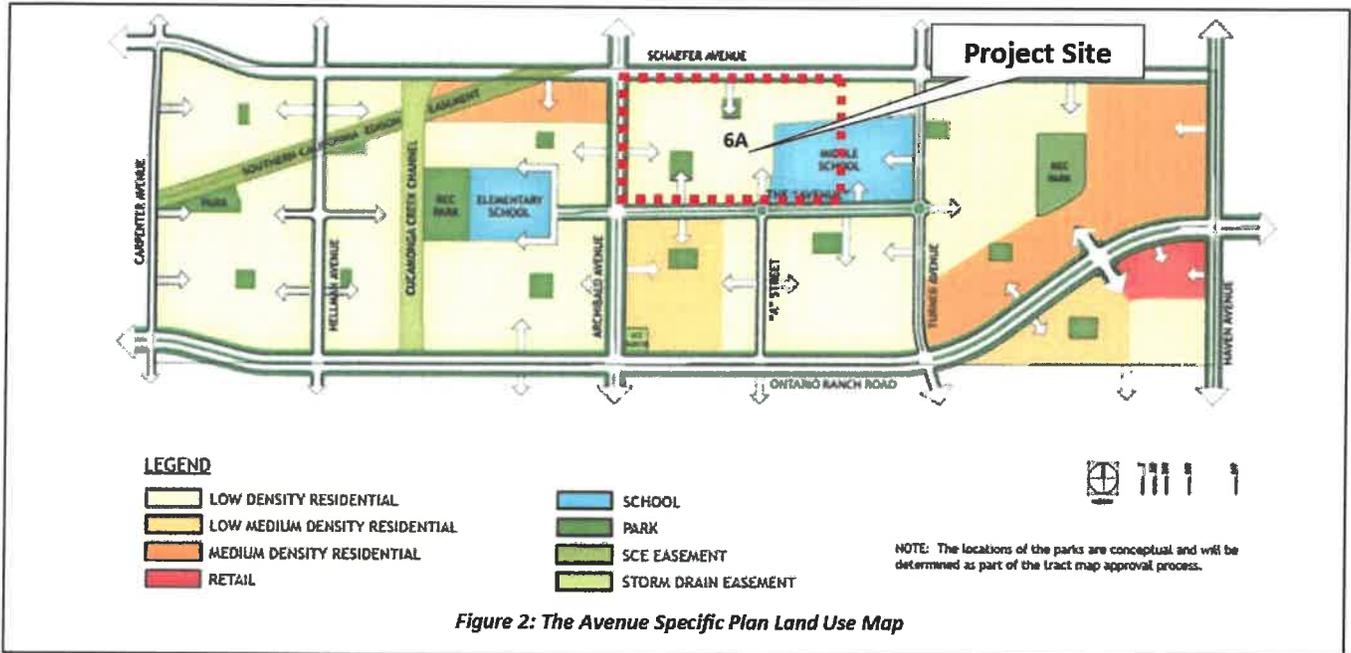
In considering the application at their meeting of April 24, 2018, the Planning Commission found that the Second Amendment to the Development Agreement was consistent with State law; The Ontario Plan; the City's Development Agreement policies; and other Development Agreements previously approved for Ontario Ranch developments; and, with a 5 to 0 vote (Resolution No. PC18-053), recommended approval of the Second Amendment to the Development Agreement to the City Council.

**HOUSING ELEMENT COMPLIANCE:** The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the maximum number of dwelling units (229) and density (3.83 DU/AC) specified within The Avenue Specific Plan. Per the Available Land Inventory, The Avenue Specific Plan is required to provide 2,552 dwelling units with an overall density range of 2-12 DU/AC.

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

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were analyzed in a previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was certified by the City Council on December 9, 2006. This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

EXHIBIT "A"  
The Avenue Specific Plan Land Use Plan





# PLANNING COMMISSION STAFF REPORT

April 24, 2018

**SUBJECT:** A Development Agreement Amendment (Second Amendment) between the City of Ontario and Western Pacific Housing, Inc., File No. PDA07-001, to extend the term of the agreement to serve Tract Map No. 18419. The project is located within the Low Density Residential district of Planning Area 6A of The Avenue Specific Plan, located at the southeast corner of Archibald Avenue and Schaefer Avenue. **Submitted by Western Pacific Housing, Inc.** City Council action is required.

**PROPERTY OWNER:** Western Pacific Housing Inc.

**RECOMMENDED ACTION:** That the Planning Commission recommend City Council adopt an ordinance approving the Amendment to the Development Agreement (File No. PDA07-001) between Western Pacific Housing Inc., and the City of Ontario.

**PROJECT SETTING:** The project site is comprised of 59.82 acres of land generally located at southeast corner of Archibald Avenue and Schaefer Avenue, within the Low Density Residential district of Planning Area 6A of The Avenue Specific Plan, and is depicted in **Figure 1: Project Location**, below. The project site gently slopes from north to south and is currently rough graded.

### PROJECT ANALYSIS:

**Background** — In December 9, 2006, the City Council approved The Avenue Specific Plan (File No. PSP05-003) and certified the Environmental Impact Report (EIR) for the specific plan.

On May 22, 2007, the Planning Commission approved Tentative Tract Map No. 18419 for the development of 229 single family lots on the subject property. On June 19, 2007, the City Council approved the Development Agreement between the City of



Case Planner:	Rudy Zeledon, Principal Planner	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB			
Submittal Date:	02/23/2018	ZA			
Hearing Deadline:	N/A	PC	04/24/18	Approval	Recommend
		CC			Final

Development, Inc., the original applicant for the property. In December of 2010, Ontario Schaefer Holdings LLC acquired the property from Distinguished Land Development, Inc.

On March 4, 2014, the City Council approved a First Amendment to the Development that included updates to certain provisions of the Development Agreement to conform to the construction agreement within NMC Builders.

On October 3, 2017, Ontario Schaefer Holdings LLC, transferred the property to Lennar Western Pacific Housing, Inc., and assigned certain rights and obligations of the original Development Agreement to Western Pacific Housing, Inc.

As the current owner of the property, Western Pacific Housing, Inc., desires to amend the term of the provisions to the original Development Agreement to extend the term of the original Development Agreement for an additional 5-year period.

State law and Section 2.5 of the existing Development Agreement provide the amendments may be made to the Development Agreement, upon the mutual agreement of the parties, using the same process and procedures as for the consideration and approval of the original Development Agreement.

[1] Site Analysis — The proposed Amendment continues to apply to the same area as the original Development Agreement and propose to extend the terms of the Development Agreement for an additional five (5) period to serve Tentative Tract Map No. 18419.

The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force.

Staff finds that the Second Amendment is consistent with State law, The Ontario Plan, and the City's Development Agreement policies. As a result, staff is recommending approval of the application for the Second Amendment to the Planning Commission. If the Commission finds the Second Amendment acceptable, a recommendation of approval to the City Council would be appropriate.

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

[1] City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- 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

[2] Vision.

**Distinctive Development:**

- Commercial and Residential Development
  - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

Governance.

**Decision Making:**

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
  - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

[3] Policy Plan (General Plan)

**Land Use Element:**

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.
  - LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.
  - LU1-3 Adequate Capacity. We require adequate infrastructure and services for all development.

➤ LU1-6 Complete Community: We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).

- Goal LU2: Compatibility between a wide range of uses.

➤ LU2-6: Infrastructure Compatibility: We require infrastructure to be aesthetically pleasing and in context with the community character.

#### **Housing Element:**

- Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

➤ H2-4 New Model Colony. We support a premier lifestyle community in the New Model Colony distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.

➤ H2-5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.

Goal H5: A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age or other status.

#### **Community Economics Element:**

- Goal CE1: A complete community that provides for all incomes and stages of life.

➤ CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

- Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

➤ CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.

➤ CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.

➤ CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

➤ CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

**Safety Element:**

▪ Goal S1: Minimized risk of injury, loss of life, property damage and economic and social disruption caused by earthquake-induced and other geologic hazards.

➤ S1-1 Implementation of Regulations and Standards. We require that all new habitable structures be designed in accordance with the most recent California Building Code adopted by the City, including provisions regarding lateral forces and grading.

**Community Design Element:**

▪ Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

➤ CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

➤ CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.

▪ Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

➤ CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:

- Building volume, massing, and height to provide appropriate scale and proportion;
- A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
- Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

➤ CD2-2 Neighborhood Design. We create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

- A pattern of smaller, walkable blocks that promote access, activity and safety;
- Variable setbacks and parcel sizes to accommodate a diversity of housing types;
  - Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;
  - Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the “outdoor living room”), as appropriate; and
  - Landscaped parkways, with sidewalks separated from the curb.

➤ CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.

➤ CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.

➤ CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

- Goal CD3: Vibrant urban environments that are organized around intense buildings, pedestrian and transit areas, public plazas, and linkages between and within developments that are conveniently located, visually appealing and safe during all hours.
  - CD3-6 Landscaping. We utilize landscaping to enhance the aesthetics, functionality and sustainability of streetscapes, outdoor spaces and buildings.
- Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.
  - CD5-1 Maintenance of Buildings and Property. We require all public and privately owned buildings and property (including trails and easements) to be properly and consistently maintained.
  - CD5-2 Maintenance of Infrastructure. We require the continual maintenance of infrastructure.

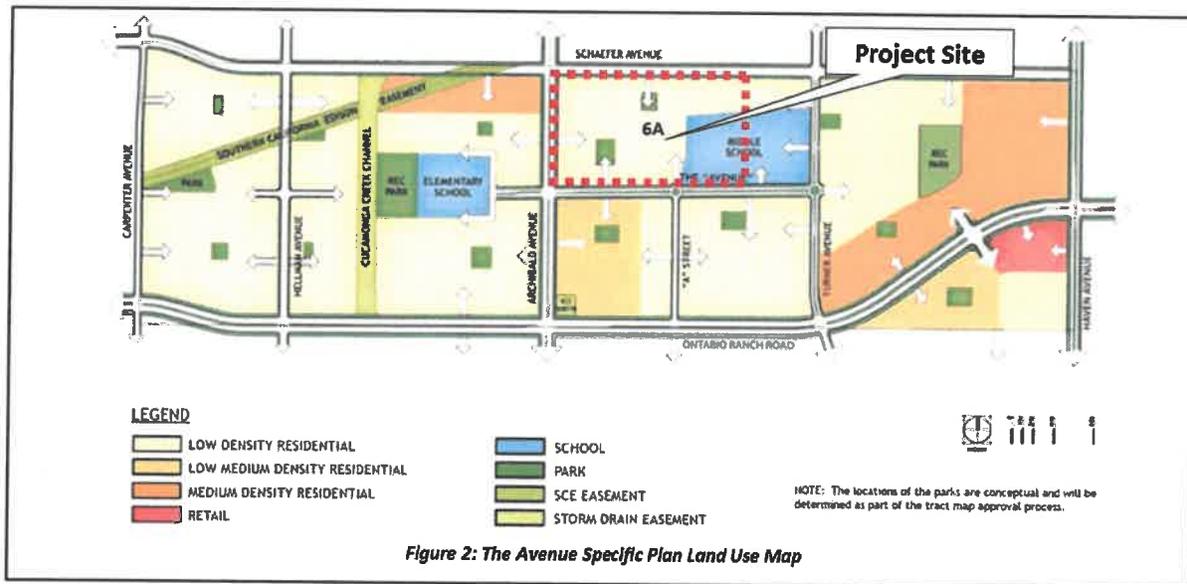
**HOUSING ELEMENT COMPLIANCE:** The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the maximum number of dwelling units (229) and density (3.83 DU/AC) specified within The Avenue Specific Plan. Per the Available Land Inventory, The Avenue Specific Plan is required to provide 2,552 dwelling units with an overall density range of 2-12 DU/AC.

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

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were analyzed in a previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on December 9, 2006. This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

**EXHIBIT A**

**The Avenue Specific Plan Land Use Plan**



RESOLUTION NO. PC18-053

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE A SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT, FILE NO. PDA07-001, BETWEEN THE CITY OF ONTARIO AND WESTERN PACIFIC HOUSING, INC., TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO. 18419. THE PROJECT IS LOCATED WITHIN THE LOW DENSITY RESIDENTIAL DISTRICT OF PLANNING AREA 6A OF THE AVENUE SPECIFIC PLAN, LOCATED AT THE SOUTHEAST CORNER OF ARCHIBALD AVENUE AND SCHAEFER AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0218-201-15 AND 0218-201-44.

WHEREAS, CALIFORNIA GOVERNMENT CODE SECTION 65864 NOW provides, in pertinent part, as follows:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.”

WHEREAS, California Government Code Section 65865 provides, in pertinent part, as follows:

“Any city ... may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article ...”

WHEREAS, California Government Code Section 65865.2. provides, in part, as follows:

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

WHEREAS, on April 4, 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on September 10, 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on the 19<sup>th</sup> day of June 2007, the City Council of the City of Ontario, adopted Ordinance No. 2862, approving a Development Agreement between Distinguished Land Development, and the City; and

WHEREAS, on December 14, 2010, Ontario Schaefer Holdings LLC acquired the property from Distinguished Land Development; and

WHEREAS, on March 4, 2014, the City Council of the City of Ontario, adopted Ordinance No. 2986, approving a First Amendment to the Development Agreement between Ontario Schaefer Holdings LLC, and the City; and

WHEREAS, on October 3, 2017, Ontario Schaefer Holdings LLC, transferred the property to Lennar Western Pacific Housing, Inc., and assigned certain rights and obligations of the originally Development Agreement to Western Pacific Housing, Inc.; and

WHEREAS, attached to this resolution, marked Exhibit “A” and incorporated herein by this reference, is the proposed Second Amendment to the Development Agreement Western Pacific Housing, Inc., and the City of Ontario, File No. PDA07-001. Hereinafter in this Resolution, the Development Agreement is referred to as the “Development Agreement”; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan, for which an Environmental Impact Report (SCH #2005071109) was certified by the City Council on December 9, 2006. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are be a condition of project approval and are incorporated herein by reference; and

WHEREAS, on April 24, 2018, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date;

and

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

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Ontario as follows:

**SECTION 1. Environmental Determination and Findings.** As the recommending body for the Project, the Planning Commission has reviewed and considered the information contained in the previously adopted EIR for The Avenue Specific Plan (SCH #2005071109) was certified by the City Council on December 9, 2006, and supporting documentation. Based upon the facts and information contained in the addendum to The Avenue Specific Plan EIR (SCH #2005071109) and supporting documentation, the Planning Commission finds as follows:

(1) The environmental impacts of this project were reviewed in conjunction with The Avenue Specific Plan EIR (SCH# 2005071109), certified by the City of Ontario City Council on December 9, 2006, in conjunction with File No. PSP05-003.

