

**CITY OF ONTARIO
CITY COUNCIL AND HOUSING AUTHORITY
AGENDA
MAY 7, 2019**

Paul S. Leon
Mayor

Ruben Valencia
Mayor pro Tem

Alan D. Wapner
Council Member

Jim W. Bowman
Council Member

Debra Dorst-Porada
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

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

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

CLOSED SESSION

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

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

PLEDGE OF ALLEGIANCE

Council Member Dorst-Porada

INVOCATION

Pastor Perez, The Salvation Army

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.

SPECIAL CEREMONIES

RECOGNITION OF CONSERVATION POSTER CONTEST WINNERS

NINETEENTH ANNUAL MODEL COLONY AWARDS

That the City Council Present the 2019 “Model Colony” Awards for Historic Preservation.

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.

I. APPROVAL OF MINUTES

Minutes for the regular meeting of the City Council and Housing Authority of April 2, 2019, approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills March 10, 2019 through March 21, 2019 and **Payroll** March 10, 2019 through March 16, 2019 when audited by the Finance Committee.

3. AN AMENDMENT TO THE CONSTRUCTION CONTRACT FOR PUBLIC STREET IMPROVEMENTS TO INCLUDE ADDITIONAL PARKING SPACES ON "C" STREET/C.P. CONSTRUCTION CO., INC.

That the City Council approve an amendment (on file with the Records Management Department) to Contract No. UT 1617-08 with C.P. Construction Co., Inc., of Ontario, CA, for public street improvements along "C" Street, in the amount of \$229,986 (\$199,988 plus a 15% contingency of \$29,998). The amendment will result in a revised contract amount of \$4,695,650 plus a 15% contingency of \$704,348, for a total amount of \$5,399,998.

4. AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT AMENDMENT (FIRST AMENDMENT - FILE NO. PDA07-005) BETWEEN THE CITY OF ONTARIO AND STG COMMUNITIES II, LLC TO MODIFY CERTAIN INFRASTRUCTURE REQUIREMENTS ASSOCIATED WITH THE DEVELOPMENT OF TENTATIVE TRACT MAP NOS. 18026 (PMTT11-003) AND 18027 (PMTT11-002), LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND CHINO AVENUE, AND THE NORTHWEST CORNER OF HAVEN AVENUE AND SCHAEFER AVENUE, WITHIN PLANNING AREAS 4 AND 8 OF THE WEST HAVEN SPECIFIC PLAN (APNS: 0218-151-11 AND 0218-151-38)

That the City Council consider and adopt an ordinance approving the First Amendment (File No. PDA07-005, on file with Records Management Department) to the Development Agreement between the City of Ontario and STG Communities II, LLC to modify certain infrastructure requirements associated with the development of Tentative Tract Map Nos. 18026 (PMTT11-003) and 18027 (PMTT11-002).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT AMENDMENT (FIRST AMENDMENT - FILE NO. PDA07-005) BETWEEN THE CITY OF ONTARIO AND STG COMMUNITIES II, LLC TO MODIFY CERTAIN INFRASTRUCTURE REQUIREMENTS ASSOCIATED WITH THE DEVELOPMENT OF TENTATIVE TRACT MAP NOS. 18026 (PMTT11-003) AND 18027 (PMTT11-002), LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND CHINO AVENUE, AND THE NORTHWEST CORNER OF HAVEN AVENUE AND SCHAEFER AVENUE, WITHIN PLANNING AREAS 4 AND 8 OF THE WEST HAVEN SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0218-151-11 AND 0218-151-38.

5. A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19738 LOCATED AT THE NORTHEAST CORNER OF MERRILL AVENUE AND CARPENTER AVENUE

That the City Council adopt a resolution approving an improvement agreement, improvement security and Final Parcel Map No. 19738 located at the northeast corner of Merrill Avenue and Carpenter Avenue within the West Ontario Commerce Center Specific Plan area.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19738, LOCATED AT THE NORTHEAST CORNER OF MERRILL AVENUE AND CARPENTER AVENUE.

6. A RESOLUTION APPROVING FINAL PARCEL MAP NO. 19910 LOCATED ON MAITLAND STREET APPROXIMATELY 50 FEET WEST OF SULTANA AVENUE

That the City Council adopt a resolution approving Final Parcel Map No. 19910 located on Maitland Street, approximately 50 feet west of Sultana Avenue.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL PARCEL MAP NO. 19910 LOCATED ON MAITLAND STREET APPROXIMATELY 50 FEET WEST OF SULTANA AVENUE.

7. AWARD OF DESIGN SERVICE AGREEMENTS FOR ON-CALL PROFESSIONAL ENGINEERING SERVICES/KLEINFELDER, INC./INFRASTRUCTURE ENGINEERING CORPORATION/STANTEC CONSULTING SERVICES, INC.

That the City Council and Housing Authority approve and authorize the City Manager to execute three-year Design Services Agreements (on file in the Records Management Department) with: Kleinfelder, Inc., of Ontario, California; Infrastructure Engineering Corporation, of Irvine, California; and Stantec Consulting Services, Inc., of Irvine, California; and authorize the City Manager to extend the agreements for up to two (2) additional one (1) year periods consistent with City Council approved budgets.

8. FISCAL YEAR 2018-19 THIRD QUARTER BUDGET UPDATE REPORT

That the City Council approve the budget adjustments and recommendations as listed in the Fiscal Year 2018-19 Third Quarter Budget Update Report.

9. A RESOLUTION ACCEPTING A GRANT THROUGH THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS FUTURE COMMUNITIES PILOT PROJECT PROGRAM

That the City Council adopt a resolution approving the acceptance of \$418,000 of grant funds through the Southern California Association of Governments (SCAG) Future Communities Pilot Project Program (FCPP); and authorize the City Manager to execute any documents or agreements, such as memorandums of understanding, necessary to complete the application and implementation of the program.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ACCEPTANCE OF GRANT FUNDS FROM THE FUTURE COMMUNITIES PILOT PROJECT PROGRAM AND AUTHORIZING THE EXECUTION OF ALL NECESSARY DOCUMENTS AND AGREEMENTS.

10. RECOGNITION OF "HISTORIC PRESERVATION MONTH" IN THE CITY OF ONTARIO

That the City Council Proclaim the month of May 2019 as "Historic Preservation Month" in the City of Ontario.

11. MAINTENANCE SERVICE AGREEMENTS FOR LANDSCAPE MAINTENANCE AT PARK PLACE AND AT THE ONTARIO SOCCER PARK/SOCAL LAND MAINTENANCE INC./BRIGHTVIEW LANDSCAPE SERVICES, INC.

That the City Council take the following actions:

- (A) Authorize the City Manager to execute a three-year Maintenance Service Agreement (on file with the Records Management Department) for Contract No. PM1819-7 with SoCal Land Maintenance Inc., located in Anaheim, California, for an annual estimated cost of \$69,564 plus a contingency of \$6,956, for landscape maintenance at Park Place;
- (B) Authorize the City Manager to execute a three-year Maintenance Service Agreement (on file with the Records Management Department) for Contract No. PM1819-9 with Brightview Landscape Services, Inc., located in Upland, California, for an annual estimated cost of \$182,736 plus a contingency of \$18,274 and monitoring services of \$44,585, for landscape maintenance at the Ontario Soccer Park; and
- (C) Authorize the addition of future service areas; and the option to extend the agreements for up to two additional years consistent with City Council approved budgets.

12. AWARD A CONSTRUCTION AGREEMENT FOR CONCRETE SIDEWALK REPAIR SERVICES/CT&T CONCRETE PAVING INC.

That the City Council authorize the City Manager to execute a one-year Construction Agreement (on file with the Records Management Department) for Contract No. SM1819-4 with CT&T Concrete Paving Inc., located in Diamond Bar, California, for an estimated cost of \$150,000; and authorize the addition of future service areas consistent with the City Council approved budgets.

13. AMENDMENT TO THE ARCHITECTURAL DESIGN SERVICES AGREEMENT FOR THE DEVELOPMENT OF INTERIM FIRE STATION NO. 9/WLC ARCHITECTS

That the City Council take the following actions:

- (A) Authorize the City Manager to execute an amendment to the Architectural Design Services Agreement D&C18-003-FS9 (on file in the Records Management Department) with WLC Architects of Rancho Cucamonga, California, for additional services in the amount of \$50,300 for an amended contract amount of \$300,725 plus a contingency of \$30,073; and
- (B) Authorize the City Manager to execute any related and necessary documents, including the filing of a notice of completion at the conclusion of all construction related activities related to the project.

PUBLIC HEARINGS

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

14. A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES); ADOPTION OF A RESOLUTION TO INCUR BONDED INDEBTEDNESS; AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES

That the City Council consider and:

- (A) Adopt a resolution establishing Community Facilities District No. 40 (Emerald Park Facilities), authorizing the levy of special taxes within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution deeming it necessary to incur bonded indebtedness within Community Facilities District No. 40 (Emerald Park Facilities);
- (C) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 40 (Emerald Park Facilities);
- (D) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
- (E) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 40 (Emerald Park Facilities); and
- (F) Adopt a resolution authorizing the execution and delivery of an acquisition and funding agreement with BrookCal Ontario LLC, a Delaware corporation.

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

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES).

RESOLUTION NO. _____

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES).

RESOLUTION NO. _____

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

15. A PUBLIC HEARING TO CONSIDER RESOLUTIONS REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 50 (WEST ONTARIO LOGISTICS CENTER SERVICES) AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES

That the City Council consider and:

- (A) Adopt a resolution establishing City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services), authorizing the levy of a special tax within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services);
- (C) Adopt a resolution declaring the results of the special election and directing the recording of the Notice of Special Tax Lien; and
- (D) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services).

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

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 50 (WEST ONTARIO LOGISTICS CENTER SERVICES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 50 (WEST ONTARIO LOGISTICS CENTER SERVICES).

RESOLUTION NO. _____

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 50 (WEST ONTARIO LOGISTICS CENTER SERVICES).

16. INTRODUCTION OF AN ORDINANCE AMENDING CHAPTERS 3, 7 AND 8B OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO SEWER FEES AND INTEGRATED WASTE, SEWER AND WATER SERVICES

That the City Council conduct a public hearing to:

- (A) Consider all written protests against the proposed increases in the rates for sewer services in accordance with California Constitution, Article XIII D, Section 6(a); and
- (B) Introduce and waive further reading of an ordinance amending Chapter 3, of Title 6 of the Ontario Municipal Code related to integrated waste services; and
- (C) Introduce and waive further reading of an ordinance amending Chapter 7, of Title 6 of the Ontario Municipal Code related to sewer services and authorizing increases to the rates for sewer service charges and fees; and
- (D) Introduce and waive further reading of an ordinance amending Chapter 8B, of Title 6 of the Ontario Municipal Code relating to water services.

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, AUTHORIZING INCREASES TO THE RATES FOR ITS SEWER SERVICE CHARGES, MAKING CERTAIN REVISIONS TO THE ONTARIO MUNICIPAL CODE RELATING TO INTEGRATED WASTE MANAGEMENT, SEWER CHARGES, AND WATER FEES AND CHARGES, AND TAKING OTHER ACTIONS RELATED THERETO.