(2) The previous The Avenue Specific Plan EIR (SCH# 2005071109) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

(3) The previous The Avenue Specific Plan EIR (SCH# 2005071109), was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

(4) The previous The Avenue Specific Plan EIR (SCH# 2005071109) reflects the independent judgment of the Planning Commission; and

(5) The proposed project will introduce no new significant environmental impacts beyond those previously analyzed in the previous The Avenue Specific Plan EIR (SCH# 2005071109), and all mitigation measures previously adopted with The Avenue Specific Plan EIR (SCH# 2005071109), are incorporated herein by this reference

**SECTION 2: Subsequent or Supplemental Environmental Review Not Required.** Based on the information presented to the Planning Commission, and the specific findings set forth in Section 1, above, the Planning Commission finds that the preparation of a subsequent or supplemental to The Avenue Specific Plan EIR (SCH# 2005071109) is not required for the Project, as the Project:

(1) Does not constitute substantial changes to The Avenue Specific Plan EIR (SCH# 2005071109) that will require major revisions to The Avenue Specific Plan EIR (SCH# 2005071109) due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which The Avenue Specific Plan EIR (SCH# 2005071109) was prepared, that will

require major revisions to The Avenue Specific Plan EIR (SCH# 2005071109) due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time The Avenue Specific Plan EIR (SCH# 2005071109) was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in The Avenue Specific Plan EIR (SCH# 2005071109); or

(b) Significant effects previously examined will be substantially more severe than shown in The Avenue Specific Plan EIR (SCH# 2005071109); or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in The Avenue Specific Plan EIR (SCH# 2005071109) would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

**SECTION 3. *Housing Element Consistency.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and proposed project is consistent with the maximum number of dwelling units (229) and density (3.83 DU/AC) specified within The Avenue Specific Plan. Per the Available Land Inventory, The Avenue Specific Plan Specific Plan overall is required to provide 2,552 dwelling units.

**SECTION 4: *Ontario International Airport Land Use Compatibility Plan ("ALUCP") Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan ("ALUCP"), establishing the Airport Influence Area for Ontario International Airport ("ONT"), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport

Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the Planning Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 5. *Concluding Facts and Reasons.*** Based upon substantial evidence presented to the Planning Commission during the above-referenced hearing on April 24, 2018, including written and oral staff reports, together with public testimony, the Planning Commission hereby specifically finds as follows:

a. The Development Agreement applies to 59.82 acres of land generally located at southeast corner of Archibald Avenue and Schaefer Avenue, within the Low Density Residential district of Planning Area 6A of The Avenue Specific Plan and is presently mass graded; and

b. The properties to the north of the Project site are within the Low Density Residential (2.1 to 5 du/ac) zoning designation and are developed with single family homes. The property to the south of the project site is within Planning Area 7 of The Avenue Specific Plan, planned for single family residential development and currently being mass graded. The property to the east is within Planning Areas 6B and 9A of The Avenue Specific Plan, is planned for single family residential development and a middle school and is vacant. The property to the west is within Planning Areas 4 and 5 of The Avenue Specific Plan, is planned for single family residential development and is vacant; and

c. The Second Amendment continues to apply to the same area as the original Development Agreement and propose to extend the terms of the Development Agreement for an additional five (5) period to serve Tentative Tract Maps No. 18419. The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force; and

d. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties. The environmental impacts of this project were previously adopted addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on December 9, 2006, and supporting documentation. This application introduces no new significant environmental impacts; and

e. All adopted mitigation measures of the related EIR shall be a

condition of project approval and are incorporated herein by reference.

**SECTION 6. *Planning Commission Action.*** Based upon the findings and conclusions set forth in paragraphs 1, 2, 3, 4 and 5 above, the Planning Commission hereby RECOMMENDS APPROVAL of the Second Amendment of the Development Agreement, File No. PDA07-001, to the City Council.

**SECTION 7. *Indemnification.*** The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

**SECTION 8. *Custodian of Records.*** The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

**SECTION 9. *Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 24<sup>th</sup> day of April 2018, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.



Richard D. Delman  
Planning Commission Chairman

ATTEST:



Cathy Wahlstrom  
Assistant Planning Director  
Secretary of Planning Commission

Planning Commission Resolution  
File No. PDA07-001  
April 24, 2018  
Page 7

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC18-053 was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on April 24, 2018 by the following roll call vote, to wit:

AYES:           DeDiemar, Delman, Gage, Gregorek, Reyes

NOES:

ABSENT:       Downs, Willoughby

ABSTAIN:



Gwen Berendsen  
Gwen Berendsen  
Secretary Pro Tempore

Planning Commission Resolution  
File No. PDA07-001  
April 24, 2018  
Page 8

**Exhibit "A"**  
**Second Amendment to the Development Agreement**  
**Between The City of Ontario and Western Pacific Housing, Inc.**  
**File No. PDA07-001**  
*(Document follows this page)*

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

City of Ontario  
303 East "B" Street  
Ontario California, California 91764  
Attn: City Clerk

Exempt from Fees Per Gov. Code § 6103

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Space above this line for Recorder's Use Only

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF ONTARIO  
AND  
WESTERN PACIFIC HOUSING, INC.**

This Second Amendment to the Development Agreement (hereinafter "Second Amendment") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2018 by and between the CITY OF ONTARIO, a California municipal corporation (hereinafter "CITY"); and WESTERN PACIFIC HOUSING, INC., a Delaware corporation (hereinafter "OWNER").

**RECITALS**

WHEREAS, the CITY and Distinguished Land Development, Inc., a California corporation, as predecessor in interest of OWNER, previously entered into a Development Agreement pursuant to Section 65864, et seq., of the Government Code, (hereinafter the "Original Development Agreement") and such Original Development Agreement was recorded in the County of San Bernardino on June 20, 2007 as Document No. 2007-0428993; and

WHEREAS, Ontario Schaefer Holdings LLC acquired the Property from Distinguished Land Development Inc. on December 14, 2010; and

WHEREAS, under the terms of the sale and transfer of the Property to Ontario Schaefer Holdings LLC, Ontario Schaefer Holdings LLC expressly and unconditionally assumed all the rights, duties and obligations of Distinguished Land Development Inc. under the Original Development Agreement, including, without limitation, all of the general rights, duties and obligations of OWNER under the Original Development Agreement; and

WHEREAS, CITY has approved the transfer and assignment of the "Original Development Agreement" from Distinguished Land Development Inc. to , Ontario Schaefer Holdings LLC.; and

WHEREAS, Ontario Schaefer Holdings LLC has transferred the Property to Western Pacific Housing, Inc. and Western Pacific Housing, Inc. has been assigned certain rights and obligations of the Original Development Agreement, and Western Pacific Housing, Inc. has accepted such rights and obligations under the provisions of the Conditional Assignment and Assumption Agreement between Ontario Schaefer Holdings LLC and Western Pacific Housing, Inc. dated October 3, 2017; and

WHEREAS, under the terms of the Conditional Assignment and Assumption Agreement between Ontario Schaefer Holdings LLC and Western Pacific Housing, Inc., Western Pacific Housing, Inc. agreed to apply to CITY and diligently pursue an application to amend the Original Development Agreement to extend the term of the Original Development Agreement; and

WHEREAS, CITY and Ontario Schaefer Holdings LLC have previously entered into that certain First Amendment to the Original Development Agreement, which had an "Effective Date" of March 4, 2014; and

WHEREAS, the current OWNER of the Property, Western Pacific Housing, Inc. desires to amend the term provisions of the Original Development Agreement to provide for the extension of the term of the Original Development Agreement for an additional 5-year period; and

WHEREAS, Section 2.5 of the Original Development Agreement specifies that the Original Development Agreement may be amended, in whole or in part, only in the manner provided for in Government Code Section 65868.1 and the procedure for adopting and entering into an amendment to the Original Development Agreement shall be the same as the procedure for adopting and entering into the Original Development Agreement.

## **AGREEMENTS**

NOW, THEREFORE, in consideration of the above recitals and of the mutual agreements hereinafter contained, the parties agree as follows:

### **1. MODIFICATIONS TO DEVELOPMENT AGREEMENT**

1.1 Modifications to Section 2.3 Term. Section 2.3 of the Original Development Agreement shall be removed and replaced with the following:

"2.3 Term. The term shall commence on the Effective Date of this Development Agreement and shall continue for an initial term of 10 years unless this term is modified or extended pursuant to the provisions of this agreement. The term of this Agreement shall be extended for an additional

5 years following the date that the ordinance adopting this Second Amendment becomes effective.”

## **2. INTEGRATION.**

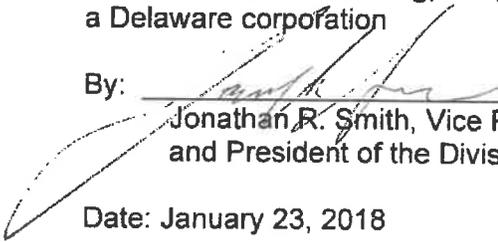
2.1 Integration of Previous Understandings and Clarifications. This Second Amendment reflects the complete understanding of the parties with respect to the subject matter hereof. To the extent this Second Amendment conflicts with the Original Development Agreement, or the First Amendment, this Second Amendment supersedes the Original Development Agreement and the First Amendment. In all other respects, the parties hereto re-affirm and ratify all other provisions of the Original Development Agreement. This Second Amendment shall be recorded against the Property following its full execution.

**IN WITNESS WHEREOF**, the parties hereto have executed this Second Amendment as of the date the ordinance adopting this Second Amendment becomes effective.

**SIGNATURE PAGE  
TO  
SECOND AMENDMENT TO DEVELOPMENT AGREEMENT BY AND BETWEEN  
THE CITY OF ONTARIO  
AND  
WESTERN PACIFIC HOUSING, INC.**

**"OWNER"**

**Western Pacific Housing, Inc.,  
a Delaware corporation**

By:   
Jonathan R. Smith, Vice President  
and President of the Division

Date: January 23, 2018

**"CITY"**

CITY OF ONTARIO

By: \_\_\_\_\_  
Scott Ochoa, City Manager

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk, Ontario

APPROVED AS TO FORM:  
BEST, BEST & KRIEGER LLP

\_\_\_\_\_  
City Attorney

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of RIVERSIDE )  
On JANUARY 24, 2018 before me, JACALYN MCQUISTON,  
Date Here Insert Name and Title of the Officer  
personally appeared JONATHAN R. SMITH  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Jacalyn McQuiston  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_ Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  Partner —  Limited  General  
 Individual  Attorney in Fact  Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_ Signer Is Representing: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT, FILE NO. PDA07-001, BETWEEN THE CITY OF ONTARIO AND WESTERN PACIFIC HOUSING, INC., TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO. 18419. THE PROJECT IS LOCATED WITHIN THE LOW DENSITY RESIDENTIAL DISTRICT OF PLANNING AREA 6A OF THE AVENUE SPECIFIC PLAN, LOCATED AT THE SOUTHEAST CORNER OF ARCHIBALD AVENUE AND SCHAEFER AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 0218-201-15 AND 0218-201-44.

WHEREAS, CALIFORNIA GOVERNMENT CODE SECTION 65864 NOW provides, in pertinent part, as follows:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.”

WHEREAS, California Government Code Section 65865 provides, in pertinent part, as follows:

“Any city ... may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article ...”

WHEREAS, California Government Code Section 65865.2. provides, in part, as follows:

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

WHEREAS, on April 4, 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on September 10, 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on June 19, 2007, the City Council of the City of Ontario adopted Ordinance No. 2862, approving a Development Agreement between Distinguished Land Development, and the City; and

WHEREAS, on December 14, 2010, Ontario Schaefer Holdings LLC acquired the property from Distinguished Land Development; and

WHEREAS, on March 4, 2014, the City Council of the City of Ontario adopted Ordinance No. 2986, approving a First Amendment to the Development Agreement between Ontario Schaefer Holdings LLC, and the City; and

WHEREAS, on October 3, 2017, Ontario Schaefer Holdings LLC transferred the property to Lennar Western Pacific Housing, Inc., and assigned certain rights and obligations of the originally Development Agreement to Western Pacific Housing, Inc.; and

WHEREAS, attached to this Ordinance, marked Attachment "A" and incorporated herein by this reference, is the proposed Second Amendment to the Development Agreement Western Pacific Housing, Inc., and the City of Ontario, File No. PDA07-001. Hereinafter in this Ordinance, the Development Agreement is referred to as the "Development Agreement"; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan, for which an Environmental Impact Report (SCH #2005071109) was certified by the City Council on December 9, 2006. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are be a condition of project approval and are incorporated herein by reference; and

WHEREAS, on April 24, 2018, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Resolution No. PC18-053 recommending the City Council approve the Application; and

WHEREAS, on June 5, 2018, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

NOW, THEREFORE, it is hereby found, determined, and ordained by the City Council of the City of Ontario as follows:

**SECTION 1. *Environmental Determination and Findings.*** As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the previously certified EIR for The Avenue Specific Plan (SCH #2005071109) was certified by the City Council on December 9, 2006, and supporting documentation. Based upon the facts and information contained in the addendum to The Avenue Specific Plan EIR (SCH #2005071109) and supporting documentation, the City Council finds as follows:

(1) The environmental impacts of this project were reviewed in conjunction with The Avenue Specific Plan EIR (SCH# 2005071109), certified by the City of Ontario City Council on December 9, 2006, in conjunction with File No. PSP05-003.

(2) The previous The Avenue Specific Plan EIR (SCH# 2005071109) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

(3) The previous The Avenue Specific Plan EIR (SCH# 2005071109), was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

(4) The previous The Avenue Specific Plan EIR (SCH# 2005071109) reflects the independent judgment of the City Council; and

(5) The proposed project will introduce no new significant environmental impacts beyond those previously analyzed in the previous The Avenue Specific Plan EIR (SCH# 2005071109), and all mitigation measures previously adopted with The Avenue Specific Plan EIR (SCH# 2005071109), are incorporated herein by this reference

**SECTION 2. *Subsequent or Supplemental Environmental Review Not Required.*** Based on the information presented to the City Council, and the specific findings set forth in Section 1, above, the City Council finds that the preparation of a subsequent or supplemental to The Avenue Specific Plan EIR (SCH# 2005071109) is not required for the Project, as the Project:

(1) Does not constitute substantial changes to The Avenue Specific Plan EIR (SCH# 2005071109) that will require major revisions to The Avenue Specific Plan EIR (SCH# 2005071109) due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which The Avenue Specific Plan EIR (SCH# 2005071109) was prepared, that will require major revisions to The Avenue Specific Plan EIR (SCH# 2005071109) due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time The Avenue Specific Plan EIR (SCH# 2005071109) was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in The Avenue Specific Plan EIR (SCH# 2005071109); or

(b) Significant effects previously examined will be substantially more severe than shown in The Avenue Specific Plan EIR (SCH# 2005071109); or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in The Avenue Specific Plan EIR (SCH# 2005071109) would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

**SECTION 3. *Housing Element Consistency.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the City Council finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and proposed project is consistent with the maximum number of dwelling units (229) and density (3.83 DU/AC) specified within The Avenue Specific Plan. Per the Available Land Inventory, The Avenue Specific Plan Specific Plan overall is required to provide 2,552 dwelling units.

**SECTION 4. *Ontario International Airport Land Use Compatibility Plan ("ALUCP") Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan ("ALUCP"), establishing the Airport Influence Area for Ontario International Airport ("ONT"), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2),

[2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the City Council, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 5. *Concluding Facts and Reasons.*** Based upon substantial evidence presented to the City Council during the above-referenced hearing on June 5, 2018, including written and oral staff reports, together with public testimony, the City Council hereby specifically finds as follows:

a. The Development Agreement applies to 59.82 acres of land generally located at southeast corner of Archibald Avenue and Schaefer Avenue, within the Low Density Residential district of Planning Area 6A of The Avenue Specific Plan and is presently mass graded; and

b. The properties to the north of the Project site are within the Low Density Residential (2.1 to 5 du/ac) zoning designation and are developed with single family homes. The property to the south of the project site is within Planning Area 7 of The Avenue Specific Plan, planned for single family residential development and currently being mass graded. The property to the east is within Planning Areas 6B and 9A of The Avenue Specific Plan, is planned for single family residential development and a middle school and is vacant. The property to the west is within Planning Areas 4 and 5 of The Avenue Specific Plan, is planned for single family residential development and is vacant; and

c. The Second Amendment continues to apply to the same area as the original Development Agreement and propose to extend the terms of the Development Agreement for an additional five (5) period to serve Tentative Tract Maps No. 18419. The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force; and

d. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties. The environmental impacts of this project were previously reviewed with The Avenue Specific Plan EIR (SCH# 2005071109) that was certified by the City Council on December 9, 2006, and supporting documentation. This application introduces no new significant environmental impacts; and

e. All adopted mitigation measures of the related EIR shall be a condition of project approval and are incorporated herein by reference.

**SECTION 6. *City Council Action.*** Based upon the findings and conclusions set forth in paragraphs 1, 2, 3, 4 and 5 above, the City Council hereby APPROVES the Second Amendment to Development Agreement, File No. PDA07-001.

**SECTION 7. *Indemnification. Indemnification.*** The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

**SECTION 8. *Custodian of Records.*** The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

**SECTION 9. *Severability.*** If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**SECTION 10. *Effective Date.*** This Ordinance shall become effective 30 days following its adoption.

**SECTION 11. *Publication and Posting.*** The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within 15 days following the adoption. The City Clerk shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
PAUL S. LEON, MAYOR

ATTEST:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

---

BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. \_\_\_\_\_ was duly introduced at a regular meeting of the City Council of the City of Ontario held June 5, 2018 and adopted at the regular meeting held \_\_\_\_\_, 2018 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

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

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

**Exhibit "A"**

**Second Amendment to the Development Agreement  
Between The City of Ontario and Western Pacific Housing, Inc.**

**File No. PDA07-001**

***(Document follows this page)***

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

City of Ontario  
303 East "B" Street  
Ontario California, California 91764  
Attn: City Clerk

Exempt from Fees Per Gov. Code § 6103

---

Space above this line for Recorder's Use Only

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF ONTARIO  
AND  
WESTERN PACIFIC HOUSING, INC.**

This Second Amendment to the Development Agreement (hereinafter "Second Amendment") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2018 by and between the CITY OF ONTARIO, a California municipal corporation (hereinafter "CITY"), and WESTERN PACIFIC HOUSING, INC., a Delaware corporation (hereinafter "OWNER").

**RECITALS**

WHEREAS, the CITY and Distinguished Land Development, Inc., a California corporation, as predecessor in interest of OWNER, previously entered into a Development Agreement pursuant to Section 65864, *et seq.*, of the Government Code, (hereinafter the "Original Development Agreement") and such Original Development Agreement was recorded in the County of San Bernardino on June 20, 2007 as Document No. 2007-0428993; and

WHEREAS, Ontario Schaefer Holdings LLC acquired the Property from Distinguished Land Development Inc. on December 14, 2010; and

WHEREAS, under the terms of the sale and transfer of the Property to Ontario Schaefer Holdings LLC, Ontario Schaefer Holdings LLC expressly and unconditionally assumed all the rights, duties and obligations of Distinguished Land Development Inc. under the Original Development Agreement, including, without limitation, all of the general rights, duties and obligations of OWNER under the Original Development Agreement; and

WHEREAS, CITY has approved the transfer and assignment of the "Original Development Agreement" from Distinguished Land Development Inc. to , Ontario Schaefer Holdings LLC.; and

WHEREAS, Ontario Schaefer Holdings LLC has transferred the Property to Western Pacific Housing, Inc. and Western Pacific Housing, Inc. has been assigned certain rights and obligations of the Original Development Agreement, and Western Pacific Housing, Inc. has accepted such rights and obligations under the provisions of the Conditional Assignment and Assumption Agreement between Ontario Schaefer Holdings LLC and Western Pacific Housing, Inc. dated October 3, 2017; and

WHEREAS, under the terms of the Conditional Assignment and Assumption Agreement between Ontario Schaefer Holdings LLC and Western Pacific Housing, Inc., Western Pacific Housing, Inc. agreed to apply to CITY and diligently pursue an application to amend the Original Development Agreement to extend the term of the Original Development Agreement; and

WHEREAS, CITY and Ontario Schaefer Holdings LLC have previously entered into that certain First Amendment to the Original Development Agreement, which had an "Effective Date" of March 4, 2014; and

WHEREAS, the current OWNER of the Property, Western Pacific Housing, Inc. desires to amend the term provisions of the Original Development Agreement to provide for the extension of the term of the Original Development Agreement for an additional 5-year period; and

WHEREAS, Section 2.5 of the Original Development Agreement specifies that the Original Development Agreement may be amended, in whole or in part, only in the manner provided for in Government Code Section 65868.1 and the procedure for adopting and entering into an amendment to the Original Development Agreement shall be the same as the procedure for adopting and entering into the Original Development Agreement.

## **AGREEMENTS**

NOW, THEREFORE, in consideration of the above recitals and of the mutual agreements hereinafter contained, the parties agree as follows:

### **1. MODIFICATIONS TO DEVELOPMENT AGREEMENT**

1.1 Modifications to Section 2.3 Term. Section 2.3 of the Original Development Agreement shall be removed and replaced with the following:

"2.3 Term. The term shall commence on the Effective Date of this Development Agreement and shall continue for an initial term of 10 years unless this term is modified or extended pursuant to the provisions of this agreement. The term of this Agreement shall be extended for an additional

5 years following the date that the ordinance adopting this Second Amendment becomes effective.”

**2. INTEGRATION.**

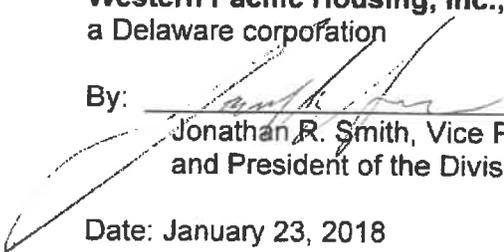
2.1 Integration of Previous Understandings and Clarifications. This Second Amendment reflects the complete understanding of the parties with respect to the subject matter hereof. To the extent this Second Amendment conflicts with the Original Development Agreement, or the First Amendment, this Second Amendment supersedes the Original Development Agreement and the First Amendment. In all other respects, the parties hereto re-affirm and ratify all other provisions of the Original Development Agreement. This Second Amendment shall be recorded against the Property following its full execution.

**IN WITNESS WHEREOF**, the parties hereto have executed this Second Amendment as of the date the ordinance adopting this Second Amendment becomes effective.

**SIGNATURE PAGE  
TO  
SECOND AMENDMENT TO DEVELOPMENT AGREEMENT BY AND BETWEEN  
THE CITY OF ONTARIO  
AND  
WESTERN PACIFIC HOUSING, INC.**

**"OWNER"**

**Western Pacific Housing, Inc.,  
a Delaware corporation**

By:   
Jonathan R. Smith, Vice President  
and President of the Division

Date: January 23, 2018

**"CITY"**

CITY OF ONTARIO

By: \_\_\_\_\_  
Scott Ochoa, City Manager

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk, Ontario

APPROVED AS TO FORM:  
BEST, BEST & KRIEGER LLP

\_\_\_\_\_  
City Attorney

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

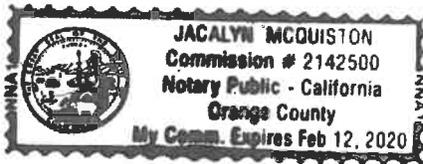
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of RIVERSIDE )  
On JANUARY 24, 2018 before me, JACALYN McQUISTON,  
Date Here Insert Name and Title of the Officer  
personally appeared JONATHAN R. SMITH  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Jacalyn McQuiston  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Corporate Officer -- Title(s): \_\_\_\_\_
- Partner --  Limited  General
- Individual  Attorney in Fact
- Trustee  Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Corporate Officer -- Title(s): \_\_\_\_\_
- Partner --  Limited  General
- Individual  Attorney in Fact
- Trustee  Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

# CITY OF ONTARIO

Agenda Report  
June 5, 2018

SECTION:  
PUBLIC HEARINGS

**SUBJECT:** A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT AMENDMENT (SECOND AMENDMENT) BETWEEN THE CITY OF ONTARIO, GDC INVESTMENTS 6 L.P., AND LENNAR HOMES OF CALIFORNIA TO AMEND DEVELOPMENT AGREEMENT, FILE NO. PDA14-003, TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO'S. 17931, 17932 AND 17933. THE PROJECT IS LOCATED ON THE NORTHEAST AND SOUTHEAST CORNERS OF MILL CREEK AVENUE AND EUCALYPTUS AVENUE, WITHIN PLANNING AREAS 8, 9, AND 10 OF THE ESPERANZA SPECIFIC PLAN (APN: 0218-332-12 AND 0218-252-16)

**RECOMMENDATION:** That the City Council introduce and waive further reading of an ordinance approving the Second Amendment (File PDA14-003, on file with the Records Management Department) to the Development Agreement between the City of Ontario, GDC Investments 6 L.P. and Lennar Homes of California to extend the term of the Development Agreement to serve Tract Map No's. 17931, 17932 and 17933.

**COUNCIL GOALS:** Invest in the Growth and Evolution of the City's Economy

Operate in a Businesslike Manner

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 proposed Development Agreement Amendment will to extend the term of the Development Agreement to serve Tract Map No's. 17931, 17932 and 17933. In addition, the City will receive Public Service Funding fees plus development impact, compliance processing, licensing, and permitting fees. No Original Model Colony revenue will be used to support the Ontario Ranch development. The Development Agreement and the related tract map(s) conditions require the developer to construct public infrastructure.

**STAFF MEMBER PRESENTING:** Cathy Wahlstrom, Planning Director

Prepared by: Rudy Zeledon  
Department: Planning  
City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2018  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

9

**BACKGROUND:** On February 6, 2007, the City Council approved the Esperanza Specific Plan and Environmental Impact Report (EIR). The Esperanza Specific Plan established the land use designations, development standards, and design guidelines for 223 acres, which includes the potential development of 1,410 residential dwelling units. Subsequently, on February 20, 2007, the City Council approved the Development Agreement (File No. PDA06-003) between the City of Ontario and Armada Ontario Associates, the original applicant for the property.

On September 2, 2014, the City Council approved a First Amendment (File No. PDA14-003) to the Development that included updates to certain provisions of the Development Agreement to conform to the construction agreement within NMC Builders.

On September 5, 2017, GDC Investments 6 L.P. transferred a portion of the project area to Lennar Homes of California, Inc., and partially assigned certain rights and obligations of the originally Development Agreement to Lennar Homes of California, Inc. Under the terms of the Partial Agreement and Assumption Agreement between GDC Investments 6 L.P. and Lennar Homes of California, Inc.,

Lennar Homes of California, Inc., agreed to apply to the City to pursue an application to amend the original Development Agreement to extend the term of the original Development Agreement. The proposed Amendment continues to apply to the same area as the original Development Agreement and propose to extend the terms of the Development Agreement for an additional five (5) year period to serve Tentative Tract Maps No's 17931, 17932 and 17933.

The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force.

In considering the application at their meeting of April 24, 2018, the Planning Commission found that the Second Amendment to the Development Agreement was consistent with State law; The Ontario Plan; the City's Development Agreement policies; and other Development Agreements previously approved for Ontario Ranch developments; and, with a 5 to 0 vote (Resolution No. PC18-054), recommended approval of the Second Amendment to the Development Agreement to the City Council.

**HOUSING ELEMENT COMPLIANCE:** The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and proposed project is consistent with the maximum number of dwelling units (289) and density (7.5 DU/AC) specified within Esperanza Specific Plan. Per the Available Land Inventory, the Esperanza Specific Plan Specific Plan overall is required to provide 1,410 dwelling units.

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

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were reviewed in a previous Addendum to Esperanza Specific Plan EIR (SCH#2002061047) approved by the City Council on

September 2, 2014. This application introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

# EXHIBIT "A"

## The Esperanza Specific Plan Land Use Plan

Section 1. EXECUTIVE SUMMARY

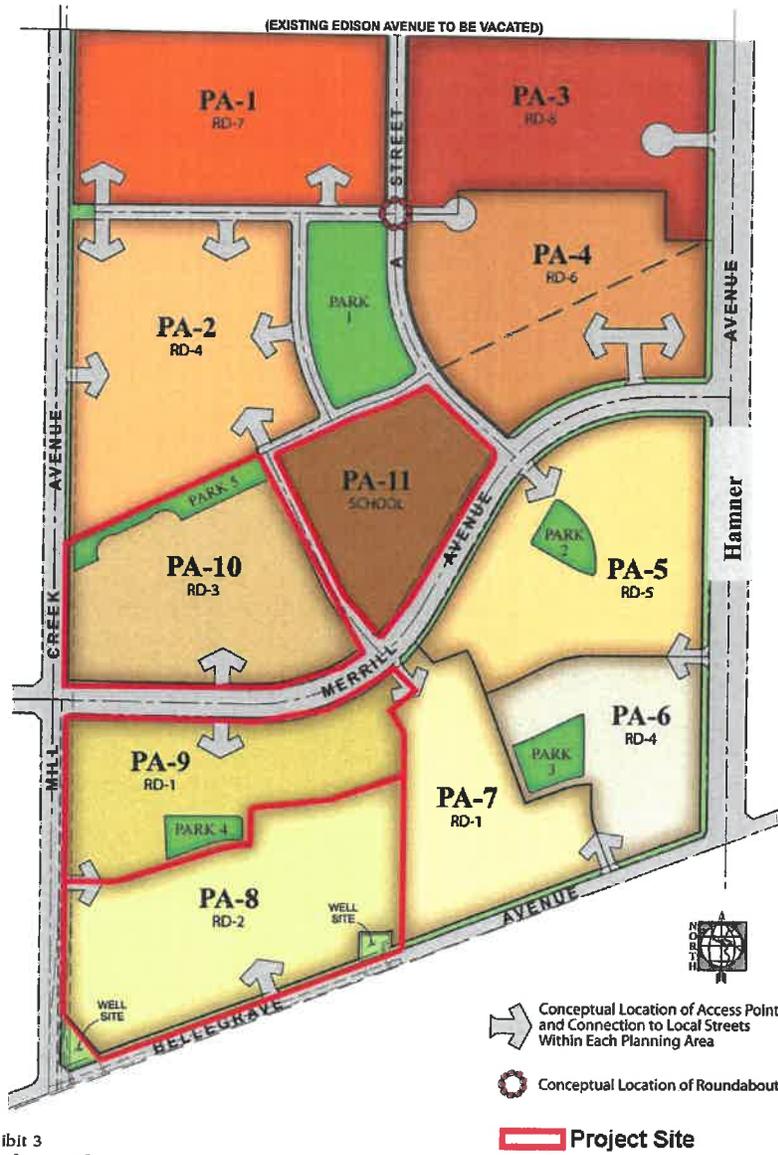


Exhibit 3  
Land Use Plan

*Ontario Esperanza Specific Plan*

1.5



# PLANNING COMMISSION STAFF REPORT

April 24, 2018

**SUBJECT:** A Development Agreement Amendment (Second Amendment) between the City of Ontario, GDC Investments 6 L.P. and Lennar Homes of California to amend Development Agreement, File No. PDA14-003, to extend the term of the agreement to serve Tract Map No's. 17931, 17932 and 17933. The project is located on the northeast and southeast corners of Mill Creek Avenue and Eucalyptus Avenue, within Planning Areas 8, 9, and 10 of the Esperanza Specific Plan. **Submitted by GDC Investments 6 L.P. and Lennar Homes of California.** City Council action is required.