STAFF MATTERS

City Manager Ochoa

COUNCIL MATTERS

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

ADJOURNMENT

**CITY OF ONTARIO
CLOSED SESSION REPORT**
City Council // Housing Authority // Other // (GC 54957.1)
May 7, 2019

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

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

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

- GC 54957, PUBLIC EMPLOYEE APPOINTMENT: City Attorney

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

Reported by:

City Attorney / City Manager / Executive Director

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
SPECIAL CEREMONIES

SUBJECT: NINETEENTH ANNUAL MODEL COLONY AWARDS

RECOMMENDATION: That the City Council Present the 2019 “Model Colony” Awards for Historic Preservation.

COUNCIL GOALS: Focus Resources in Ontario’s Commercial and Residential Neighborhoods Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: None.

BACKGROUND: The Planning Commission, acting as the Historic Preservation Commission, developed the “Model Colony” Awards program to recognize outstanding achievement in the preservation of Ontario’s historic resources.

The “Model Colony” Awards are presented by the City Council each spring to coincide with National Preservation Month. Five awards will be presented in the categories of preservation. On March 26, 2019, the Planning/Historic Preservation Commission considered each category and chose the following recipients:

Award of Merit: For achievement in the ongoing preservation of a historic resource.

Recipient: **W. E. Baier House**
Gary Chatmajian and Robin Nelson

Award of Merit: For achievement in the ongoing preservation of a historic resource.

Recipient: **Patrick King House**
Patrick and Virginia King

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

Prepared by: Elly Antuna
Department: Planning
City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

Award of Merit: For achievement in the ongoing preservation of a historic resource.

Recipient: **Miss Lela McClelland House
Armando Villa**

Rehabilitation Award: For achievement in the rehabilitation of a historic resource.

Recipient: **Edward Smith House
Home Equity Corporation**

**George Chaffey
Memorial Award:** For distinguished leadership in the preservation Ontario's cultural heritage.

*Posthumous
Recipient:* **Richard Delman**

PLANNING / HISTORIC PRESERVATION COMMISSION STAFF REPORT



DATE: March 26, 2019
FILE NO: PHP19-002
SUBJECT: 2019 "Model Colony" Awards
LOCATION: Citywide
APPLICANT: City Initiated
PROPERTY OWNER: N/A

RECOMMENDATION:

That the Planning/Historic Preservation Commission consider and approve the 2019 "Model Colony" Award nominations.


BACKGROUND:

In 2000, the City Council adopted the Model Colony Awards to recognize outstanding efforts to restore, rehabilitate, and preserve Ontario's historic places. This is the nineteenth consecutive year that the City has conducted the awards program. The award categories include: Restoration, Rehabilitation, John S. Armstrong Landscape, Founder's Heritage Award, George Chaffey Memorial, and Merit. Past Model Colony Award recipients included Ontario's schools, churches, single-family residences, historic multi-family properties, and joint public/private preservation projects.

There are 5 nominations this year which include 4 single-family residences and one community leader. On March 21, 2019, the Historic Preservation Subcommittee (HPSC) reviewed the nominations. The 2019 Model Colony Awards will be presented to award recipients by the City Council during a special ceremony and reception on May 7, 2019.

2019 AWARD NOMINEES:

For their outstanding efforts in the field of historic preservation, the nominees are:

Case Planner:	Hearing Body	Date	Decision	Action
Elly Antuna, Assistant Planner	HPSC:	03/21/2019	Approve	Review
Planning Director Approval: 	PC / HPC:	03/26/2019	APPROVED	Final
Submittal Date: N/A	CC:	05/07/2019		Presentation
Hearing Deadline: N/A				

Award of Merit:
Award Recipient:

The W.E. Baier House- 303 East Princeton Street
Gary Chatmajian and Robin Nelson

Built in 1939, this two-story Monterey style residence was designed by prominent local architect Jay Dewey Harnish. The original owner, W.E. Baier, was head chemist for Exchange Orange Products (Sunkist) and was the director of research for 44 years. Mr. Baier was a graduate of California Institute of Technology and his wife Anita was a teacher. This Monterey style residence is one of the few and one of the best examples of this style in Ontario.



The Monterey style home is located on the northeast corner of Princeton Street and Columbia Avenue within the College Park Historic District. The Monterey style is one of the few American born styles, with origins in Spanish Colonial Revival, New England Colonial, and Caribbean architecture. The W.E. Baier House is T-shaped in plan with a low-pitched, cross-gabled tile roof. It has exposed eaves and rafters, and is clad with stucco. Board and batten siding are on the walls of the cantilevered second-story balcony. The balconies on the front and back of the house extend about three-quarters the length of the building, and have square posts with vertical slat railings. The home features multi-paned French doors and double-hung wood windows with wood shutters. The front yard is enclosed by a wooden split rail fence and hedges and a narrow brick walkway leads to the main entrance. A mature Canary Island Palm makes a stately presence at the front of the home. The rear yard features a variety of landscaping with tropical plants surrounding the pool. Also present on the property is a detached 2-car garage constructed in the same architectural style.

The interior of the home features a formal living room with a simple fireplace flanked by built-in shelves and cupboards that are topped with a decorative arch. The original hardwood floors, wood trim, bathroom shower tile and flooring, doors and hardware are present throughout the home. The downstairs bathroom features a small porcelain wall mounted sink, checkered shower tiles and linoleum flooring which all appear to be original to the home. The home is artfully staged with antique furniture and framed artwork adorning the walls, creating the feeling that time has stood still inside and outside the home.

The current property owners purchased the home in 2017 with an understanding and appreciation for historic buildings, having previously completed other restorations in the Los Angeles area. As the third occupants of the home, the current property owners were attracted to this property because of the abundance of historic fabric intact and the move-in ready condition of the home. The interior and exterior remains almost entirely intact

and in pristine condition. All of the original windows are in excellent working order, having been carefully maintained by the current and previous property owners. Besides a kitchen remodel and a few new light fixtures, the home has been preserved in its original state. Through the property owner's outstanding stewardship, this home is an excellent example of the Monterey architectural style and a significant Contributor to the College Park Historic District.

Award of Merit: The Patrick King House- 324 West Sixth Street
Award Recipient: Patrick and Virginia King

This one-story, single-family residence, was constructed in 1960 in the Modern Ranch architectural style. The home was designed by Fred W. McDowell and Theodore Criley, Jr. McDowell and Criley contributed significantly to the modernist movement in Claremont, collaborating on custom homes for well-known local artist and on various institutional and civic buildings.



Modern architecture was born in California, in large part due to economic, social, and environmental conditions after World War II. California experienced extraordinary population growth which created a demand for housing. In response, buildings were constructed using non-traditional materials, techniques, and designs. Structural transparency was desirable and evident in the popularization of post and beam style construction, plumbing lines were grouped, and walls were layered with plywood, waterproofing paper and covered with board and batten. Architects experimented with different forms using clean lines, simple organic curves, geometric forms and strong roof angles. California offered the cultural and artistic freedom so that architects could experiment and create a new approach to style, design, and form. New materials were readily available after World War II, such as metal, glass, plywood panels, asphalt and plastics giving more opportunity for innovation. Modernism was new, exciting, and different. Modern designs introduced new building materials, open floor plans and more of an emphasis on the integration of indoor and outdoor living space. California's ideal climate and predominately liberal population allowed for this creativity in architecture.



The 2,255 square foot residence has a wide rambling façade, a shallow pitch roof with front facing gable and wide overhanging eaves which are key character-defining features

of post and beam construction. The primary façade of the house is clad primarily in a natural brick material. The centrally located entry is recessed creating a small porch with a cantilever cover that is connected to the carport roof. The entry features ornate wood double doors, and metal-framed, fixed windows from ceiling to floor. The porch walls are covered with vertical wood siding. The post and beam construction is evident in the side facing carport with a matching shallow pitch roof. The carport is screened with a block wall covered in ivy and the front yard is fully landscaped and manicured. The rear of the house is clad in stucco and features large expanses of floor to ceiling metal-framed fixed and transom windows. The full glass sliding doors connect the central living space to the landscaped yard with pool, integrating the interior living space of the home with the exterior landscape.

While current property owners, Patrick and Virginia King, lived next door at 334 West Sixth Street, the Modern Ranch home at had caught Mr. King's attention. When the home was listed for sale in 1980, they immediately put in an offer to purchase and made the move next door. For the past 39 years, the Kings have carefully maintained this home, preserving its status as a familiar and iconic focal point along Sixth Street.

Award of Merit: The Miss Lela McClelland House- 1258 North Euclid Avenue
Award Recipient: Armando Villa

The Miss Lela McClelland House is a two-story residence constructed in the Spanish Colonial architectural style. The home is located on the southeast corner of Euclid Avenue and Fifth Street within the Euclid Avenue Historic District. Lela McClelland, an art teacher at Chaffey High School, built this 2,500 square foot home in 1924. T-shaped in plan with a hipped roof covered in tile, the two-story residence has exposed eaves, stucco siding, a cantilevered balcony with decorative exposed beams and a single-story wing at the front of the home. The home features a deeply recessed wooden entry door, recessed multi-paned steel casement and fixed windows, a round Moorish style window overlooking the entry patio, and a stucco covered chimney.



The interior of the home features a formal entry with tile floor and the original iron railing staircase leading to the second floor. A ceramic of the Christ Child was fired by the original owner and is placed on the wall near the second landing of the staircase. The inscription "L. McClelland" is carved into the bottom corner of the piece. Original hardwood floors, arched doorways, textured plaster walls, bullnose trim and original iron fixtures and hardware are present throughout the home. The interior also features an impressive fireplace with a tile hearth, original built-in cabinets and several arched wall niches.

The property received an Award of Merit in 2004 when Jack and Jane Mercer owned the property for their restoration and preservation efforts. The current property owner purchased the home in 2015 and applied for a Mills Act Contract that was approved and recorded on the property that year. Some improvements completed under the Mills Act Contract include removal of carpet and original hardwood floor refinish, cracked roof tile repair, and primary water main replacement. The current property owner has a fondness for historic homes and understands the effort required to maintain them. This will be the second home he has owned to be honored with a Model Colony Award, the first was in 2015 for 205 Plaza Serena Street. The current property owner is aware that the most minor alterations can have significant impacts on a historic resource and is careful to ensure that all improvements are appropriate and as minimally invasive as possible. The Miss Lela McClelland House has been impeccably maintained by the current and previous property owners.

Rehabilitation Award: The Edward Smith House- 407 East Fourth Street
Award Recipient: Home Equity Corporation

The single-family residence is located within the College Park Historic District and was constructed in the Craftsman Bungalow architectural style in 1921 (est.). The one-story home features a moderately pitched double gabled roof, with a wide eave overhang, exposed rafters and decorative beams at the gable ends. Other elements that are representative of the Craftsman style include horizontal wood siding, wood framed hung, fixed and multi-pane ribbon windows, and a charming front porch supported by substantial square posts. The home sits on a rock foundation and is located on 0.28 acres of land. An oversized garage, in the same architectural style, is located at the rear of the home. In the summer of 2018, the residence was purchased by Home Equity Corporation as an investment property. The property had been neglected for some time and several unpermitted alterations had occurred that needed to be addressed as part of the project. United Construction was hired on as the project team to complete the rehabilitation project. The same team has successfully and appropriately rehabilitated numerous historic homes in the City.