**PROPERTY OWNER:** GDC Investments 6 L.P. and Lennar Homes of California

**RECOMMENDED ACTION:** That the Planning Commission recommend City Council adoption of an ordinance approving the Amendment to the Development Agreement (File No. PDA14-003) between GDC Investments 6 L.P. and Lennar Homes of California and the City of Ontario.

**PROJECT SETTING:** The project site is comprised of 73.8 acres of generally located on the northeast and southeast corners of Mill Creek Avenue and Eucalyptus Avenue, within Planning Areas 8, 9, and 10 of the Esperanza Specific Plan, and is depicted in Figure 1: Project Location. The project site currently being mass graded.

### PROJECT ANALYSIS:

Background — In February 2007, the City Council approved the Esperanza Specific Plan (File No. PSP05-002) and certified the Environmental Impact Report (EIR) for the specific plan. On March 27, 2007, the Planning Commission approved Tentative Tract Map No's. 17931, 17932, and 17933



Figure 1. Project Location

Case Planner:	Rudy Zeledon, Principal Planner	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB			
		ZA			
Submittal Date:	02/23/2018	PC	04/24/18	Approval	Recommend
Hearing Deadline:	N/A	CC			Final

the City Council approved the Development Agreement (File No. PDA06-003) between the City of Ontario and Armada Ontario Associates, the original applicant for the property.

On September 2, 2014, the City Council approved a First Amendment (File No. PDA14-003) to the Development that included updates to certain provisions of the Development Agreement to conform to the construction agreement within NMC Builders.

On September 5, 2017, GDC Investments 6 L.P. transferred a portion of the project area to Lennar Homes of California, Inc., and partially assigned certain rights and obligations of the originally Development Agreement to Lennar Homes of California, Inc. Under the terms of the Partial Agreement and Assumption Agreement between GDC Investments 6 L.P. and Lennar Homes of California, Inc., Lennar Homes of California, Inc., agreed to apply to the City to pursue an application to amend the original Development Agreement to extend the term of the original Development Agreement. Therefore, a Second Amendment to the Development Agreement to extend the term of the Development Agreement for an additional 5-year period has been submitted.

State law and Section 2.5 of the existing Development Agreement provide the amendments may be made to the Development Agreement, upon the mutual agreement of the parties, using the same process and procedures as for the consideration and approval of the original Development Agreement.

[1] Site Analysis — the proposed Amendment continues to apply to the same area as the original Development Agreement and propose to extend the terms of the Development Agreement for an additional five (5) period to serve Tentative Tract Maps No's 17931, 17932 and 17933.

The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force.

Staff finds that the Second Amendment is consistent with State law, The Ontario Plan, and the City's Development Agreement policies. As a result, staff is recommending approval of the application for the Second Amendment to the Planning Commission. If the Commission finds the Second Amendment acceptable, a recommendation of approval to the City Council would be appropriate.

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

[1] City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- 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

[2] Vision.

**Distinctive Development:**

- Commercial and Residential Development
  - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

Governance.

**Decision Making:**

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
  - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

[3] Policy Plan (General Plan)

**Land Use Element:**

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.
  - LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.
  - LU1-3 Adequate Capacity. We require adequate infrastructure and services for all development.

➤ LU1-6 Complete Community: We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).

- Goal LU2: Compatibility between a wide range of uses.

➤ LU2-6: Infrastructure Compatibility: We require infrastructure to be aesthetically pleasing and in context with the community character.

#### **Housing Element:**

- Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

➤ H2-4 New Model Colony. We support a premier lifestyle community in the New Model Colony distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.

➤ H2-5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.

Goal H5: A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age or other status.

#### **Community Economics Element:**

- Goal CE1: A complete community that provides for all incomes and stages of life.

➤ CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

- Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

➤ CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.

➤ CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.

➤ CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

➤ CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

**Safety Element:**

▪ Goal S1: Minimized risk of injury, loss of life, property damage and economic and social disruption caused by earthquake-induced and other geologic hazards.

➤ S1-1 Implementation of Regulations and Standards. We require that all new habitable structures be designed in accordance with the most recent California Building Code adopted by the City, including provisions regarding lateral forces and grading.

**Community Design Element:**

▪ Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

➤ CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

➤ CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.

▪ Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

➤ CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:

- Building volume, massing, and height to provide appropriate scale and proportion;
- A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
- Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

➤ CD2-2 Neighborhood Design. We create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

- A pattern of smaller, walkable blocks that promote access, activity and safety;
- Variable setbacks and parcel sizes to accommodate a diversity of housing types;
  - Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;
  - Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the “outdoor living room”), as appropriate; and
  - Landscaped parkways, with sidewalks separated from the curb.

➤ CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.

➤ CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.

➤ CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

- Goal CD3: Vibrant urban environments that are organized around intense buildings, pedestrian and transit areas, public plazas, and linkages between and within developments that are conveniently located, visually appealing and safe during all hours.

- CD3-6 Landscaping. We utilize landscaping to enhance the aesthetics, functionality and sustainability of streetscapes, outdoor spaces and buildings.

- Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

- CD5-1 Maintenance of Buildings and Property. We require all public and privately owned buildings and property (including trails and easements) to be properly and consistently maintained.

- CD5-2 Maintenance of Infrastructure. We require the continual maintenance of infrastructure.

**HOUSING ELEMENT COMPLIANCE:** The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and proposed project is consistent with the maximum number of dwelling units (289) and density (7.5 DU/AC) specified within Esperanza Specific Plan. Per the Available Land Inventory, the Esperanza Specific Plan Specific Plan overall is required to provide 1,410 dwelling units.

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

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were reviewed in a previous Addendum to Esperanza Specific Plan EIR (SCH#2002061047) certified by the City Council on September 2, 2014. This application introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

## EXHIBIT A ESPERANZA SPECIFIC PLAN MAP

Section 1. EXECUTIVE SUMMARY

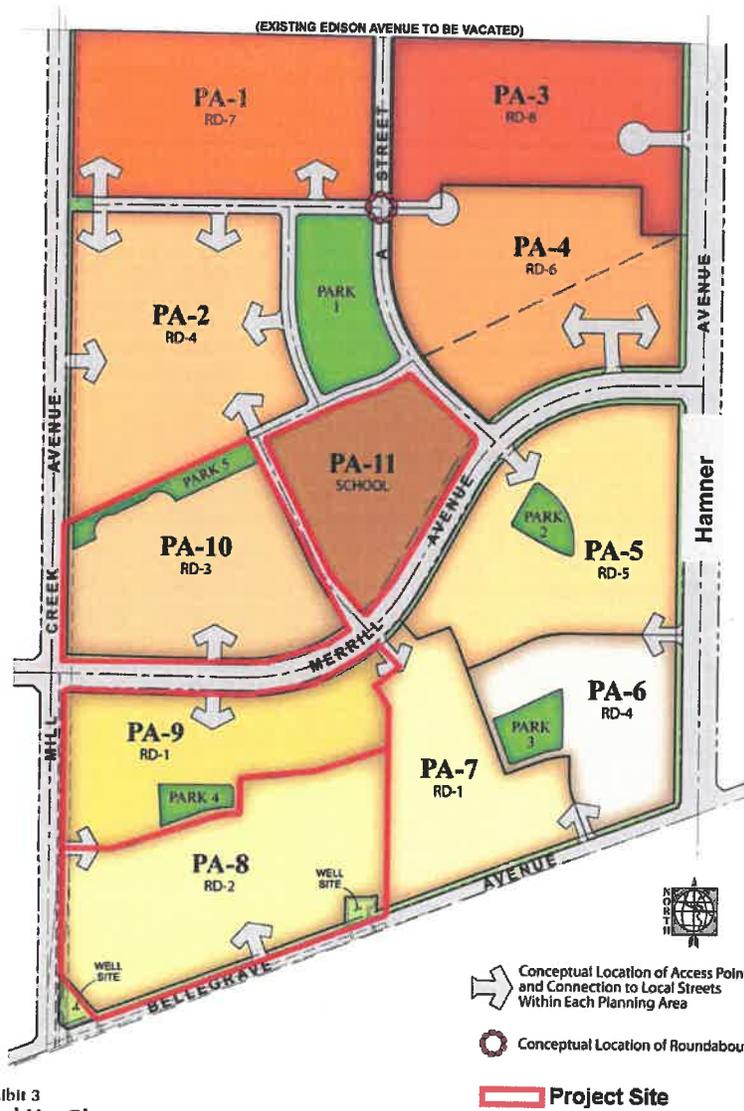


Exhibit 3  
 Land Use Plan

*Ontario Esperanza Specific Plan*

RESOLUTION NO. PC18-054

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE A SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT, FILE NO. PDA14-003, BETWEEN THE CITY OF ONTARIO AND GDC INVESTMENTS 6 L.P., AND LENNAR HOMES OF CALIFORNIA TO AMEND DEVELOPMENT AGREEMENT, FILE NO. PDA14-003, TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO'S. 17931, 17932 AND 17933. THE PROJECT IS LOCATED ON THE NORTHEAST AND SOUTHEAST CORNERS OF MILL CREEK AVENUE AND EUCALYPTUS AVENUE, WITHIN PLANNING AREAS 8, 9, AND 10 OF THE ESPERANZA SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0218-332-12 AND 0218-252-16.

WHEREAS, CALIFORNIA GOVERNMENT CODE SECTION 65864 NOW provides, in pertinent part, as follows:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.”

WHEREAS, California Government Code Section 65865 provides, in pertinent part, as follows:

“Any city ... may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article ...”

WHEREAS, California Government Code Section 65865.2. provides, in part, as follows:

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

WHEREAS, on April 4, 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on September 10, 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on the 20<sup>th</sup> day of February 2007, the City Council of the City of Ontario, adopted Ordinance No. 2856, approving a Development Agreement (File No. PDA 06-003) between Armada Ontario Associates, and the City; and

WHEREAS, on December 14, 2010, GDC Investments 6 L.P. acquired the Property from Armada Ontario; and

WHEREAS, on September 2, 2014, the City Council of the City of Ontario, adopted Ordinance No. 2997, approving a First Amendment to the Development Agreement (File No. PDA 14-003) between GDC Investments 6 L.P. and the City; and

WHEREAS, on September 5, 2017, GDC Investments 6 L.P., transferred a portion of the project area to Lennar Homes of California, Inc., and partially assigned certain rights and obligations of the originally Development Agreement to Lennar Homes of California, Inc.; and

WHEREAS, attached to this resolution, marked Exhibit “A” and incorporated herein by this reference, is the proposed Second Amendment to the Development Agreement between GDC Investments 6 L.P., Lennar Homes of California, Inc., and the City of Ontario, File No. PDA14-003. Hereinafter in this Resolution, the Development Agreement is referred to as the “Development Agreement”; and

WHEREAS, on April 24, 2018, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, the environmental impacts of this project were reviewed in a previous Addendum to Esperanza Specific Plan Environmental Impact Report (SCH#2002061047) certified by the City Council on September 2, 2014. This project introduces no new significant environmental impacts. All previously adopted mitigation measures are be a condition of project approval and are incorporated herein by reference; and

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

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Ontario as follows:

**SECTION 1. Environmental Determination and Findings.** As the recommending body for the Project, the Planning Commission has reviewed and considered the information contained in the previously adopted addendum to the Esperanza Specific Plan (SCH#2002061047) that was adopted by the City Council on September 4, 2018, and supporting documentation. Based upon the facts and information contained in the addendum to the Esperanza Specific Plan EIR (SCH#2002061047) and supporting documentation, the Planning Commission finds as follows:

(1) The environmental impacts of this project were previously reviewed in conjunction with the previously adopted addendum to the Esperanza Specific Plan EIR (SCH#2002061047) that was adopted by the City Council on September 4, 2018. This application introduces no new significant environmental impacts; and

(2) The Addendum and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

(3) The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This Application introduces no new significant environmental impacts.

(4) All previously adopted mitigation measures shall be a condition of project approval, as they are applicable to the Project, and are incorporated herein by this reference.

(5) The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the Planning Commission; and

(6) There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and

**SECTION 2: Subsequent or Supplemental Environmental Review Not Required.** Based on the Addendum, all related information presented to the Planning Commission, and the specific findings set forth in Section 1, above, the Planning Commission finds that the preparation of a subsequent or supplemental Environmental Impact Report is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant

environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and.

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in the Certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

**SECTION 3. *Housing Element Consistency.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and proposed project is consistent with the maximum number of dwelling units (294) and density (7.5 DU/AC) specified within Esperanza Specific Plan. Per the Available Land Inventory, the Esperanza Specific Plan Specific Plan overall is required to provide 1,410 dwelling units.

**SECTION 4: *Ontario International Airport Land Use Compatibility Plan ("ALUCP") Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan ("ALUCP"), establishing the Airport Influence Area for Ontario International Airport ("ONT"), which

encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the Planning Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 5. Concluding Facts and Reasons.** Based upon substantial evidence presented to the Planning Commission during the above-referenced hearing on October 24, 2017, including written and oral staff reports, together with public testimony, the Planning Commission hereby specifically finds as follows:

a. The Development Agreement applies to approximately 91 acres of land generally located at the northwest and southwest corners of Hamner Avenue and Eucalyptus Avenue, within Planning Areas 5 and 6 of the Esperanza Specific Plan and is presently mass graded; and

b. The properties to the north of the Project site are within Planning Area 4 of Esperanza Specific Plan and planned for single family development and developed dairy/agriculture uses. The property to the south of the project site is within the City of Eastvale and developed with single family residential development. The property to the east is within the City Eastvale and developed with industrial uses. The property to west is located within Planning Area 4 of Esperanza Specific Plan and planned for single family development and currently vacant; and

c. The Second Amendment continues to apply to the same area as the original Development Agreement and propose to extend the terms of the Development Agreement for an additional five (5) period to serve Tentative Tract Maps No's 17931, 17932, and 17933. The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force; and

d. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties. The environmental impacts of this project were previously adopted addendum to Esperanza Specific Plan EIR (SCH#2002061047) that was adopted by the City Council on September 4, 2014, and supporting documentation. This application introduces no new significant environmental impacts; and

e. All adopted mitigation measures of the related EIR shall be a condition of project approval and are incorporated herein by reference.

**SECTION 6. Planning Commission Action.** Based upon the findings and conclusions set forth in paragraphs 1, 2, 3, 4 and 5 above, the Planning Commission hereby RECOMMENDS APPROVAL of the Second Amendment of the Development Agreement, File No. PDA14-003, to the City Council.