The project team made a significant effort to preserve and restore many of the building's original features. The unpermitted kitchen and enclosed patio additions at the rear of the building were removed, restoring the original form of the home. Interior work included the installation of a custom built galley kitchen with country cabinets, quartz countertops and facade backsplash tile, original trim and built-ins were refinished, and the bathrooms were remodeled with period appropriate tile and fixtures. The interior floor plan was slightly

modified to allow for a more functional design and new flooring was installed throughout. New footings and foundation were constructed and new electrical, plumbing, a central HVAC system and a tank-less water heater were installed.

Exterior work includes removal of vinyl siding to expose the original redwood siding underneath. The original wood siding and windows were repaired and painted. Inappropriate aluminum windows were removed from the kitchen and bathroom and replaced with appropriate salvaged wood windows. The detached garage was repaired and painted and an unpermitted and deteriorated detached patio was removed. Overgrown vegetation was removed and the front yard landscaping and fencing were installed. The rehabilitation project uncovered this beautiful Craftsman home in one of the most desirable neighborhoods in the City.

**George Chaffey Memorial Award:
Award Recipient:**

Richard Delman
Petrina Delman

Richard Delman was born and raised in Ontario and attended Chaffey High School. His grandparents Frances and Charles Logan founded Logan's Candies which is still in operation today. Mr. Delman was active in several community organizations, including Ontario Heritage, Chaffey High School Alumni Association, Ontario Rotary, Ontario Community Foundation, Ontario Rotary Police Museum, and Pomona Valley Model A Club.

Richard Delman was a leader in historic preservation in many capacities. As Vice-President of Ontario Heritage, Mr. Delman partnered with other local preservation advocates to protect, preserve, and promote the historical environment and cultural heritage of the Model Colony. Mr. Delman founded the annual Ontario Heritage Cemetery Tour at Historic Bellevue Memorial Park which showcases the local cultural landscape and highlights the lives of people that have made a contribution to the history and development of Ontario. For ten years, Mr. Delman served on the Historic Preservation Commission and Historic Preservation Subcommittee where he reviewed and approved local historic landmark and district designations, Mills Act Contracts, Certificates of Appropriateness and other projects affecting historic properties. It was common for Mr. Delman to share personal stories associated with these historic buildings, places and sites, providing a greater understanding of the context that may not be available in a book, newspaper or archived map. His wealth of knowledge in the field of preservation made him a valuable resource to his community and neighbors that would often seek advice on repairs to their historic properties.

In particular, Mr. Delman made significant contributions to the history of aviation in Ontario. Mr. Delman provided invaluable guidance and insight on the design and function of aviation related buildings given his lifetime of professional and personal experiences in aeronautics. Mr. Delman volunteered to conduct a series of oral histories related to aeronautics, both as an interviewer and an interviewee. He collaborated and coordinated

with representatives of the Air National Guard, General Electric Aeronautics, Lockheed and the FAA Air Traffic Control to document and record local histories.

In 2009, Mr. Delman and his wife Petrina received a Model Colony Award for their restoration and rehabilitation of the prominent Herbert C. Oakley House, an 1887 Stick Victorian style home that is highly recognizable and is frequently featured in City publications. The project included interior renovations and an exterior restoration of the porch, gable end and widow's walk. Attention to each and every detail and appreciation of preserving the historic features of the Oakley House remains as an example and an inspiration to refer to for similar projects.

The George Chaffey Memorial Award is reserved for distinguished leaders that have made significant contributions to the preservation of Ontario's historic resources and the stories behind those resources. Richard Delman was a leader in historic preservation and his contributions have ensured that countless historic resources are protected, preserved and documented for future generations to enjoy.

COMPLIANCE WITH THE ONTARIO PLAN:

The Model Colony Awards Program is consistent with the principles, goals and policies contained in the following components of The Ontario Plan (TOP), including: (1) Vision, (2) Governance, and (3) Policy Plan (General Plan):

[1] City Council Priorities

Goals:

- Invest in the Growth and Evolution of the City's Economy
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities.

[2] Vision

Distinctive Development

- Development Quality: A community that is so well maintained and litter-free that its properties uniformly convey a sense of prosperity that is readily apparent and a symbol of community pride.

Dynamic Balance

- An appreciation for the “personality and charm” of this community, preserving important characteristics and values even as growth and change occur, all the while retaining a distinctive local feel where people love to be.

[3] Governance

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
 - G1-1 Consistency with Policies. We require that staff recommendations to the City Council be consistent with adopted City Council Priorities (Goals and Objectives) and the Policy Plan.
 - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision.

[4] Policy Plan (General Plan)

Community Design – Image & Identity

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

Community Design – Historic Preservation

- Goal CD4: Historic buildings, streets, landscapes and neighborhoods, as well as the story of Ontario’s people, businesses, and social and community organizations, that have been preserved and serve as a focal point for civic pride and identity.
 - CD4-6: Promotion of Public Involvement in Preservation. We engage in programs to publicize and promote the City’s and the public’s involvement in preservation efforts.
 - CD4-7: Public Outreach. We provide opportunities for our residents to research and learn about the history of Ontario through the Planning Department, Museum of History and Art, Ontario and the Robert E. Ellingwood Model Colony History Room.

Community Design – Protection of Investment

- 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.
- CD5-4: Neighborhood Involvement. We encourage active community involvement to implement programs aimed at the beautification and improvement of neighborhoods.

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
CONSENT CALENDAR

SUBJECT: AN AMENDMENT TO THE CONSTRUCTION CONTRACT FOR PUBLIC STREET IMPROVEMENTS TO INCLUDE ADDITIONAL PARKING SPACES ON "C" STREET

RECOMMENDATION: That the City Council approve an amendment (on file with the Records Management Department) to Contract No. UT 1617-08 with C.P. Construction Co., Inc., of Ontario, CA, for public street improvements along "C" Street, in the amount of \$229,986 (\$199,988 plus a 15% contingency of \$29,998). The amendment will result in a revised contract amount of \$4,695,650 plus a 15% contingency of \$704,348, for a total amount of \$5,399,998.

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

FISCAL IMPACT: The Fiscal Year 2018-19 Capital Improvement Program includes appropriations from the Capital Fund for this project.

BACKGROUND: On November 20, 2018, Contract No. UT 1617-08 was awarded to C.P. Construction Co., Inc., for Water Main Improvements in Euclid Avenue along with ancillary construction activities in adjacent east/west streets. A location map is provided for reference (Exhibit "A").

City staff has identified the need for construction of thirteen (13) new diagonal parking spaces along the south side of "C" Street between Euclid and Lemon Avenues. This additional proposed work includes: demolition of existing curb, gutter, and sidewalk; removal and relocation of existing palm trees; installation of diagonal parking spaces; a decorative crosswalk; relocation of existing street lights; and appropriate striping and signage. These public street improvements will be carried out in conjunction

STAFF MEMBER PRESENTING: John P. Andrews, Executive Director Economic Development
Scott Burton, Utilities General Manager

Prepared by: Charity Hernandez/
Omar Gonzalez
Department: Economic Development Agency
MU/Engineering
City Manager Approval: 

Submitted to Council/O.H.A.

Approved:

Continued to:

Denied:

05/07/2019

3

with the mixed-use project slated for the northeast corner of Euclid Avenue and “C” Street and following completion of the water main in “C” Street.

Based on C.P. Construction’s ability to complete the work in a cost effective and timely manner, staff recommends approval of an amendment to Contract No. UT1617-08 to allow for the expedited construction of the new diagonal parking spaces along “C” Street.

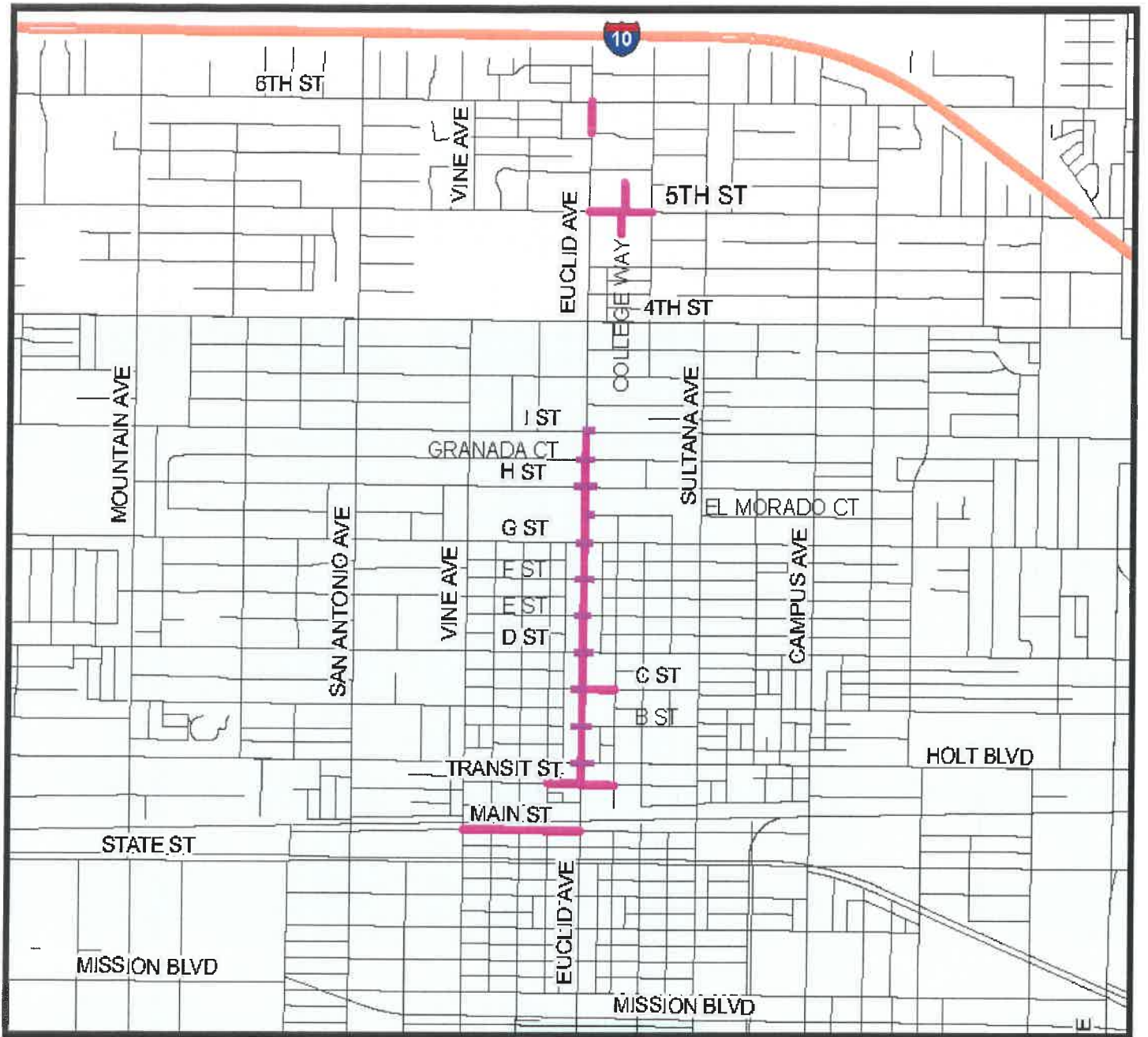


EXHIBIT "A"

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT AMENDMENT (FIRST AMENDMENT – FILE NO. PDA07-005) BETWEEN THE CITY OF ONTARIO AND STG COMMUNITIES II, LLC TO MODIFY CERTAIN INFRASTRUCTURE REQUIREMENTS ASSOCIATED WITH THE DEVELOPMENT OF TENTATIVE TRACT MAP NOS. 18026 (PMTT11-003) AND 18027 (PMTT11-002), LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND CHINO AVENUE, AND THE NORTHWEST CORNER OF HAVEN AVENUE AND SCHAEFER AVENUE, WITHIN PLANNING AREAS 4 AND 8 OF THE WEST HAVEN SPECIFIC PLAN (APNS: 0218-151-11 AND 0218-151-38)

RECOMMENDATION: That the City Council consider and adopt an ordinance approving the First Amendment (File No. PDA07-005, on file with Records Management Department) to the Development Agreement between the City of Ontario and STG Communities II, LLC to modify certain infrastructure requirements associated with the development of Tentative Tract Map Nos. 18026 (PMTT11-003) and 18027 (PMTT11-002).

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 ("First Amendment") does not have an immediate impact on the City's existing budget. STG Communities II, LLC ("Applicant") has previously entered into an Acquisition and Funding Agreement to form a Community Facilities District (CFD No. 42), which will provide public services funding fees plus development impact, compliance, processing, licensing, and permitting fees to fund City facilities and services to serve Tentative Tract Map Nos. 18026 and 18027, respectively. This will address the City Council's long-standing direction that the

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

Prepared by: Derrick Womble
Department: Development

City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019

Approved: _____

Continued to: _____

Denied: _____

4

development of Ontario Ranch generate sufficient revenues to fund its required City services without reliance on the financial resources of the existing City funds.

BACKGROUND: On April 16, 2019, the City Council introduced and waived further reading of an ordinance approving the Development Agreement. On July 17, 2007, the City Council approved the West Haven Specific Plan (“Specific Plan”), File No. PSP03-006, and the corresponding Environmental Impact Report (EIR). The Specific Plan established the land use designations, development standards, and design guidelines for approximately 202 gross acres of land, which included the potential development of 753 single-family units and 87,000 square feet of commercial space, for property bounded by Riverside Drive to the north, Schaefer Avenue to the south, Haven Avenue to the east, and the Southern California Edison (SCE) utility corridor and Turner Avenue to the west. Subsequently, the City Council approved a Development Agreement, File No. PDA07-005 (“Original Agreement”), to develop 48.73 acres of land within Planning Areas 4 and 8 of the Specific Plan.

The main points of the Original Agreement address Development Impact Fees (DIF); public service funding; Community Facilities District (CFD) formation for maintenance of public facilities; park/open space requirements; affordable housing fees; and, school facilities requirements. State law and Section 2.5 of the Original Agreement provide that amendments may be made to the Agreement upon the mutual consent of both parties, using the same process and procedures as was used for the consideration and approval of the Original Agreement.

The proposed First Amendment continues to apply to the same area as the Original Agreement and proposes to modify certain public infrastructure requirements to serve Tentative Tract Map Nos. 18026 (PMTT11-003) and 18027 (PMTT11-002). As most of the public infrastructure previously required by the Original Agreement have been constructed and completed by other developers, their inclusion in the Development Agreement is no longer necessary. This will allow the Applicant to update their public infrastructure requirements to better reflect current development conditions in the Ontario Ranch area. Key points of the First Amendment are as follows:

- Continuing requirement for the funding of Fire Station No. 9;
- An in-lieu fee (\$342,118) for the construction of a portion of Schaefer Avenue to serve Tentative Tract No. 18027;
- Continuing requirement for public infrastructure improvements (streets, sewer, water, recycled water, storm drain, fiber) to serve Tentative Tract Map Nos. 18026 and 18027, to the extent that such public infrastructure improvements have not been constructed and completed by others; and
- Conditions of Approval for Tentative Tract Map Nos. 18026 and 18027, as previously approved by the City, shall be modified to be consistent with the provisions of the First Amendment.

In considering the application at their meeting on March 26, 2019, the Planning Commission found that the First Amendment was consistent with State law, The Ontario Plan, the City’s Development Agreement policies, and other Development Agreement amendments previously approved for Ontario Ranch developments. As a result, the Planning Commission adopted Resolution PC19-016 recommending City Council approval of the First Amendment.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site 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 number of dwelling units (753) and density (4-7 DU/AC) specified in the Available Land Inventory.

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

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with West Haven Specific Plan, for which an EIR (SCH# 2004071095) was adopted by the City Council on July 17, 2007. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.

EXHIBIT "A"

WEST HAVEN SPECIFIC PLAN LAND USE MAP

SECTION 3 • LAND USE PLAN



Exhibit 3-1
WEST HAVEN LAND USE PLAN



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT AMENDMENT (FIRST AMENDMENT - FILE NO. PDA07-005) BETWEEN THE CITY OF ONTARIO AND STG COMMUNITIES II, LLC TO MODIFY CERTAIN INFRASTRUCTURE REQUIREMENTS ASSOCIATED WITH THE DEVELOPMENT OF TENTATIVE TRACT MAP NOS. 18026 (PMTT11-003) AND 18027 (PMTT11-002), LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND CHINO AVENUE, AND THE NORTHWEST CORNER OF HAVEN AVENUE AND SCHAEFER AVENUE, WITHIN PLANNING AREAS 4 AND 8 OF THE WEST HAVEN SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0218-151-11 AND 0218-151-38.

WHEREAS, STG Communities II, LLC ("Applicant") has filed an Application for the approval of a Development Agreement Amendment (First Amendment), File No. PDA07-005, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 48.73 acres of land generally located at the northwest corner of Haven Avenue and Chino Avenue, and the northwest corner of Haven Avenue and Schaefer Avenue, within Planning Areas 4 and 8 of the West Haven Specific Plan, respectively, and is presently vacant; and

WHEREAS, the properties to the north and east of the Project site are developed with agriculture and dairy uses. The property to the west is currently developed with single family homes. The property to the south is developed with a Southern California Edison (SCE) utility corridor; and

WHEREAS, Stratham Properties Inc. has assigned the Development Agreement to STG Communities II, LLC and STG Communities II, LLC has been assigned certain rights and obligations of the Development Agreement, and STG Communities II, LLC has accepted such rights and obligations under the provisions of the Assignment and Assumption Agreement between Stratham Properties Inc. and STG Communities II, LLC; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with the West Haven Specific Plan (File No. PSP03-006), for which an Environmental Impact Report (SCH#2004071095) ("Certified EIR") was adopted by the City Council on July 17, 2007, and this Application introduces no new significant environmental impacts; and

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed; and

WHEREAS, the Application is a project pursuant to CEQA (Public Resources Code Section 21000 et seq.), and an initial study has been prepared to determine possible environmental impacts; and

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

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport (ONT), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the ONT Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on March 26, 2019, 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. PC19-016 recommending the City Council approve the Application; and

WHEREAS, on April 16, 2019, 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 previous Certified EIR and supporting documentation. Based upon the facts and information contained in the previous Certified EIR and supporting documentation, the City Council finds as follows:

(1) The environmental impacts of this project were previously reviewed in conjunction with the West Haven Specific Plan (File No. PSP03-006), for which a Certified EIR (SCH#2004071095) was adopted by the City Council on July 17, 2007.

(2) The previous Certified EIR contains a complete and accurate reporting of the environmental impacts associated with the Project; and

(3) The previous Certified EIR was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

(4) The previous Certified EIR 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 Certified EIR, and all mitigation measures previously adopted with the Certified EIR, 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 Certified EIR 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. *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 4. *Concluding Facts and Reasons.* Based upon the substantial evidence presented to the City Council during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 3, above, the City Council hereby concludes as follows:

(1) The Application applies to approximately 48.73 acres of land generally and located at the northwest corner of Haven Avenue and Chino Avenue, and the northwest corner of Haven Avenue and Schaefer Avenue, within Planning Areas 4 and 8 of the West Haven Specific Plan; and

(2) The properties to the north and east, are developed with agriculture and dairy uses. The property to the west is currently developed with single family homes. The property to the south is developed with a Southern California Edison (SCE) utility corridor; and

(3) The Application continues to apply to the same area as the original existing Development Agreement and proposes to modify certain infrastructure requirements associated with the development of Tentative Tract Map Nos. 18026 and 18027, respectively. 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

(4) This Application will not be materially injurious or detrimental to the adjacent properties and will not have a significant impact on the environment or the surrounding properties. The environmental impacts of this project were previously reviewed in conjunction with the West Haven Specific Plan EIR (SCH#2004071095) that was adopted by the City Council on July 17, 2007. This application introduces no new significant environmental impacts.

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

SECTION 5. City Council Action. Based upon the findings and conclusions set forth in Sections 1 through 5, above, the City Council hereby APPROVES the herein described Application, attached hereto as "Attachment A," and incorporated herein by this reference.

SECTION 6. Indemnification. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8. 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 9. Effective Date. This Ordinance shall become effective 30 days following its adoption.

SECTION 10. 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 7th day of May 2019.

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. 3130 was duly introduced at a regular meeting of the City Council of the City of Ontario held April 16, 2019 and adopted at the regular meeting held May 7, 2019 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. 3130 duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019 and that Summaries of the Ordinance were published on April 23, 2019 and May 14, 2019, in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

ATTACHMENT A:

File No. PDA07-005

First Amendment to the Development Agreement

By and Between the

City of Ontario, a California municipal corporation

and

STG Communities II, LLC, a California limited liability company

(Document follows this page)

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

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

Exempt from Fees Per Gov. Code § 6301

Space above this line for Recorder's Use Only

**FIRST AMENDMENT TO THE
DEVELOPMENT AGREEMENT
(File No. PDA07-005)**

By and Between

City of Ontario, a California municipal corporation,

and

STG Communities II, LLC, a California limited liability company

_____, 2019

San Bernardino County, California

**FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT BY AND
BETWEEN THE CITY OF ONTARIO AND STG COMMUNITIES II, LLC
FILE NO. PDA07-005**

This First Amendment (hereinafter "First Amendment") is entered into as of the _____ day of _____ 2019, by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and STG Communities II, LLC, a California Limited Liability Company (hereinafter "OWNER").

RECITALS

WHEREAS, the CITY and OWNER have previously entered into a Development Agreement (File No. PDA07-005) dated March 3, 2015 and recorded in San Bernardino County, California on July 13, 2015 as Instrument No. 2015-0296532 pursuant to Section 65864, et seq., of the Government Code, (hereinafter the "Original Development Agreement"); and

WHEREAS, Section 2.5 of the 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 Development Agreement shall be the same as the procedure for adopting and entering into the Development Agreement; and

WHEREAS, OWNER has requested, and CITY has agreed to modify certain provisions and the related Exhibits in the Original Development Agreement to reduce or eliminate certain requirements on OWNER to construct public improvements as such improvements have been constructed by others or are no longer determined to be necessary; and

WHEREAS, Stratham Properties Inc. has assigned the Original Development Agreement to STG Communities II, LLC and STG Communities II, LLC has been assigned certain rights and obligations of the Original Development Agreement, and STG Communities II, LLC has accepted such rights and obligations under the provisions of the Assignment and Assumption Agreement between Stratham Properties Inc. and STG Communities II, LLC dated March 25, 2019 as instrument no. 2019-0091513 in the official records of the San Bernardino County Recorder; and

WHEREAS, the CITY and OWNER agree that execution of this First Amendment shall constitute Certification of Agreement Compliance under Section 6.4 of the Original Development Agreement and City shall issue "Certificate of Agreement Compliance" within 10 days following the Effective Date of this First Amendment.