**SECTION 7. Indemnification.** The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

**SECTION 8. Custodian of Records.** The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

**SECTION 9. Certification to Adoption.** The Secretary shall certify to the adoption of the Resolution.

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Planning Commission Resolution  
File No. PDA14-003  
April 24, 2018  
Page 7

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

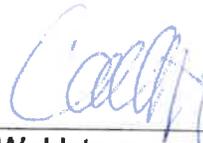
I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 24<sup>th</sup> day of April 2018, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.



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Richard D. Delman  
Planning Commission Chairman

ATTEST:



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Cathy Wahlstrom  
Assistant Planning Director  
Secretary of Planning Commission

Planning Commission Resolution  
File No. PDA14-003  
April 24, 2018  
Page 8

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC18-054 was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on April 24, 2018 by the following roll call vote, to wit:

AYES:           DeDiemar, Delman, Gage, Reyes

NOES:

ABSENT:       Downs, Willoughby

ABSTAIN:      Gregorek



Gwen Berendsen  
Gwen Berendsen  
Secretary Pro Tempore

Planning Commission Resolution  
File No. PDA14-003  
April 24, 2018  
Page 9

**Exhibit "A"**  
**Second Amendment to the Development Agreement**  
**Between**  
**The City of Ontario, GDC Investments 6 LP., and Lennar Homes of California**  
**File No. PDA14-003**  
*(Document follows this page)*

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

City of Ontario  
303 East "B" Street  
Ontario California, California 91764  
Attn: City Clerk

Exempt from Fees Per Gov. Code § 6103

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Space above this line for Recorder's Use Only

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF ONTARIO  
AND  
GDC INVESTMENTS 6 L.P.  
AND  
LENNAR HOMES OF CALIFORNIA, INC.  
(ESPERANZA WEST)**

This Second Amendment (hereinafter "Second Amendment") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2018 by and between the City of Ontario, a California municipal corporation (hereinafter "CITY"), and GDC Investments 6 L.P., a Delaware limited partnership and Lennar Homes of California, Inc., a California Corporation (hereinafter collectively referred to for purposes of this Second Amendment as "OWNERS").

RECITALS

WHEREAS, the CITY and the previous Owner, Armada Ontario Development L.L.C. ("Armada Ontario") previously entered into that certain Armada Ontario – Esperanza Development Agreement (No. PDA 06-003) dated February 20, 2007 pursuant to Section 65864, et seq., of the Government Code, (hereinafter the "Original Development Agreement"); and

WHEREAS, one of the current Owners, GDC Investments 6 L.P. acquired the Property from Armada Ontario on December 14, 2010; and

WHEREAS, under the terms of the sale and transfer of a portion of the Property to GDC Investments 6 L.P., GDC Investments 6 L.P. was assigned and has expressly and unconditionally assumed all the rights, duties and obligations of Armada Ontario under the Original Development Agreement, including, without limitation, all of the general rights, duties and obligations of OWNER under the Original Development Agreement; and

WHEREAS, CITY has approved the transfer and assignment of the "Original Development Agreement" from Armada Ontario to GDC Investments 6 L.P.; and

WHEREAS, Section 2.5 of the Original Development Agreement specifies that the Development Agreement may be amended in whole or in part only in the manner provided for in Government Code Section 65868.1 and the procedure for adopting and entering into an amendment to the Original Development Agreement shall be the same as the procedure for adopting and entering into the Original Development Agreement; and

WHEREAS, CITY and GDC Investments 6 L.P. have previously entered into that certain First Amendment to the Original Development Agreement, which had an "Effective Date" of September 2, 2014; and

WHEREAS, GDC Investments 6 L.P. has transferred a portion of the Property to Lennar Homes of California, Inc., and Lennar Homes of California, Inc. has been partially assigned certain rights and obligations of the Original Development Agreement and Lennar Homes of California, Inc. has accepted such rights and obligations under the provisions of the Partial Assignment and Assumption Agreement between GDC Investments 6 LP and Lennar Homes of California, Inc. dated September 5, 2017; and

WHEREAS, under the terms of the Partial Assignment and Assumption Agreement between GDC Investments 6 LP and Lennar Homes of California, Inc., Lennar Homes of California, Inc. agreed to apply to CITY and diligently pursue an application to amend the Original Development Agreement to extend the term of the Original Development Agreement; and

WHEREAS, both OWNERS of the Property desire to amend the term provisions of the Original Development Agreement to provide for the extension of the term of the Original Development Agreement for an additional 5-year period.

### **AGREEMENTS**

NOW, THEREFORE, in consideration of the above recitals and of the mutual agreements hereinafter contained, the parties agree as follows:

#### **1. MODIFICATIONS TO DEVELOPMENT AGREEMENT**

1.1 Modifications to Section 2.3 Term. Section 2.3 of the Original Development Agreement shall be removed and replaced with the following:

"2.3 Term. The term shall commence on the Effective Date of this Original Development Agreement and shall continue for an initial term of 10 years unless this term is modified or extended pursuant to the provisions of this agreement. The term of this Agreement shall be extended for an additional 5 years following the date that the ordinance adopting this Second Amendment becomes effective."

#### **2. INTEGRATION.**

2.1 Integration of Previous Understandings and Clarifications. This Second Amendment reflects the complete understanding of the parties with respect to the subject matter hereof. To the extent this Second Amendment conflicts with the Original Development Agreement, or the First Amendment, this Second Amendment supersedes the Original Development Agreement and the First Amendment. In all other respects, the parties hereto re-affirm and ratify all other provisions of the Original Development Agreement. This Second Amendment shall be recorded against the Property following its full execution.

**IN WITNESS WHEREOF**, the parties hereto have executed this Second Amendment as of the date the ordinance adopting this Second Amendment becomes effective.

**SIGNATURE PAGE TO SECOND AMENDMENT TO DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE CITY OF ONTARIO AND GDC INVESTMENTS 6, L.P. AND  
LENNAR HOMES OF CALIFORNIA**

**"OWNER"**

**GDC Investments 6 L.P.,  
a Delaware limited partnership**

By:  
Name:  
Its:

Date: \_\_\_\_\_

**"OWNER"**

**Lennar Homes of California, Inc. a  
California Corporation**

By:   
Name: *Geoffrey Smith*  
Its: *Vice President*

Date: 2/28/18

**"CITY"**

**CITY OF ONTARIO**

By: \_\_\_\_\_  
Scott Ochoa, City Manager

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk, Ontario

**APPROVED AS TO FORM:  
BEST, BEST & KRIEGER LLP**

\_\_\_\_\_  
City Attorney



# California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Riverside )

On February 28, 2018 before me, Beth Bruley, Notary Public,  
personally appeared Geoffrey Smith

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Beth Bruley



(Seal)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A SECOND AMENDMENT BETWEEN THE CITY OF ONTARIO AND GDC INVESTMENTS 6 L.P., AND LENNAR HOMES OF CALIFORNIA TO AMEND DEVELOPMENT AGREEMENT, FILE NO. PDA14-003, TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO'S. 17931, 17932 AND 17933. THE PROJECT IS LOCATED ON THE NORTHEAST AND SOUTHEAST CORNERS OF MILL CREEK AVENUE AND EUCALYPTUS AVENUE, WITHIN PLANNING AREAS 8, 9, AND 10 OF THE ESPERANZA SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0218-332-12 AND 0218-252-16.

WHEREAS, CALIFORNIA GOVERNMENT CODE SECTION 65864 NOW provides, in pertinent part, as follows:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.”

WHEREAS, California Government Code Section 65865 provides, in pertinent part, as follows:

“Any city ... may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article ...”

WHEREAS, California Government Code Section 65865.2. provides, in part, as follows:

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

WHEREAS, on April 4, 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on September 10, 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on February 20, 2007, the City Council of the City of Ontario adopted Ordinance No. 2856, approving a Development Agreement (File No. PDA 06-003) between Armada Ontario Associates, and the City; and

WHEREAS, on December 14, 2010, GDC Investments 6 L.P. acquired the Property from Armada Ontario; and

WHEREAS, on September 2, 2014, the City Council of the City of Ontario adopted Ordinance No. 2997, approving a First Amendment to the Development Agreement (File No. PDA 14-003) between GDC Investments 6 L.P. and the City; and

WHEREAS, on September 5, 2017, GDC Investments 6 L.P., transferred a portion of the project area to Lennar Homes of California, Inc., and partially assigned certain rights and obligations of the originally Development Agreement to Lennar Homes of California, Inc.; and

WHEREAS, attached to this Ordinance, marked Attachment "A" and incorporated herein by this reference, is the proposed Second Amendment to the Development Agreement between GDC Investments 6 L.P., Lennar Homes of California, Inc., and the City of Ontario, File No. PDA14-003. Hereinafter in this Ordinance, the Development Agreement is referred to as the "Development Agreement"; and

WHEREAS, the environmental impacts of this project were reviewed in a previous Addendum to Esperanza Specific Plan Environmental Impact Report (SCH#2002061047) certified by the City Council on September 2, 2014. This project introduces no new significant environmental impacts. All previously adopted mitigation measures are to be a condition of project approval and are incorporated herein by reference; and

WHEREAS, on April 24, 2018, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Resolution No. PC18-054 recommending the City Council approve the Application; and

WHEREAS, on June 5, 2018, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

NOW, THEREFORE, it is hereby found, determined, and ordained by the City Council of the City of Ontario as follows:

**SECTION 1. *Environmental Determination and Findings.*** As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the previously adopted addendum to the Esperanza Specific Plan (SCH#2002061047) that was approved by the City Council on September 4, 2018, and supporting documentation. Based upon the facts and information contained in the addendum to the Esperanza Specific Plan EIR (SCH#2002061047) and supporting documentation, the City Council finds as follows:

(1) The environmental impacts of this project were previously reviewed in conjunction with the previously adopted addendum to the Esperanza Specific Plan EIR (SCH#2002061047) that was approved by the City Council on September 4, 2018. This application introduces no new significant environmental impacts; and

(2) The Addendum and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

(3) The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This Application introduces no new significant environmental impacts.

(4) All previously adopted mitigation measures shall be a condition of project approval, as they are applicable to the Project, and are incorporated herein by this reference.

(5) The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the City Council; and

(6) There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and

**SECTION 2. *Subsequent or Supplemental Environmental Review Not Required.*** Based on the Addendum, all related information presented to the City Council, and the specific findings set forth in Section 1, above, the City Council finds that the preparation of a subsequent or supplemental Environmental Impact Report is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and.

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in the Certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

**SECTION 3. *Housing Element Consistency.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the City Council finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation. The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and proposed project is consistent with the maximum number of dwelling units (294) and density (7.5 DU/AC) specified within Esperanza Specific Plan. Per the Available Land Inventory, the Esperanza Specific Plan Specific Plan overall is required to provide 1,410 dwelling units.

**SECTION 4. *Ontario International Airport Land Use Compatibility Plan ("ALUCP") Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan ("ALUCP"), establishing the Airport Influence Area for Ontario International Airport ("ONT"), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the City

Council has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the City Council, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 5. *Concluding Facts and Reasons.*** Based upon substantial evidence presented to the City Council during the above-referenced hearing on June 5, 2018, including written and oral staff reports, together with public testimony, the City Council hereby specifically finds as follows:

a. The Development Agreement applies to approximately 91 acres of land generally located at the northwest and southwest corners of Hamner Avenue and Eucalyptus Avenue, within Planning Areas 5 and 6 of the Esperanza Specific Plan and is presently mass graded; and

b. The properties to the north of the Project site are within Planning Area 4 of Esperanza Specific Plan and planned for single family development and developed dairy/agriculture uses. The property to the south of the project site is within the City of Eastvale and developed with single family residential development. The property to the east is within the City Eastvale and developed with industrial uses. The property to west is located within Planning Area 4 of Esperanza Specific Plan and planned for single family development and currently vacant; and

c. The Second Amendment continues to apply to the same area as the original Development Agreement and propose to extend the terms of the Development Agreement for an additional five (5) period to serve Tentative Tract Maps No's 17931, 17932, and 17933. The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force; and

d. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties. The environmental impacts of this project were previously reviewed with an addendum to Esperanza Specific Plan EIR (SCH#2002061047) that was approved by the City Council on September 4, 2014, and supporting documentation. This application introduces no new significant environmental impacts; and

e. All adopted mitigation measures of the related EIR shall be a condition of project approval and are incorporated herein by reference.

**SECTION 6. *City Council Action.*** Based upon the findings and conclusions set forth in paragraphs 1, 2, 3, 4 and 5 above, the City Council hereby APPROVES the

Second Amendment to Development Agreement, File No. PDA14-003.

**SECTION 7. *Indemnification. Indemnification.*** The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

**SECTION 8. *Custodian of Records.*** The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

**SECTION 9. *Severability.*** If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**SECTION 10. *Effective Date.*** This Ordinance shall become effective 30 days following its adoption.

**SECTION 11. *Publication and Posting.*** The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within 15 days following the adoption. The City Clerk shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
PAUL S. LEON, MAYOR

ATTEST:

\_\_\_\_\_

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. \_\_\_\_\_ was duly introduced at a regular meeting of the City Council of the City of Ontario held June 5, 2018 and adopted at the regular meeting held \_\_\_\_\_, 2018 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

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

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

City of Ontario  
303 East "B" Street  
Ontario California, California 91764  
Attn: City Clerk

Exempt from Fees Per Gov. Code § 6103

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Space above this line for Recorder's Use Only

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF ONTARIO  
AND  
GDC INVESTMENTS 6 L.P.  
AND  
LENNAR HOMES OF CALIFORNIA, INC.  
(ESPERANZA WEST)**

This Second Amendment (hereinafter "Second Amendment") is entered into as of the \_\_\_\_ day of \_\_\_\_\_ 2018 by and between the City of Ontario, a California municipal corporation (hereinafter "CITY"), and GDC Investments 6 L.P., a Delaware limited partnership and Lennar Homes of California, Inc., a California Corporation (hereinafter collectively referred to for purposes of this Second Amendment as "OWNERS").

RECITALS

WHEREAS, the CITY and the previous Owner, Armada Ontario Development L.L.C. ("Armada Ontario") previously entered into that certain Armada Ontario – Esperanza Development Agreement (No. PDA 06-003) dated February 20, 2007 pursuant to Section 65864, et seq., of the Government Code, (hereinafter the "Original Development Agreement"); and

WHEREAS, one of the current Owners, GDC Investments 6 L.P. acquired the Property from Armada Ontario on December 14, 2010; and

WHEREAS, under the terms of the sale and transfer of a portion of the Property to GDC Investments 6 L.P., GDC Investments 6 L.P. was assigned and has expressly and unconditionally assumed all the rights, duties and obligations of Armada Ontario under the Original Development Agreement, including, without limitation, all of the general rights, duties and obligations of OWNER under the Original Development Agreement; and

WHEREAS, CITY has approved the transfer and assignment of the "Original Development Agreement" from Armada Ontario to GDC Investments 6 L.P.; and

WHEREAS, Section 2.5 of the Original Development Agreement specifies that the Development Agreement may be amended in whole or in part only in the manner provided for in Government Code Section 65868.1 and the procedure for adopting and entering into an amendment to the Original Development Agreement shall be the same as the procedure for adopting and entering into the Original Development Agreement; and

WHEREAS, CITY and GDC Investments 6 L.P. have previously entered into that certain First Amendment to the Original Development Agreement, which had an "Effective Date" of September 2, 2014; and

WHEREAS, GDC Investments 6 L.P. has transferred a portion of the Property to Lennar Homes of California, Inc., and Lennar Homes of California, Inc. has been partially assigned certain rights and obligations of the Original Development Agreement and Lennar Homes of California, Inc. has accepted such rights and obligations under the provisions of the Partial Assignment and Assumption Agreement between GDC Investments 6 LP and Lennar Homes of California, Inc. dated September 5, 2017; and

WHEREAS, under the terms of the Partial Assignment and Assumption Agreement between GDC Investments 6 LP and Lennar Homes of California, Inc., Lennar Homes of California, Inc. agreed to apply to CITY and diligently pursue an application to amend the Original Development Agreement to extend the term of the Original Development Agreement; and

WHEREAS, both OWNERS of the Property desire to amend the term provisions of the Original Development Agreement to provide for the extension of the term of the Original Development Agreement for an additional 5-year period.