AGREEMENTS

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

1. DEFINITIONS AND EXHIBITS.

1.1 Existing Definitions. Unless the context otherwise requires, all capitalized terms in this First Amendment not expressly defined in this First Amendment shall have the meaning given that term in the Original Agreement. All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this First Amendment, and the word “herein,” “hereof,” “hereunder” and other words of similar import refer to this First Amendment as a whole and not to any particular Article, Section or subdivision hereof.

1.2 Exhibits. The revised Exhibits attached to, and by this reference made a part of, this First Amendment: Exhibit “F-R” — Infrastructure Improvements Exhibits for Tract Nos. 18026 and 18027.

2. MODIFICATIONS TO DEVELOPMENT AGREEMENT TO MODIFY OR REDUCE REQUIREMENTS FOR CONSTRUCTION OF SPECIFIED PUBLIC IMPROVEMENTS

2.1 Requirements for the Construction of Public Infrastructure and Improvements. The following provisions shall replace Section 3.7 and Section 4.3.1 of the Original Development Agreement:

3.7 Public Works; Utilities. If OWNER is required by this Agreement to construct any public works facilities which will be dedicated to CITY or any other public agency upon completion, and if required by applicable laws to do so, OWNER shall perform such work in the same manner and subject to the same requirements as would be applicable to CITY or such other public agency should it have undertaken such construction. As a condition of development approval, OWNER shall connect the Project to all utilities necessary to provide adequate water, recycled water, sewer, gas, electric, and other utility service to the Project. As a further condition of development approval, OWNER shall contract with the CITY for CITY-owned or operated utilities for this purpose, for such price and on such terms as may be available to similarly situated customers in the CITY.

3.7.1 Continuing Requirement for the Funding of Fire Station No. 9 by NMC Builders for Issuance of Building Permits. The issuance of building permits for Production Units within the Property is contingent upon, among other things, the provision of payments from NMC Builders for the completion of the construction of CITY’s Fire Station No. 9. CITY shall not issue building permits for the construction of Production Units within the Property unless and until CITY receives payments from NMC Builders in the amount estimated by CITY to be necessary and sufficient for the completion of the design and construction of Fire Station No. 9. If OWNER requests that CITY issue building permits for any units, including Model Units, prior to CITY’s receipt of payments from NMC Builders in an amount deemed by CITY to be necessary and sufficient for the design and

construction of Fire Station No. 9, then prior to and as a condition precedent to CITY's issuance of any such building permits for the construction of any units, OWNER shall deposit, or shall have deposited, with NMC Builders an amount equal to the OWNER's Fire Station No. 9 Capital Contribution allocable to such unit(s).

3.7.2 Continuing Requirement for the Funding of Regional Water and Storm Water Treatment Improvements. Prior to, and as a condition precedent to, CITY's approval of any final Tract Maps for the Property, CITY shall require OWNER to provide evidence of sufficient Water Availability Equivalents for the number of units included in the respective Tract Map. Prior to, and as a condition precedent to, CITY's issuance of grading permits for any grading of the Property or prior to, and as a condition precedent to, CITY's approval of any final Tract Maps for the Property, OWNER shall provide evidence of sufficient Storm Water Treatment Capacity Availability for the Project. CITY and OWNER agree that the evidence of Storm Water Treatment Capacity Availability for the Project shall be based on the net acreage of OWNER's Project for Tract Map Nos. 18026 and 18027, as defined in the Construction Agreement Amendment. CITY hereby acknowledges that Tract Nos. 18026 and 18027 have an approved preliminary Water Quality Management Plan and are grandfathered into the Mill Creek Wetlands solution.

3.7.3 Requirement for Construction of "Phillips Zone" Water Improvements to Serve Tract No 18026. OWNER shall be responsible for the construction of the necessary extension of permanent master planned potable water infrastructure and improvements within the CITY'S Phillips Zone Pressure Zone to the Property in Tract No. 18026 including the construction of master planned potable water infrastructure and improvements as shown on Exhibit "F-R" hereto, to the extent that such potable water utility infrastructure has not been constructed by others. OWNER shall only initiate grading after recordation of the Final Tract Map for Tract No. 18026. OWNER also acknowledges and agrees that no Building Permits shall be issued by CITY for Production Units prior to the completion of the extension of permanent master planned potable water utility infrastructure and Improvements within the Phillips Pressure Zone to serve the portion of the Project in Tract No. 18026.

3.7.4 Requirement for Construction of "Francis Zone" Water Improvements to Serve Tract No. 18027. OWNER shall be responsible for the design and construction of the necessary extension of permanent master planned potable water infrastructure and improvements within the CITY's Francis Pressure Zone to the Property in Tract No. 18027 including the construction of master planned potable water infrastructure and improvements as shown on Exhibit "F-R" hereto, to the extent that such potable water utility infrastructure has not been constructed and completed by others. OWNER shall only initiate grading after recordation of the Final

Tract Map for Tract No. 18027. OWNER also acknowledges and agrees that no Building Permits shall be issued by CITY for Production Units prior to the completion of the extension of permanent master planned potable water utility infrastructure and improvements within the Francis Pressure Zone to serve the portion of the Project in Tract No. 18027.

3.7.5 Requirement for Construction of Recycled Water Improvements. OWNER shall design and construct permanent master planned recycled water utility infrastructure as described in Exhibit "F-R" as the "Phase 1 Recycled Water Improvements," consisting of the construction of permanent master planned recycled water for Tract Numbers 18026 and 18027, to the extent that such master planned recycled water utility infrastructure has not been constructed and completed by others. OWNER agrees that no building permits shall be issued by CITY for Production Units for the portion of the Project in Tract No. 18027 prior to completion of the Phase 1 Recycled Water Improvements as described in Exhibit "F-R" for Tract 18027. OWNER also agrees that no building permits shall be issued by CITY for Production Units for the portion of the Project in Tract 18026 prior to completion of the Phase 1 Recycled Water Improvements as described in the Exhibit "F-R" for Tract 18026. CITY agrees that OWNER may, at OWNER's option, complete the construction of improvements that provide for connection of the portion of the Project in Tract 18026 to either the 930 recycled water pressure zone on an interim basis or the 1050 recycled water pressure zone to the extent that such alternatives are identified and shown in Exhibit "F-R" for Tract No 18026. If OWNER elects to connect the portion of the Project in Tract 18026 to the 930 recycled water pressure zone, on an interim basis, OWNER shall be responsible for the construction of a permanent connection of the portion of the Project in Tract 18026 to the 1050 recycle water pressure zone when the Phase 2 Recycled Water Improvements are constructed to extend the recycled water improvements in Riverside Drive and Haven Drive by OWNER, NMC Builders or others. Additionally, OWNER or NMC Builders shall be responsible for the design and construction of an additional extension of master planned recycled water infrastructure in Riverside Drive and Haven Avenue (the "Phase 2 Recycled Water Improvements") to serve the entire Project as described in the attached Exhibit "F-R".

3.7.6 Requirement for Construction of Sewer System Improvements. OWNER shall design and construct permanent master planned sewer system improvements to serve the portions of the Project in Tract Nos. 18026 and 18027 and as shown in the attached Exhibit "F-R", to the extent that such sewer system improvements have not been constructed and completed by others. OWNER agrees that no building permits shall be issued by CITY for Production Units unless and until the respective sewer system improvements to serve for Tract Nos. 18026 and 18027 are completed.

3.7.7 Requirement for Construction of Storm Drain Improvements. OWNER agrees that development of the Project shall require the construction of a significant portion of Storm Drain facilities known as the "Turner Avenue Storm Drain" from the northern boundary of the Property to the connection with the County Line Channel. OWNER shall be responsible for the construction of the necessary extension of master planned Storm Drain facilities to serve Tracts Nos. 18026 and 18027 respectively, to the extent that such Storm Drain Improvements have not been constructed and completed by NMC Builders or others. OWNER also acknowledges and agrees that no Building Permits shall be issued by CITY for Production Units prior to the completion of the connections to the permanent master planned Storm Drain facilities in Turner Avenue to the County line Channel as described in Exhibit "F-R".

3.7.8 Requirement for Construction of Street Improvements. OWNER shall construct a portion of Chino Avenue and Haven Avenue and OWNER shall be required to design the signalized intersection on Haven Avenue north of Schaefer Avenue and design other signalized intersections to serve Tracts Nos. 18026 and 18027 respectively, as shown in the attached Exhibit "F-R", to the extent that such improvements have not been constructed and completed by others. OWNER agrees that no Building Permits shall be issued by CITY for Production Units prior to the completion of the master planned street improvements as described in Exhibit "F-R".

3.7.9 Requirement for Construction of Fiber Optic Improvements. OWNER agrees that development of the Property shall require the extension of permanent master planned fiber optic communications infrastructure, at OWNER's sole cost and expense, to serve Tracts Nos. 18026 and 18027 respectively, as described in the attached Exhibit "F-R" consisting generally of the construction of the extension of fiber optic communications infrastructure to serve the Property, to the extent such master planned fiber optic communications have not been constructed and completed by others. OWNER agrees that no Building Permits shall be issued by CITY for Production Units prior to the completion of the master planned fiber optic improvements as described in Exhibit "F-R".

4.3.1 Responsibility for Construction of Improvements. The phasing of the area wide infrastructure construction within the New Model Colony will be as approved by the City Manager. OWNER shall be responsible for the timely construction and completion of all public infrastructure required for the Project to serve Tracts Nos. 18026 and 18027 respectively, as shown on the attached Exhibit "F-R" and any and all tentative tract map conditions. CITY agrees that OWNER may initiate grading after recordation of the Final Tract Map; however, OWNER acknowledges and agrees that no building permits for any Model Units or Production Units shall be issued by City for the Project prior to the

completion of the permanent master planned water and recycled water utility infrastructure to serve the project as shown on the attached Exhibit "F-R".

4.3.1.1 Responsibility for In-Lieu Payments. OWNER shall also be required to pay the amount of three hundred forty-two thousand and one hundred eighteen dollars (\$342,118) to CITY in-lieu of the OWNER's construction of a portion of Schaefer Avenue. Such payment shall be made by OWNER prior to and as a condition precedent to, CITY's issuance of the first building permit for any units for Tract No. 18027.

3. OTHER MODIFICATIONS.

3.1 Revisions to Conditions of Approval for the Respective Tentative Tract Maps for Tract Nos. 18026 and 18027. CITY and OWNER agree that the Conditions of Approval for Tentative Tract Nos. 18026 and 18027 as previously approved by CITY shall be modified to be consistent with the provisions of this First Amendment.

4. INTEGRATION.

4.1 Integration of Previous Understandings and Clarifications. This First Amendment reflects the complete understanding of the parties with respect to the subject matter hereof. To the extent this First Amendment conflicts with the Development Agreement, this First Amendment supersedes such previous document(s). In all other respects, the parties hereto re-affirm and ratify all other provisions of the Development Agreement and First Amendment. The Property covered by this First Amendment is as described in the legal description of the Property attached hereto as Exhibit "A" of the Original Development Agreement. This First Amendment shall be recorded against the Property.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date the ordinance adopting this First Amendment becomes effective ("Effective Date").

{Signature Page to Follow}

**SIGNATURE PAGE
TO FIRST AMENDMENT TO DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF ONTARIO AND STG COMMUNITIES II, LLC**

"OWNER"

STG COMMUNITIES II, LLC a California Limited Liability Company

By: _____
Name: _____
Its: _____
Date: _____

"CITY"

CITY OF ONTARIO

By: _____
Scott Ochoa, City Manager
Date: _____

ATTEST:

City Clerk, Ontario

APPROVED AS TO FORM:
BEST, BEST & KRIEGER LLP

City Attorney

ACKNOWLEDGEMENT

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 _____)

On _____, 20____, before me, _____,
Date *Insert Name and Title of the Officer*

personally appeared _____
Name(s) of Signer(s)

_____ ,
who proved to me on the basis of satisfactory evidence to be the person 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, 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 _____
Signature of Notary Public

Place Notary Seal Above

ACKNOWLEDGEMENT

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 _____)

On _____, 20____, before me, _____,
Date *Insert Name and Title of the Officer*

personally appeared _____
Name(s) of Signer(s)

_____ ,
who proved to me on the basis of satisfactory evidence to be the person 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, 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 _____
Signature of Notary Public

Place Notary Seal Above

EXHIBIT "A"

Legal Description of Property

Tentative Tract Map 18026

IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA BEING A SUBDIVISION OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN.

APN: 0218-151-11

Tentative Tract Map 18027

IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA BEING A SUBDIVISION OF PARCEL 2 OF PARCEL MAP NO. 4117 FILED IN BOOK 38, PAGES 37 AND 38 OF PARCEL MAPS, SAN BERNARDINO COUNTY RECORDS.

APN: 0218-151-38

EXHIBIT "B"

West Haven Specific Plan Land Use Map

SECTION 3 • LAND USE PLAN



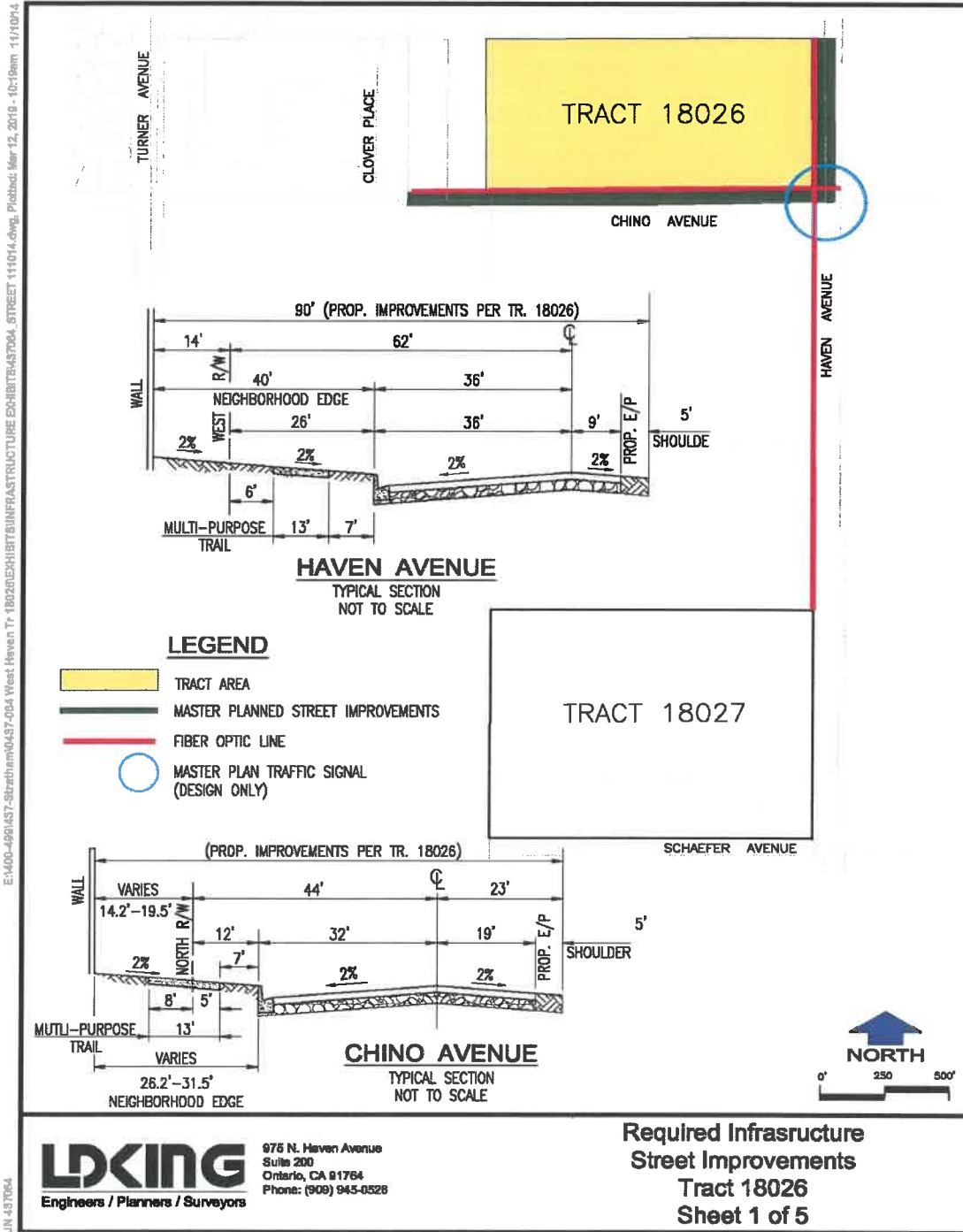
**Exhibit 3-1
WEST HAVEN LAND USE PLAN**

EXHIBIT "F-R"

Required Street Infrastructure Improvements

Tentative Tract Map No. 18026

EXHIBIT F-R



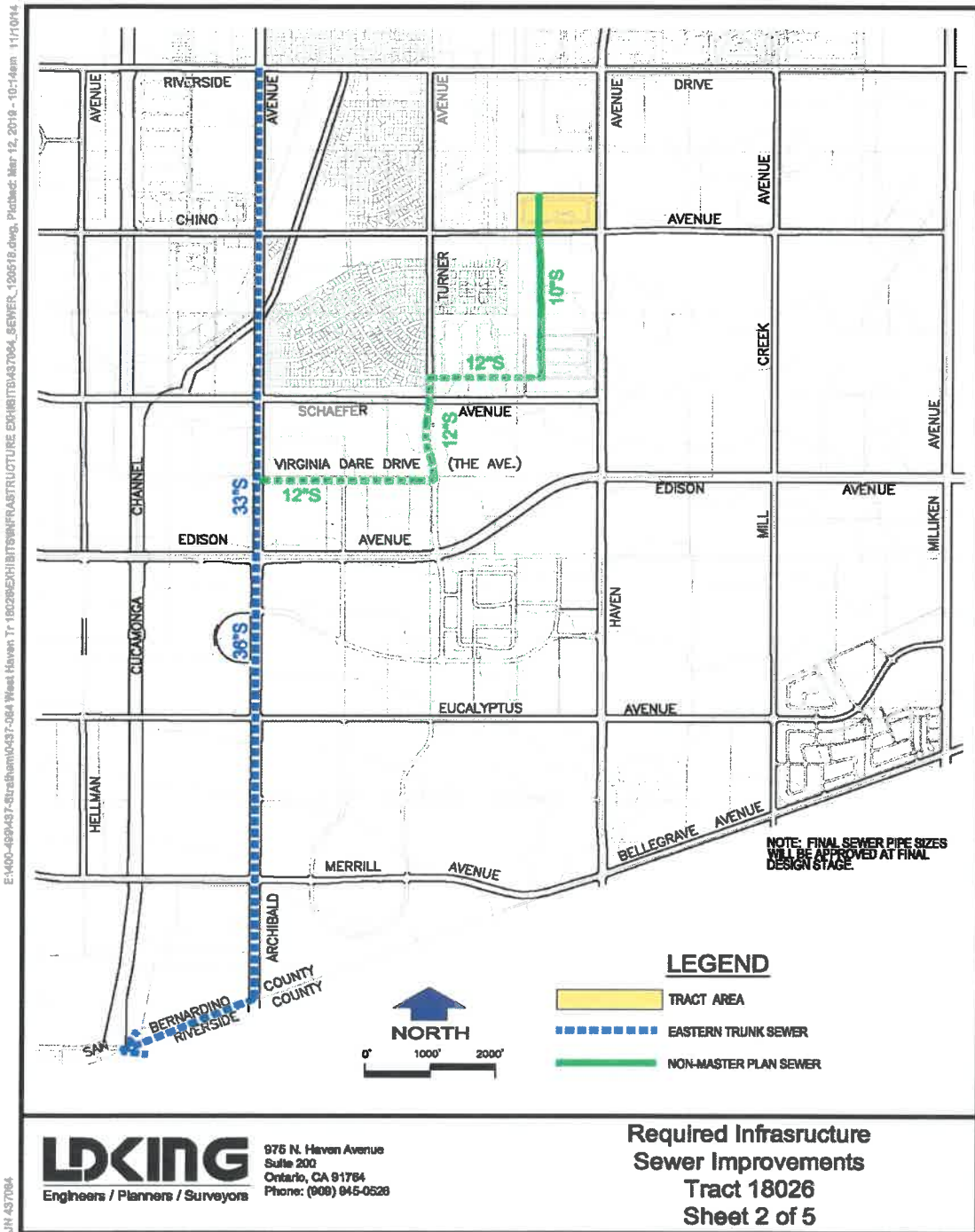
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EXHIBIT "F-R"