### **AGREEMENTS**

NOW, THEREFORE, in consideration of the above recitals and of the mutual agreements hereinafter contained, the parties agree as follows:

#### **1. MODIFICATIONS TO DEVELOPMENT AGREEMENT**

1.1 Modifications to Section 2.3 Term. Section 2.3 of the Original Development Agreement shall be removed and replaced with the following:

"2.3 Term. The term shall commence on the Effective Date of this Original Development Agreement and shall continue for an initial term of 10 years unless this term is modified or extended pursuant to the provisions of this agreement. The term of this Agreement shall be extended for an additional 5 years following the date that the ordinance adopting this Second Amendment becomes effective."

#### **2. INTEGRATION.**

2.1 Integration of Previous Understandings and Clarifications. This Second Amendment reflects the complete understanding of the parties with respect to the subject matter hereof. To the extent this Second Amendment conflicts with the Original Development Agreement, or the First Amendment, this Second Amendment supersedes the Original Development Agreement and the First Amendment. In all other respects, the parties hereto re-affirm and ratify all other provisions of the Original Development Agreement. This Second Amendment shall be recorded against the Property following its full execution.

**IN WITNESS WHEREOF**, the parties hereto have executed this Second Amendment as of the date the ordinance adopting this Second Amendment becomes effective.

**SIGNATURE PAGE TO SECOND AMENDMENT TO DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE CITY OF ONTARIO AND GDC INVESTMENTS 6, L.P. AND  
LENNAR HOMES OF CALIFORNIA**

**"OWNER"**

**GDC Investments 6 L.P.,  
a Delaware limited partnership**

By:  
Name:  
Its:

Date: \_\_\_\_\_

**"OWNER"**

**Lennar Homes of California, Inc. a  
California Corporation**

By:   
Name: *Geoffrey Smith*  
Its: *Vice President*

Date: 2/28/18

**"CITY"**

**CITY OF ONTARIO**

By: \_\_\_\_\_  
Scott Ochoa, City Manager

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk, Ontario

**APPROVED AS TO FORM:  
BEST, BEST & KRIEGER LLP**

\_\_\_\_\_  
City Attorney



# California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Riverside )

On February 28, 2018 before me, Beth Bruley, Notary Public,  
personally appeared Geoffrey Smith

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Beth Bruley



(Seal)

# CITY OF ONTARIO

Agenda Report  
June 5, 2018

SECTION:  
PUBLIC HEARINGS

**SUBJECT:** A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT AMENDMENT (SECOND AMENDMENT) BETWEEN THE CITY OF ONTARIO, GDC-RCCD, L.P., AND LENNAR HOMES OF CALIFORNIA TO AMEND DEVELOPMENT AGREEMENT, FILE NO. PDA14-004, TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO'S. 17749, 17935, 17936, 18876 AND 18878. THE PROJECT IS LOCATED ON THE NORTHWEST AND SOUTHWEST CORNERS OF HAMNER AVENUE AND EUCALYPTUS AVENUE, WITHIN PLANNING AREAS 4, 5, 6, AND 7 OF THE ESPERANZA SPECIFIC PLAN (APN: 0218-332-01 AND 0218-252-17)

**RECOMMENDATION:** That the City Council introduce and waive further reading of an ordinance approving the Second Amendment (File PDA14-004, on file with the Records Management Department) to the Development Agreement between the City of Ontario, GDC-RCCD, L.P., and Lennar Homes of California, to extend the term of the agreement to serve Tract Map No's. 17749, 17935, 17936, 18876 and 18878.

**COUNCIL GOALS:** Invest in the Growth and Evolution of the City's Economy

Operate in a Businesslike Manner

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 proposed Development Agreement Amendment will extend the term of the agreement to serve Tract Map No's. 17749, 17935, 17936, 18876 and 18878. In addition, the City will receive Public Service Funding fees plus development impact, compliance processing, licensing, and permitting fees. No Original Model Colony revenue will be used to support the Ontario Ranch development. The Development Agreement and the related tract map(s) conditions require the developer to construct public infrastructure.

**STAFF MEMBER PRESENTING:** Cathy Wahlstrom, Planning Director

Prepared by: Rudy Zeledon  
Department: Planning  
City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2018  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

10

**BACKGROUND:** On February 6, 2007, the City Council approved the Esperanza Specific Plan and Environmental Impact Report (EIR). The Esperanza Specific Plan established the land use designations, development standards, and design guidelines for 223 acres, which includes the potential development of 1,410 residential dwelling units. Subsequently, on February 27, 2007, the City Council approved the Development Agreement (File No. PDA06-002) between the City of Ontario and Regent Ontario, LLC, the original applicant for the property. In December of 2010, GDC-RCCD, L.P. acquired the property from Regent Ontario.

On July 22, 2014, the City Council approved a First Amendment to the Development Agreement (File No. PDA14-004) that included updates to certain provisions of the Development Agreement to conform to the construction agreement within NMC Builders and the incorporation of Tentative Tract Maps 18876 and 18878, within Planning Areas 4 and 5 of the Specific Plan, which results the addition of 217 residential units and 27.23 acres of land.

On September 5, 2017, GDC-RCCD, L.P., transferred a portion of the project area to Lennar Homes of California, Inc., and partially assigned certain rights and obligations of the originally Development Agreement to Lennar Homes of California, Inc. Under the terms of the Partial Agreement and Assumption Agreement between GDC-RCCD, L.P., and Lennar Homes of California, Inc., Lennar Homes of California, Inc., agreed to apply to the City to pursue an application to amend the original Development Agreement to extend the term of the original Development Agreement. The proposed Amendment continues to apply to the same area as the original Development Agreement and propose to extend the terms of the Development Agreement for an additional five (5) year period to serve Tentative Tract Maps No's 17935, 17936, 18878, and 18876.

The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force.

In considering the application at their meeting of April 24, 2018, the Planning Commission found that the Second Amendment to the Development Agreement was consistent with State law; The Ontario Plan; the City's Development Agreement policies; and other Development Agreements previously approved for Ontario Ranch developments; and, with a 5 to 0 vote (Resolution No. PC18-055), recommended approval of the Second Amendment to the Development Agreement to the City Council.

**HOUSING ELEMENT COMPLIANCE:** The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and proposed project is consistent with the maximum number of dwelling units (289) and density (7.5 DU/AC) specified within Esperanza Specific Plan. Per the Available Land Inventory, the Esperanza Specific Plan Specific Plan overall is required to provide 1,410 dwelling units.

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

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were reviewed in a previous Addendum to Esperanza Specific Plan EIR (SCH#2002061047) approved by the City Council on September 2, 2014. This application introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

# EXHIBIT "A"

## The Esperanza Specific Plan Land Use Plan

Section 1. EXECUTIVE SUMMARY

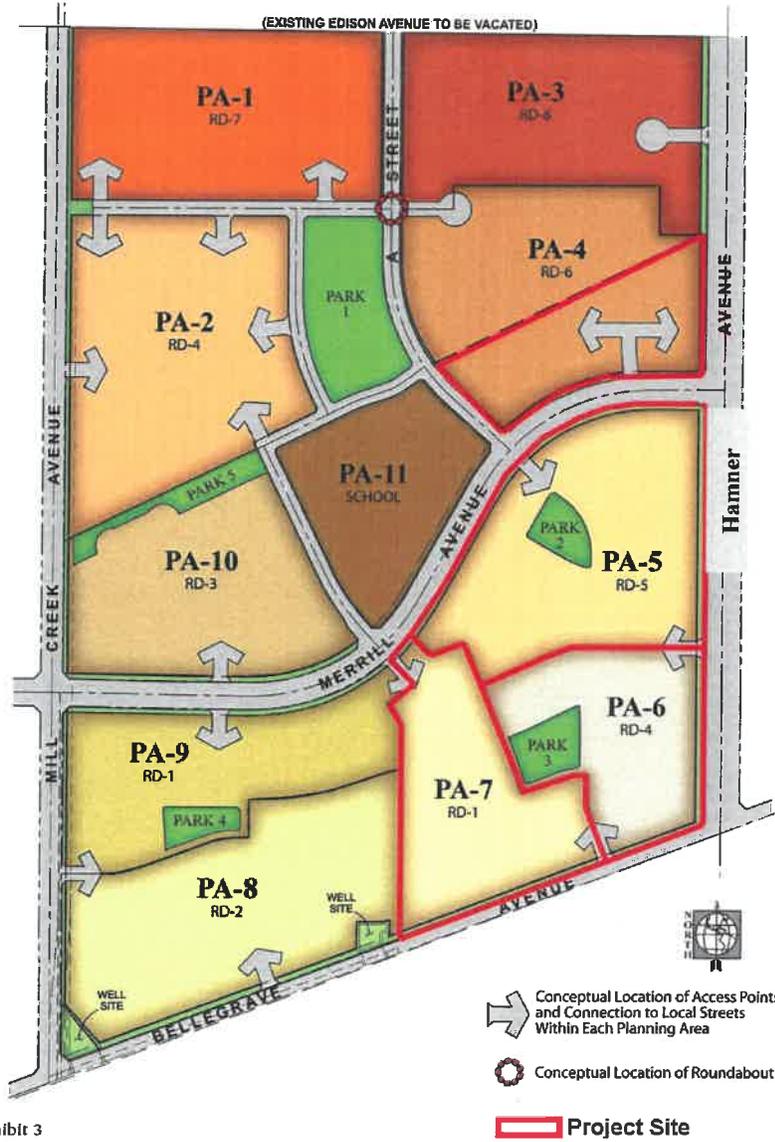


Exhibit 3  
Land Use Plan

*Ontario Esperanza Specific Plan*

1.5



# PLANNING COMMISSION STAFF REPORT

April 24, 2018

**SUBJECT:** A Development Agreement Amendment (Second Amendment) between the City of Ontario, GDC-RCCD, L.P., and Lennar Homes of California to amend Development Agreement, File No. PDA14-004, to extend the term of the agreement to serve Tract Map No's. 17749, 17935, 17936, 18876 and 18878. The project is located on the northwest and southwest corners of Hamner Avenue and Eucalyptus Avenue, within Planning Areas 4, 5, 6, and 7 of the Esperanza Specific Plan. **Submitted by GDC-RCCD, L.P., and Lennar Homes of California.** City Council action is required.

**PROPERTY OWNER:** GDC-RCCD, L.P., and Lennar Homes of California

**RECOMMENDED ACTION:** That the Planning Commission recommend City Council adoption of an ordinance approving the Amendment to the Development Agreement (File No. PDA14-004) between GDC-RCCD, L.P., and Lennar Homes of California and the City of Ontario.

**PROJECT SETTING:** The project site is comprised of 91 acres of generally located at the northwest and southwest corners of Hamner Avenue and Eucalyptus Avenue, within Planning Areas 5 and 6 of the Esperanza Specific Plan, and is depicted in Figure 1: Project Location, below. The project site currently being mass graded.

### PROJECT ANALYSIS:

Background — In February 2007, the City Council approved the Esperanza Specific Plan (File No. PSP05-002) and certified the Environmental Impact Report (EIR) for the specific plan. On February 27, 2007, the Planning Commission approved Tentative Tract Map No's. 17935 and 17936 for the

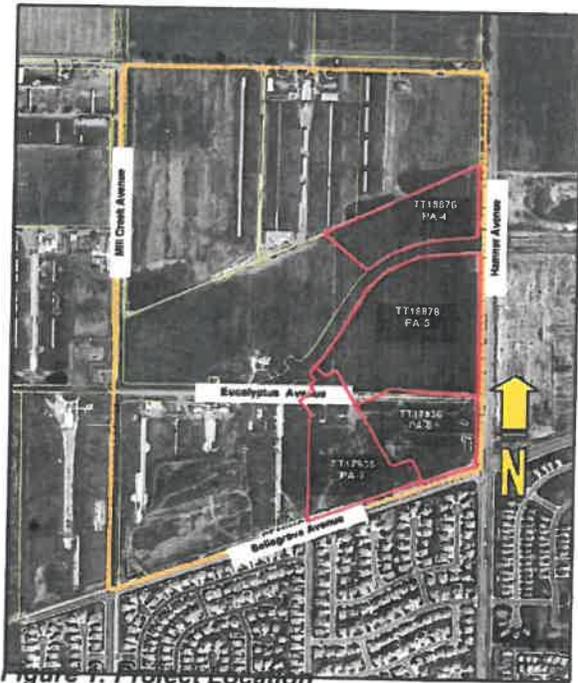


Figure 1. Project Location

Case Planner:	Rudy Zeledon, Principal Planner	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB			
Submittal Date:	02/23/2018	ZA			
Hearing Deadline:	N/A	PC	04/24/18	Approval	Recommend
		CC			Final

City Council approved the Development Agreement (File PDA06-002) between the City of Ontario and Regent Ontario, LLC, the original applicant for the property. In December of 2010, GDC-RCCD, L.P. acquired the property from Regent Ontario.

On July 22, 2014, the City Council approved a First Amendment to the Development Agreement (File No. PDA14-004) that included updates to certain provisions of the Development Agreement to conform to the construction agreement within NMC Builders and the incorporation of Tentative Tract Maps 18876 and 18878, within Planning Areas 4 and 5 of the Specific Plan, which results the addition of 217 residential units and 27.23 acres of land.

On September 5, 2017, GDC-RCCD, L.P., transferred a portion of the project area to Lennar Homes of California, Inc., and partially assigned certain rights and obligations of the originally Development Agreement to Lennar Homes of California, Inc. Under the terms of the Partial Agreement and Assumption Agreement between GDC-RCCD, L.P., and Lennar Homes of California, Inc., Lennar Homes of California, Inc., agreed to apply to the City to pursue an application to amend the original Development Agreement to extend the term of the original Development Agreement. Therefore, a Second Amendment to the Development Agreement to extend the term of the Development Agreement for an additional 5-year period has been submitted.

State law and Section 2.5 of the existing Development Agreement provide the amendments may be made to the Development Agreement, upon the mutual agreement of the parties, using the same process and procedures as for the consideration and approval of the original Development Agreement.

[1] Site Analysis — The proposed Amendment continues to apply to the same area as the original Development Agreement and propose to extend the terms of the Development Agreement for an additional five (5) period to serve Tentative Tract Maps No's 17935, 17936, 18878, and 18876.

The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force.