Required Sewer Infrastructure Improvements

Tentative Tract Map No. 18026

EXHIBIT F-R



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JH 437064

LDKING
Engineers / Planners / Surveyors

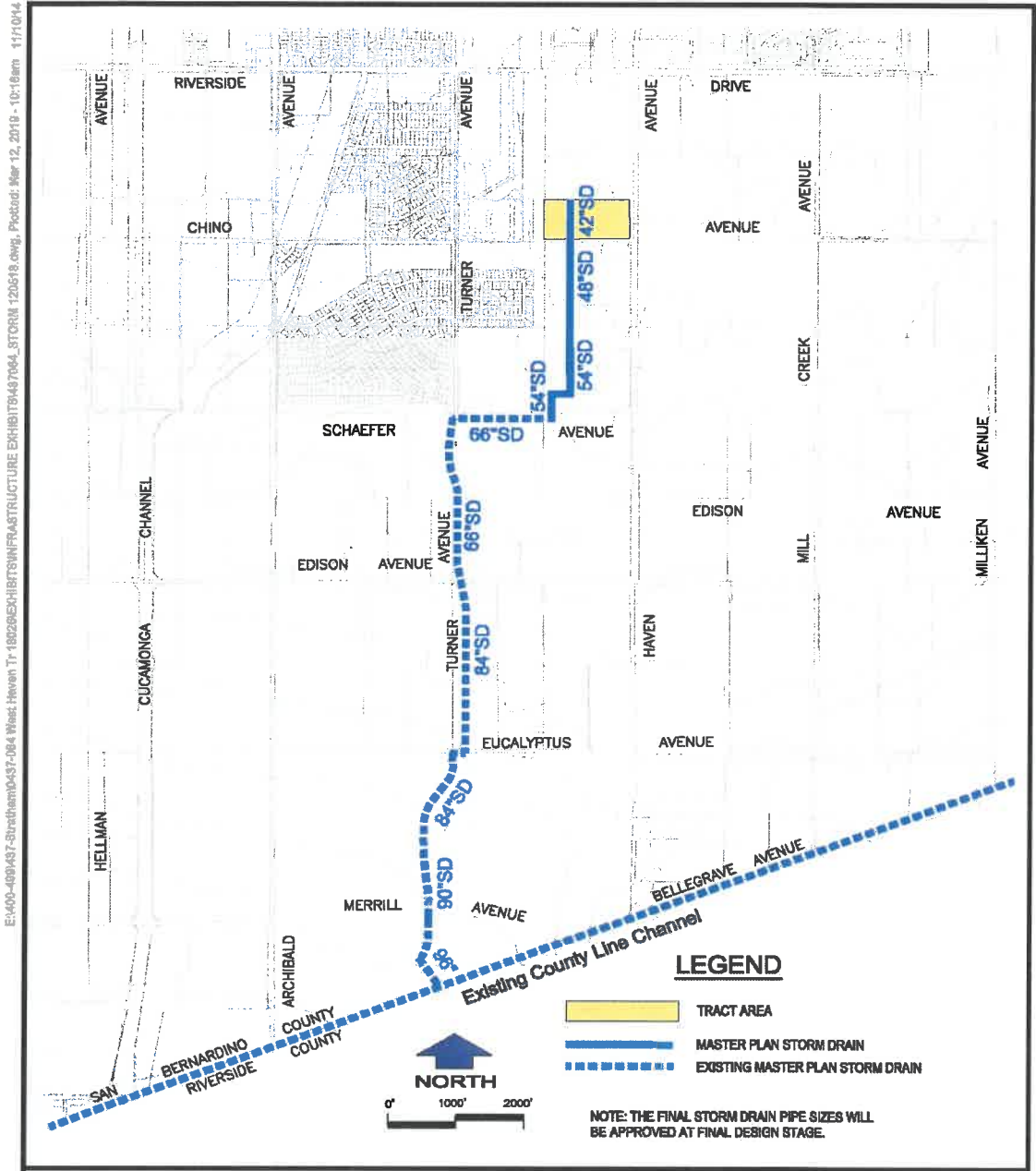
976 N. Haven Avenue
Suite 200
Ontario, CA 91764
Phone: (908) 945-0528

EXHIBIT "F-R"

Required Storm Drain Infrastructure Improvements

Tentative Tract Map No. 18026

EXHIBIT F-R



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JH 437064

LDKING
 Engineers / Planners / Surveyors
 975 N. Haven Avenue
 Suite 200
 Ontario, CA 91764
 Phone: (909) 945-0526

**Required Infrastructure
 Storm Drain Improvements
 Tract 18026
 Sheet 3 of 5**

EXHIBIT "F-R"

Required Domestic Water Infrastructure Improvements

Tentative Tract Map No. 18026

EXHIBIT F-R

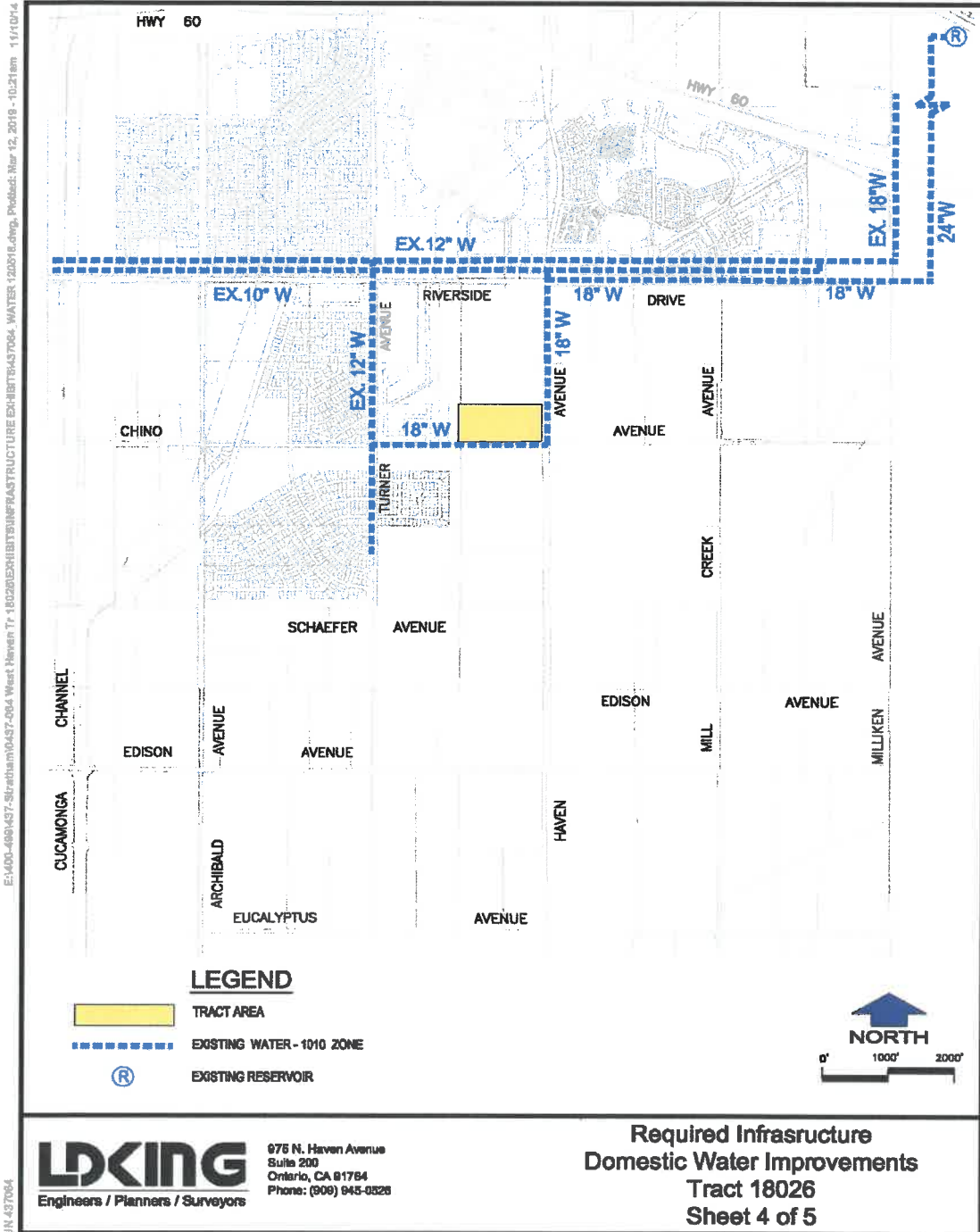
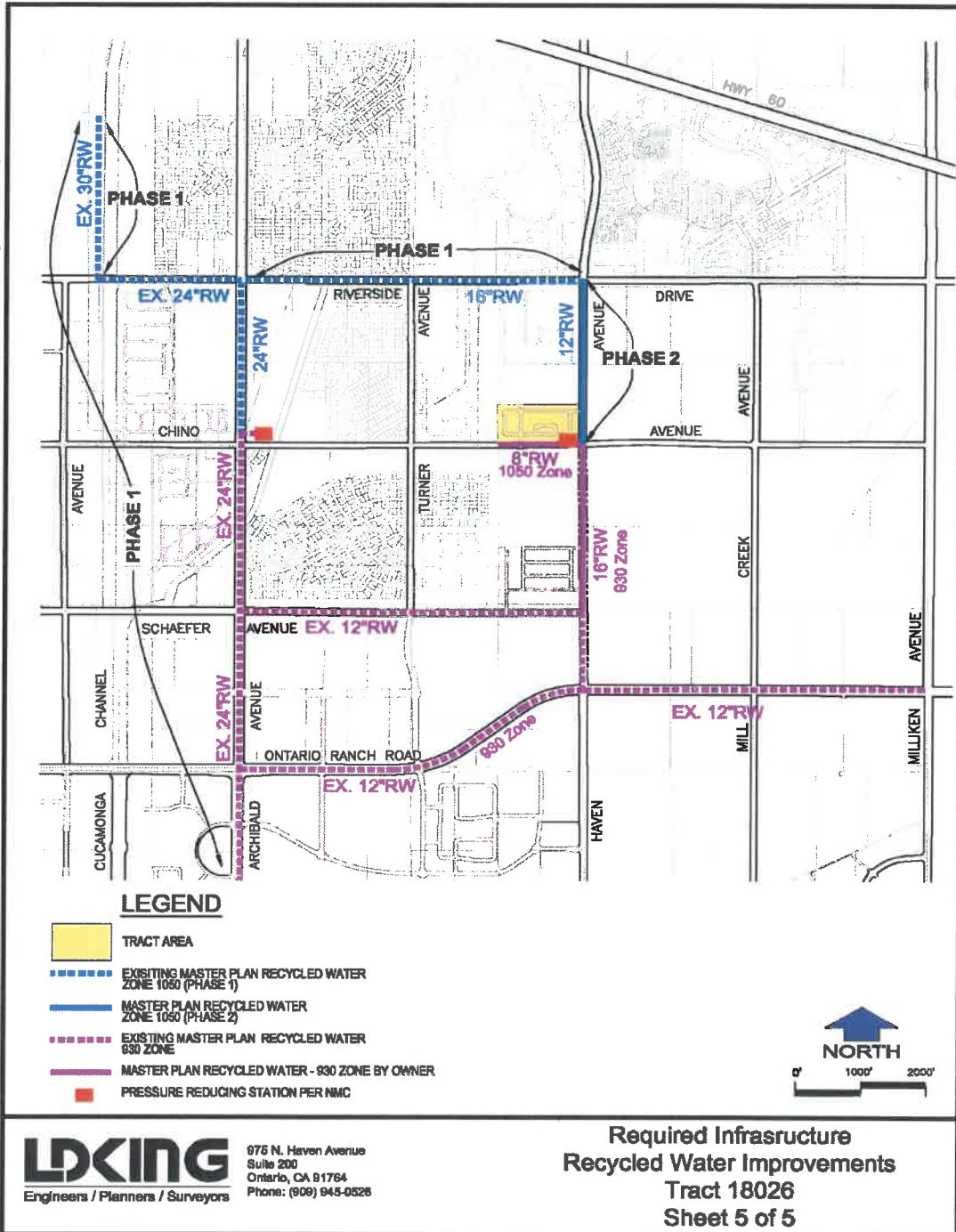


EXHIBIT "F-R"

Required Recycled Water Infrastructure Improvements

Tentative Tract Map No. 18026

EXHIBIT F-R



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JN 437064

LDKING
 Engineers / Planners / Surveyors
 975 N. Haven Avenue
 Suite 200
 Ontario, CA 91764
 Phone: (909) 943-0526