Staff finds that the Second Amendment is consistent with State law, The Ontario Plan, and the City's Development Agreement policies. As a result, staff is recommending approval of the application for the Second Amendment to the Planning Commission. If the Commission finds the Second Amendment acceptable, a recommendation of approval to the City Council would be appropriate.

**COMPLIANCE WITH THE ONTARIO PLAN:** The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan

(General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- 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

[2] Vision.

**Distinctive Development:**

- Commercial and Residential Development
  - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

Governance.

**Decision Making:**

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
  - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

[3] Policy Plan (General Plan)

**Land Use Element:**

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.
  - LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

➤ LU1-3 Adequate Capacity. We require adequate infrastructure and services for all development.

➤ LU1-6 Complete Community: We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).

▪ Goal LU2: Compatibility between a wide range of uses.

➤ LU2-6: Infrastructure Compatibility: We require infrastructure to be aesthetically pleasing and in context with the community character.

#### **Housing Element:**

▪ Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

➤ H2-4 New Model Colony. We support a premier lifestyle community in the New Model Colony distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.

➤ H2-5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.

Goal H5: A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age or other status.

#### **Community Economics Element:**

▪ Goal CE1: A complete community that provides for all incomes and stages of life.

➤ CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

▪ Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

➤ CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.

➤ CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.

➤ CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

➤ CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

**Safety Element:**

▪ Goal S1: Minimized risk of injury, loss of life, property damage and economic and social disruption caused by earthquake-induced and other geologic hazards.

➤ S1-1 Implementation of Regulations and Standards. We require that all new habitable structures be designed in accordance with the most recent California Building Code adopted by the City, including provisions regarding lateral forces and grading.

**Community Design Element:**

▪ Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

➤ CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

➤ CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.

▪ Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

➤ CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:

- Building volume, massing, and height to provide appropriate scale and proportion;
- A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
- Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

➤ CD2-2 Neighborhood Design. We create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

- A pattern of smaller, walkable blocks that promote access, activity and safety;
- Variable setbacks and parcel sizes to accommodate a diversity of housing types;
- Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;
- Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the “outdoor living room”), as appropriate; and
- Landscaped parkways, with sidewalks separated from the curb.

➤ CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.

➤ CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.

➤ CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

▪ Goal CD3: Vibrant urban environments that are organized around intense buildings, pedestrian and transit areas, public plazas, and linkages between and within developments that are conveniently located, visually appealing and safe during all hours.

➤ CD3-6 Landscaping. We utilize landscaping to enhance the aesthetics, functionality and sustainability of streetscapes, outdoor spaces and buildings.

▪ Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

➤ CD5-1 Maintenance of Buildings and Property. We require all public and privately owned buildings and property (including trails and easements) to be properly and consistently maintained.

➤ CD5-2 Maintenance of Infrastructure. We require the continual maintenance of infrastructure.

**HOUSING ELEMENT COMPLIANCE:** The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and proposed project is consistent with the maximum number of dwelling units (371) and density (7.5 DU/AC) specified within Esperanza Specific Plan. Per the Available Land Inventory, the Esperanza Specific Plan Specific Plan overall is required to provide 1,410 dwelling units.

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

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were reviewed in a previous Addendum to Esperanza Specific Plan Environmental Impact Report (SCH#2002061047) certified by the City Council on September 2, 2014. This application introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent

projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

## EXHIBIT A ESPERANZA SPECIFIC PLAN MAP

Section 1. EXECUTIVE SUMMARY

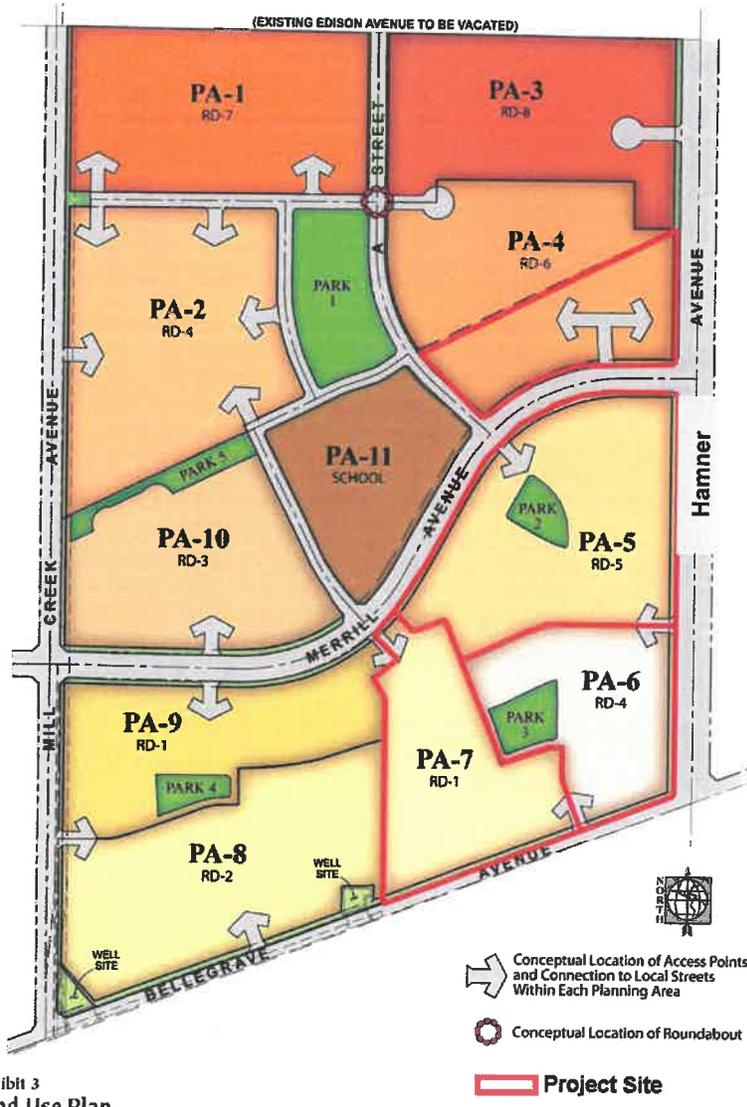


Exhibit 3  
 Land Use Plan

*Ontario Esperanza Specific Plan*

RESOLUTION NO. PC18-055

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE A SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT, FILE NO. PDA14-004, BETWEEN THE CITY OF ONTARIO AND GDC-RCCD, L.P., AND LENNAR HOMES OF CALIFORNIA, TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO'S. 17749, 17935, 17936, 18876 AND 18878. THE PROJECT IS LOCATED ON THE NORTHWEST AND SOUTHWEST CORNERS OF HAMNER AVENUE AND EUCALYPTUS AVENUE, WITHIN PLANNING AREAS 4, 5, 6, AND 7 OF THE ESPERANZA SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0218-332-01 AND 0218-252-17.

WHEREAS, CALIFORNIA GOVERNMENT CODE SECTION 65864 NOW provides, in pertinent part, as follows:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.”

WHEREAS, California Government Code Section 65865 provides, in pertinent part, as follows:

“Any city ... may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article ...”

WHEREAS, California Government Code Section 65865.2. provides, in part, as follows:

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

WHEREAS, on April 4, 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on September 10, 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on November 7, 2006, the City Council of the City of Ontario, adopted Ordinance No. 2855, approving a Development Agreement (File No. PDA16-003) between Regent Ontario, LLC and the City; and

WHEREAS, on December 10, 2010, GDC-RCCD, L.P. acquired the Property from Regent Ontario; and

WHEREAS, on September 2, 2014, the City Council of the City of Ontario, adopted Ordinance No. 2998, approving a First Amendment to the Development Agreement (File No. PDA14-004) between GDCI RCCD, L.P. and the City; and

WHEREAS, on September 5, 2017, GDC-RCCD, L.P., transferred a portion of the project area to Lennar Homes of California, Inc., and partially assigned certain rights and obligations of the originally Development Agreement to Lennar Homes of California, Inc.; and

WHEREAS, attached to this resolution, marked Exhibit “A” and incorporated herein by this reference, is the proposed Second Amendment to the Development Agreement between GDC-RCCD, L.P., Lennar Homes of California, Inc., and the City of Ontario, File No. PDA14-004. Hereinafter in this Resolution, the Development Agreement is referred to as the “Development Agreement”; and

WHEREAS, on April 24, 2018, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, the environmental impacts of this project were reviewed in a previous Addendum to Esperanza Specific Plan Environmental Impact Report (SCH#2002061047) certified by the City Council on September 2, 2014. This project introduces no new significant environmental impacts. All previously adopted mitigation measures are be a condition of project approval and are incorporated herein by reference; and

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

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Ontario as follows:

**SECTION 1. Environmental Determination and Findings.** As the recommending body for the Project, the Planning Commission has reviewed and considered the information contained in the previously adopted addendum to the Esperanza Specific Plan (SCH#2002061047) that was adopted by the City Council on September 4, 2018, and supporting documentation. Based upon the facts and information contained in the addendum to the Esperanza Specific Plan EIR (SCH#2002061047) and supporting documentation, the Planning Commission finds as follows:

(1) The environmental impacts of this project were previously reviewed in conjunction with the previously adopted addendum to the Esperanza Specific Plan EIR (SCH#2002061047) that was adopted by the City Council on September 4, 2018. This application introduces no new significant environmental impacts; and

(2) The Addendum and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

(3) The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This Application introduces no new significant environmental impacts.

(4) All previously adopted mitigation measures shall be a condition of project approval, as they are applicable to the Project, and are incorporated herein by this reference.

(5) The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the Planning Commission; and

(6) There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and

**SECTION 2: Subsequent or Supplemental Environmental Review Not Required.** Based on the Addendum, all related information presented to the Planning Commission, and the specific findings set forth in Section 1, above, the Planning Commission finds that the preparation of a subsequent or supplemental Environmental Impact Report is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant

environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and.

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in the Certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

**SECTION 3. Housing Element Consistency.** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and proposed project is consistent with the maximum number of dwelling units (371) and density (7.5 DU/AC) specified within Esperanza Specific Plan. Per the Available Land Inventory, the Esperanza Specific Plan Specific Plan overall is required to provide 1,410 dwelling units.

**SECTION 4: Ontario International Airport Land Use Compatibility Plan (“ALUCP”) Compliance.** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan (“ALUCP”), establishing the Airport Influence Area for Ontario International Airport (“ONT”), which

encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the Planning Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 5. *Concluding Facts and Reasons.*** Based upon substantial evidence presented to the Planning Commission during the above-referenced hearing on October 24, 2017, including written and oral staff reports, together with public testimony, the Planning Commission hereby specifically finds as follows:

a. The Development Agreement applies to approximately 91 acres of land generally located at the northwest and southwest corners of Hamner Avenue and Eucalyptus Avenue, within Planning Areas 5 and 6 of the Esperanza Specific Plan and is presently mass graded; and

b. The properties to the north of the Project site are within Planning Area 4 of Esperanza Specific Plan and planned for single family development and developed dairy/agriculture uses. The property to the south of the project site is within the City of Eastvale and developed with single family residential development. The property to the east is within the City Eastvale and developed with industrial uses. The property to west is located within Planning Area 4 of Esperanza Specific Plan and planned for single family development and currently vacant; and

c. The Second Amendment continues to apply to the same area as the original Development Agreement and propose to extend the terms of the Development Agreement for an additional five (5) period to serve Tentative Tract Maps No's 17935, 17936, 18878, and 18876. The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force; and

d. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties. The environmental impacts of this project were previously adopted addendum to t Esperanza Specific Plan EIR (SCH#2002061047) that was adopted by the City Council on September 4, 2014, and supporting documentation. This application introduces no new significant environmental impacts; and

e. All adopted mitigation measures of the related EIR shall be a condition of project approval and are incorporated herein by reference.

**SECTION 6. *Planning Commission Action.*** Based upon the findings and conclusions set forth in paragraphs 1, 2, 3, 4 and 5 above, the Planning Commission hereby RECOMMENDS APPROVAL of the Second Amendment of the Development Agreement, File No. PDA14-004, to the City Council.

**SECTION 7. *Indemnification.*** The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

**SECTION 8. *Custodian of Records.*** The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

**SECTION 9. *Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

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Planning Commission Resolution  
File No. PDA14-004  
April 24, 2018  
Page 7

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 24<sup>th</sup> day of April 2018, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.



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Richard D. Delman  
Planning Commission Chairman

ATTEST:



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Cathy Wahlstrom  
Assistant Planning Director  
Secretary of Planning Commission

Planning Commission Resolution  
File No. PDA14-004  
April 24, 2018  
Page 8

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC18-055 was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on April 24, 2018 by the following roll call vote, to wit:

AYES:           DeDiemar, Delman, Gage, Reyes

NOES:

ABSENT:       Downs, Willoughby

ABSTAIN:      Gregorek



Gwen Berendsen  
Gwen Berendsen  
Secretary Pro Tempore

Planning Commission Resolution  
File No. PDA14-004  
April 24, 2018  
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**Exhibit "A"**  
**Second Amendment to the Development Agreement**  
**Between**  
**The City of Ontario, GDC-RCCD L.P., and Lennar Homes of California**  
**File No. PDA14-004**  
*(Document follows this page)*

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

City of Ontario  
303 East "B" Street  
Ontario California, California 91764  
Attn: City Clerk

Exempt from Fees Per Gov. Code § 6103

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Space above this line for Recorder's Use Only

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF ONTARIO  
GDC - RCCD , L.P.  
AND  
LENNAR HOMES OF CALIFORNIA, INC.  
(ESPERANZA EAST)**

This Second Amendment (hereinafter "Second Amendment") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2018 by and between the City of Ontario, a California municipal corporation (hereinafter "CITY"), and GDC - RCCD L.P., a Delaware limited partnership and Lennar Homes of California, Inc., a California Corporation (hereinafter collectively referred to for purposes of this Second Amendment as "OWNERS").

RECITALS

WHEREAS, the CITY and the previous Owner, Regent Ontario L.L.C. ("Regent Ontario") previously entered into that certain Regent Ontario (Esperanza) Development Agreement (No. PDA 06-003) dated February 20, 2007 pursuant to Section 65864, et seq., of the Government Code, (hereinafter the "Original Development Agreement"); and

WHEREAS, one of the current Owners, GDC – RCCD L.P., acquired the Property from Regent Ontario on December 10, 2010; and

WHEREAS, under the terms of the sale and transfer of the Property, to GDC - RCCD L.P., GDC - RCCD L.P. was assigned and expressly and unconditionally assumed all the rights, duties and obligations of Regent Ontario under the Original Development Agreement, including, without limitation, all of the general rights, duties and obligations of OWNER under the Original Development Agreement; and

WHEREAS, CITY approved the transfer and assignment of the "Original Development Agreement" from Regent Ontario to GDC - RCCD L.P.; and

WHEREAS, Section 2.5 of the Original Development Agreement specifies that the Original Development Agreement may be amended in whole or in part only in the manner provided for in Government Code Section 65868.1 and the procedure for adopting and entering into an amendment to the Original Development Agreement shall be the same as the procedure for adopting and entering into the Original Development Agreement; and

WHEREAS, CITY and GDC – RCCD L.P. have previously entered into that certain First Amendment to the Original Development Agreement, which had an "Effective Date" of September 2, 2014; and

WHEREAS, GDC - RCCD L.P. has transferred a portion of the Property to Lennar Homes of California, Inc., and Lennar Homes of California, Inc. has been partially assigned certain rights and obligations of the Original Development Agreement and Lennar Homes of California, Inc. has accepted such rights and obligations under the provisions of the Partial Assignment and Assumption Agreement between GDC - RCCD LP and Lennar Homes of California, Inc., dated September 5, 2017; and

WHEREAS, under the terms of the Partial Assignment and Assumption Agreement between GDC - RCCD LP and Lennar Homes of California, Inc., Lennar Homes of California, Inc. agreed to apply to CITY and diligently pursue an application to amend the Original Development Agreement to extend the term of the Original Development Agreement; and

WHEREAS, both OWNERS of the Property desire to amend the term provisions of the Original Development Agreement to provide for the extension of the term of the Original Development Agreement for an additional 5-year period.

### **AGREEMENTS**

NOW, THEREFORE, in consideration of the above recitals and of the mutual agreements hereinafter contained, the parties agree as follows:

#### **1. MODIFICATIONS TO DEVELOPMENT AGREEMENT**

1.1 Modifications to Section 2.3 Term. Section 2.3 of the Original Development Agreement shall be removed and replaced with the following:

"2.3 Term. The term shall commence on the Effective Date of this Development Agreement and shall continue for an initial term of 10 years unless this term is modified or extended pursuant to the provisions of this agreement. The term of this Agreement shall be extended for an additional 5 years following the date that the ordinance adopting this Development Agreement becomes effective."

#### **2. INTEGRATION.**

2.1 Integration of Previous Understandings and Clarifications. This Second Amendment reflects the complete understanding of the parties with respect to the subject matter hereof. To the extent this Second Amendment conflicts with the Original Development Agreement, or the First Amendment, this Second Amendment supersedes the Original Development Agreement and the First Amendment. In all other respects, the parties hereto re-affirm and ratify all other provisions of the Original Development Agreement. This Second Amendment shall be recorded against the Property following its full execution.

**IN WITNESS WHEREOF**, the parties hereto have executed this First Amendment as of the date the ordinance adopting this Second Amendment becomes effective.

**SIGNATURE PAGE TO SECOND AMENDMENT TO DEVELOPMENT AGREEMENT BY  
AND BETWEEN THE CITY OF ONTARIO AND GDC - RCCD, L.P. AND LENNAR HOMES  
OF CALIFORNIA, INC.**

**"OWNER"**

**GDC - RCCD L.P.,  
a Delaware limited partnership**

By:  
Name:  
Its:

Date: \_\_\_\_\_

**"OWNER"**

**Lennar Homes of California, Inc. a  
California Corporation**

By:   
Name: *Geoffrey Smith*  
Its: *Vice President*

Date: 2/28/18

**"CITY"**

**CITY OF ONTARIO**

By: \_\_\_\_\_  
Scott Ochoa, City Manager

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:  
BEST, BEST & KRIEGER LLP**

\_\_\_\_\_  
City Attorney



# California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Riverside )

On February 28, 2018 before me, Beth Bruley, Notary Public,  
personally appeared Geoffrey Smith

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Beth Bruley



(Seal)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT, FILE NO. PDA14-004, BETWEEN THE CITY OF ONTARIO AND GDC-RCCD, L.P., AND LENNAR HOMES OF CALIFORNIA, TO EXTEND THE TERM OF THE AGREEMENT TO SERVE TRACT MAP NO'S. 17749, 17935, 17936, 18876 AND 18878. THE PROJECT IS LOCATED ON THE NORTHWEST AND SOUTHWEST CORNERS OF HAMNER AVENUE AND EUCALYPTUS AVENUE, WITHIN PLANNING AREAS 4, 5, 6, AND 7 OF THE ESPERANZA SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 0218-332-01 AND 0218-252-17.

WHEREAS, CALIFORNIA GOVERNMENT CODE SECTION 65864 NOW provides, in pertinent part, as follows:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.”

WHEREAS, California Government Code Section 65865 provides, in pertinent part, as follows:

“Any city ... may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article ...”

WHEREAS, California Government Code Section 65865.2. provides, in part, as follows:

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

WHEREAS, on April 4, 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on September 10, 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on November 7, 2006, the City Council of the City of Ontario adopted Ordinance No. 2855, approving a Development Agreement (File No. PDA16-003) between Regent Ontario, LLC and the City; and

WHEREAS, on December 10, 2010, GDC-RCCD, L.P. acquired the Property from Regent Ontario; and

WHEREAS, on September 2, 2014, the City Council of the City of Ontario adopted Ordinance No. 2998, approving a First Amendment to the Development Agreement (File No. PDA14-004) between GDCI RCCD, L.P. and the City; and

WHEREAS, on September 5, 2017, GDC-RCCD, L.P., transferred a portion of the project area to Lennar Homes of California, Inc., and partially assigned certain rights and obligations of the originally Development Agreement to Lennar Homes of California, Inc.; and

WHEREAS, attached to this Ordinance, marked Attachment "A" and incorporated herein by this reference, is the proposed Second Amendment to the Development Agreement between GDC-RCCD, L.P., Lennar Homes of California, Inc., and the City of Ontario, File No. PDA14-004. Hereinafter in this Ordinance, the Development Agreement is referred to as the "Development Agreement"; and

WHEREAS, on April 24, 2018, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Resolution No. PC18-055 recommending the City Council approve the Application; and

WHEREAS, on June 5, 2018, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, the environmental impacts of this project were reviewed in a previous Addendum to Esperanza Specific Plan Environmental Impact Report (SCH#2002061047) approved by the City Council on September 2, 2014. This project introduces no new significant environmental impacts. All previously adopted mitigation measures are be a condition of project approval and are incorporated herein by reference; and

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

NOW, THEREFORE, it is hereby found, determined, and ordained by the City Council of the City of Ontario as follows:

**SECTION 1. *Environmental Determination and Findings.*** As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the previously approved addendum to the Esperanza Specific Plan (SCH#2002061047) that was approved by the City Council on September 4, 2018, and supporting documentation. Based upon the facts and information contained in the addendum to the Esperanza Specific Plan EIR (SCH#2002061047) and supporting documentation, the City Council finds as follows:

(1) The environmental impacts of this project were previously reviewed in conjunction with the previously approved addendum to the Esperanza Specific Plan EIR (SCH#2002061047) that was approved by the City Council on September 4, 2018. This application introduces no new significant environmental impacts; and

(2) The Addendum and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

(3) The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This Application introduces no new significant environmental impacts.

(4) All previously adopted mitigation measures shall be a condition of project approval, as they are applicable to the Project, and are incorporated herein by this reference.

(5) The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the City Council; and

(6) There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and

**SECTION 2. *Subsequent or Supplemental Environmental Review Not Required.*** Based on the Addendum, all related information presented to the City Council, and the specific findings set forth in Section 1, above, the City Council finds that the preparation of a subsequent or supplemental Environmental Impact Report is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and.

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in the Certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

**SECTION 3. *Housing Element Consistency.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the City Council finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation. The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and proposed project is consistent with the maximum number of dwelling units (371) and density (7.5 DU/AC) specified within Esperanza Specific Plan. Per the Available Land Inventory, the Esperanza Specific Plan Specific Plan overall is required to provide 1,410 dwelling units.

**SECTION 4. *Ontario International Airport Land Use Compatibility Plan ("ALUCP") Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan ("ALUCP"), establishing the Airport Influence Area for Ontario International Airport ("ONT"), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3),

[3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the City Council, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 5. *Concluding Facts and Reasons.*** Based upon substantial evidence presented to the City Council during the above-referenced hearing on June 5, 2018, including written and oral staff reports, together with public testimony, the City Council hereby specifically finds as follows:

a. The Development Agreement applies to approximately 91 acres of land generally located at the northwest and southwest corners of Hamner Avenue and Eucalyptus Avenue, within Planning Areas 5 and 6 of the Esperanza Specific Plan and is presently mass graded; and

b. The properties to the north of the Project site are within Planning Area 4 of Esperanza Specific Plan and planned for single family development and developed dairy/agriculture uses. The property to the south of the project site is within the City of Eastvale and developed with single family residential development. The property to the east is within the City Eastvale and developed with industrial uses. The property to west is located within Planning Area 4 of Esperanza Specific Plan and planned for single family development and currently vacant; and

c. The Second Amendment continues to apply to the same area as the original Development Agreement and propose to extend the terms of the Development Agreement for an additional five (5) period to serve Tentative Tract Maps No's 17935, 17936, 18878, and 18876. The main points of the original agreement addressing Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements remain in force; and

d. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties. The environmental impacts of this project were previously reviewed with an addendum to the Esperanza Specific Plan EIR (SCH#2002061047) that was approved by the City Council on September 4, 2014, and supporting documentation. This application introduces no new significant environmental impacts; and

e. All adopted mitigation measures of the related EIR shall be a condition of project approval and are incorporated herein by reference.

**SECTION 6. *City Council Action.*** Based upon the findings and conclusions set forth in paragraphs 1, 2, 3, 4 and 5 above, the City Council hereby APPROVES the Second Amendment of the Development Agreement, File No. PDA14-004.

**SECTION 7. *Indemnification. Indemnification.*** The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and

employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

**SECTION 8. Custodian of Records.** The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

**SECTION 9. Severability.** If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**SECTION 10. Effective Date.** This Ordinance shall become effective 30 days following its adoption.

**SECTION 11. Publication and Posting.** The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within 15 days following the adoption. The City Clerk shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
PAUL S. LEON, MAYOR

ATTEST:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. \_\_\_\_\_ was duly introduced at a regular meeting of the City Council of the City of Ontario held June 5, 2018 and adopted at the regular meeting held \_\_\_\_\_, 2018 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

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

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

**ATTACHEMENT "A"**

**Second Amendment to the Development Agreement  
Between  
The City of Ontario, GDC-RCCD L.P., and Lennar Homes of California  
File No. PDA14-004  
(*Document follows this page*)**

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

City of Ontario  
303 East "B" Street  
Ontario California, California 91764  
Attn: City Clerk

Exempt from Fees Per Gov. Code § 6103

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Space above this line for Recorder's Use Only

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF ONTARIO  
GDC - RCCD , L.P.  
AND  
LENNAR HOMES OF CALIFORNIA, INC.  
(ESPERANZA EAST)**

This Second Amendment (hereinafter "Second Amendment") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2018 by and between the City of Ontario, a California municipal corporation (hereinafter "CITY"), and GDC - RCCD L.P., a Delaware limited partnership and Lennar Homes of California, Inc., a California Corporation (hereinafter collectively referred to for purposes of this Second Amendment as "OWNERS").

RECITALS

WHEREAS, the CITY and the previous Owner, Regent Ontario L.L.C. ("Regent Ontario") previously entered into that certain Regent Ontario (Esperanza) Development Agreement (No. PDA 06-003) dated February 20, 2007 pursuant to Section 65864, et seq., of the Government Code, (hereinafter the "Original Development Agreement"); and

WHEREAS, one of the current Owners, GDC – RCCD L.P., acquired the Property from Regent Ontario on December 10, 2010; and

WHEREAS, under the terms of the sale and transfer of the Property, to GDC - RCCD L.P., GDC - RCCD L.P. was assigned and expressly and unconditionally assumed all the rights, duties and obligations of Regent Ontario under the Original Development Agreement, including, without limitation, all of the general rights, duties and obligations of OWNER under the Original Development Agreement; and

WHEREAS, CITY approved the transfer and assignment of the "Original Development Agreement" from Regent Ontario to GDC - RCCD L.P.; and

WHEREAS, Section 2.5 of the Original Development Agreement specifies that the Original Development Agreement may be amended in whole or in part only in the manner provided for in Government Code Section 65868.1 and the procedure for adopting and entering into an amendment to the Original Development Agreement shall be the same as the procedure for adopting and entering into the Original Development Agreement; and

WHEREAS, CITY and GDC – RCCD L.P. have previously entered into that certain First Amendment to the Original Development Agreement, which had an "Effective Date" of September 2, 2014; and

WHEREAS, GDC - RCCD L.P. has transferred a portion of the Property to Lennar Homes of California, Inc., and Lennar Homes of California, Inc. has been partially assigned certain rights and obligations of the Original Development Agreement and Lennar Homes of California, Inc. has accepted such rights and obligations under the provisions of the Partial Assignment and Assumption Agreement between GDC - RCCD LP and Lennar Homes of California, Inc., dated September 5, 2017; and

WHEREAS, under the terms of the Partial Assignment and Assumption Agreement between GDC - RCCD LP and Lennar Homes of California, Inc., Lennar Homes of California, Inc. agreed to apply to CITY and diligently pursue an application to amend the Original Development Agreement to extend the term of the Original Development Agreement; and

WHEREAS, both OWNERS of the Property desire to amend the term provisions of the Original Development Agreement to provide for the extension of the term of the Original Development Agreement for an additional 5-year period.

### **AGREEMENTS**

NOW, THEREFORE, in consideration of the above recitals and of the mutual agreements hereinafter contained, the parties agree as follows:

#### **1. MODIFICATIONS TO DEVELOPMENT AGREEMENT**

1.1 Modifications to Section 2.3 Term. Section 2.3 of the Original Development Agreement shall be removed and replaced with the following:

"2.3 Term. The term shall commence on the Effective Date of this Development Agreement and shall continue for an initial term of 10 years unless this term is modified or extended pursuant to the provisions of this agreement. The term of this Agreement shall be extended for an additional 5 years following the date that the ordinance adopting this Development Agreement becomes effective."

#### **2. INTEGRATION.**

2.1 Integration of Previous Understandings and Clarifications. This Second Amendment reflects the complete understanding of the parties with respect to the subject matter hereof. To the extent this Second Amendment conflicts with the Original Development Agreement, or the First Amendment, this Second Amendment supersedes the Original Development Agreement and the First Amendment. In all other respects, the parties hereto re-affirm and ratify all other provisions of the Original Development Agreement. This Second Amendment shall be recorded against the Property following its full execution.

**IN WITNESS WHEREOF**, the parties hereto have executed this First Amendment as of the date the ordinance adopting this Second Amendment becomes effective.

**SIGNATURE PAGE TO SECOND AMENDMENT TO DEVELOPMENT AGREEMENT BY  
AND BETWEEN THE CITY OF ONTARIO AND GDC - RCCD, L.P. AND LENNAR HOMES  
OF CALIFORNIA, INC.**

**"OWNER"**

**GDC - RCCD L.P.,  
a Delaware limited partnership**

By:  
Name:  
Its:

Date: \_\_\_\_\_

**"OWNER"**

**Lennar Homes of California, Inc. a  
California Corporation**

By:   
Name: Geoffrey Smith  
Its: Vice President

Date: 2/28/18

**"CITY"**

**CITY OF ONTARIO**

By: \_\_\_\_\_  
Scott Ochoa, City Manager

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:  
BEST, BEST & KRIEGER LLP**

\_\_\_\_\_  
City Attorney



# California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Riverside )

On February 28, 2018 before me, Beth Bruley, Notary Public,  
personally appeared Geoffrey Smith

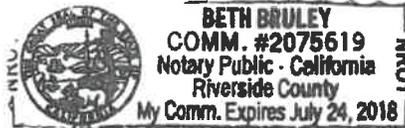
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Beth Bruley



(Seal)