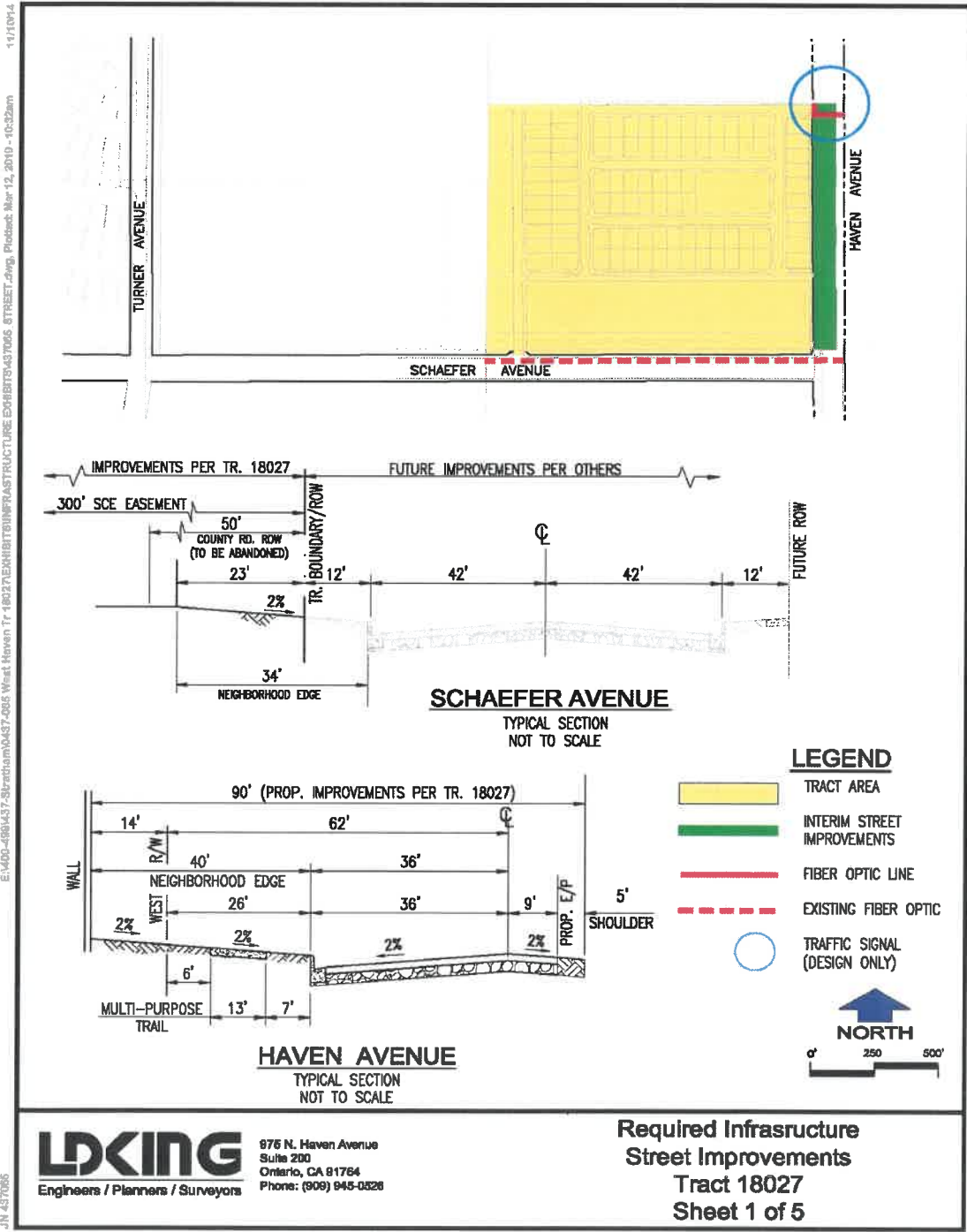
**Required Infrastructure
 Recycled Water Improvements
 Tract 18026
 Sheet 5 of 5**

EXHIBIT "F-R"

Required Street Infrastructure Improvements

Tentative Tract Map No. 18027

EXHIBIT F-R



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LDKING
 Engineers / Planners / Surveyors
 975 N. Haven Avenue
 Suite 200
 Ontario, CA 91764
 Phone: (909) 945-0328

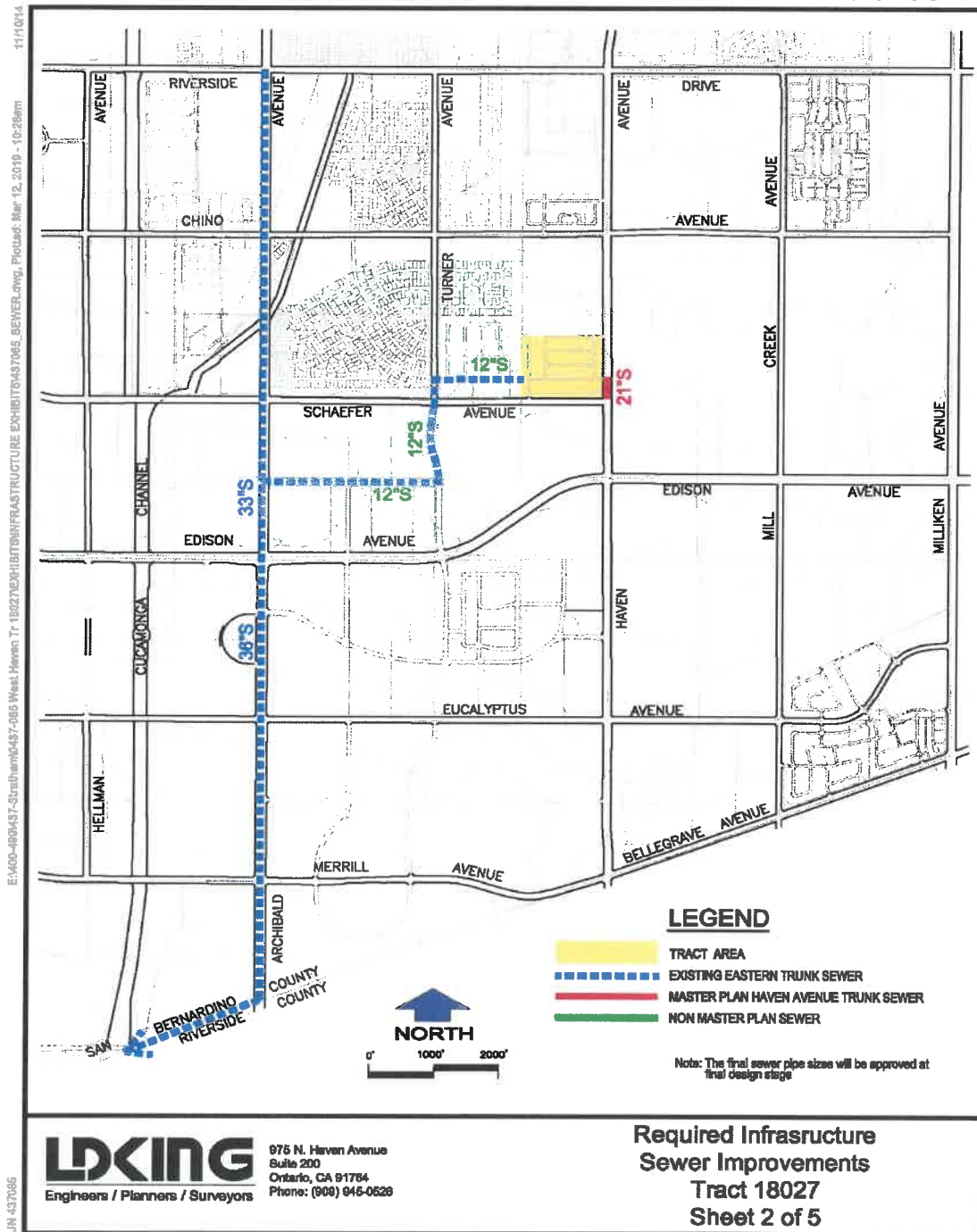
Required Infrastructure
 Street Improvements
 Tract 18027
 Sheet 1 of 5

EXHIBIT "F-R"

Required Sewer Infrastructure Improvements

Tentative Tract Map No. 18027

EXHIBIT F-R



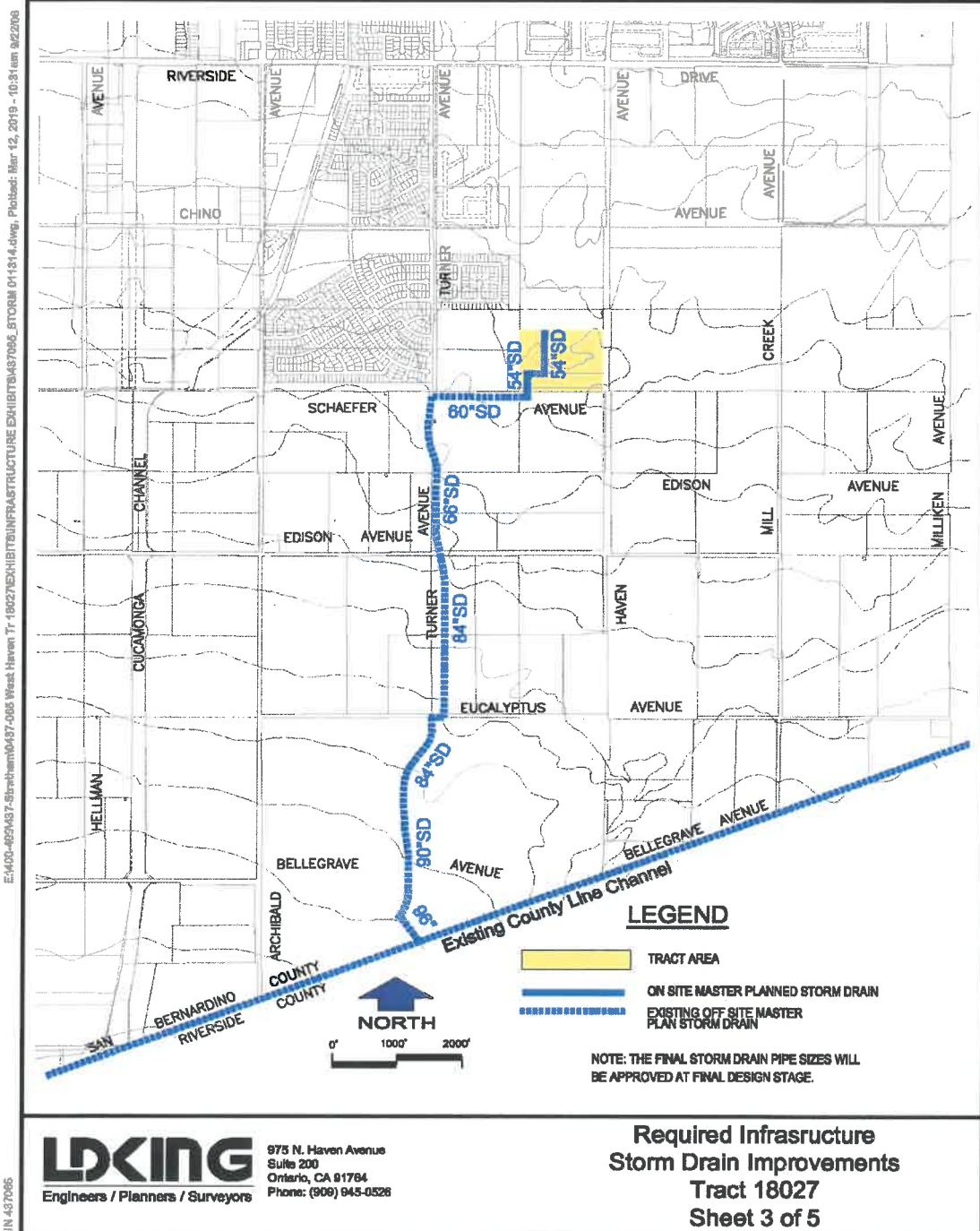
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EXHIBIT "F-R"

Required Storm Drain Infrastructure Improvements

Tentative Tract Map No. 18027

EXHIBIT F-R



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JN-437096

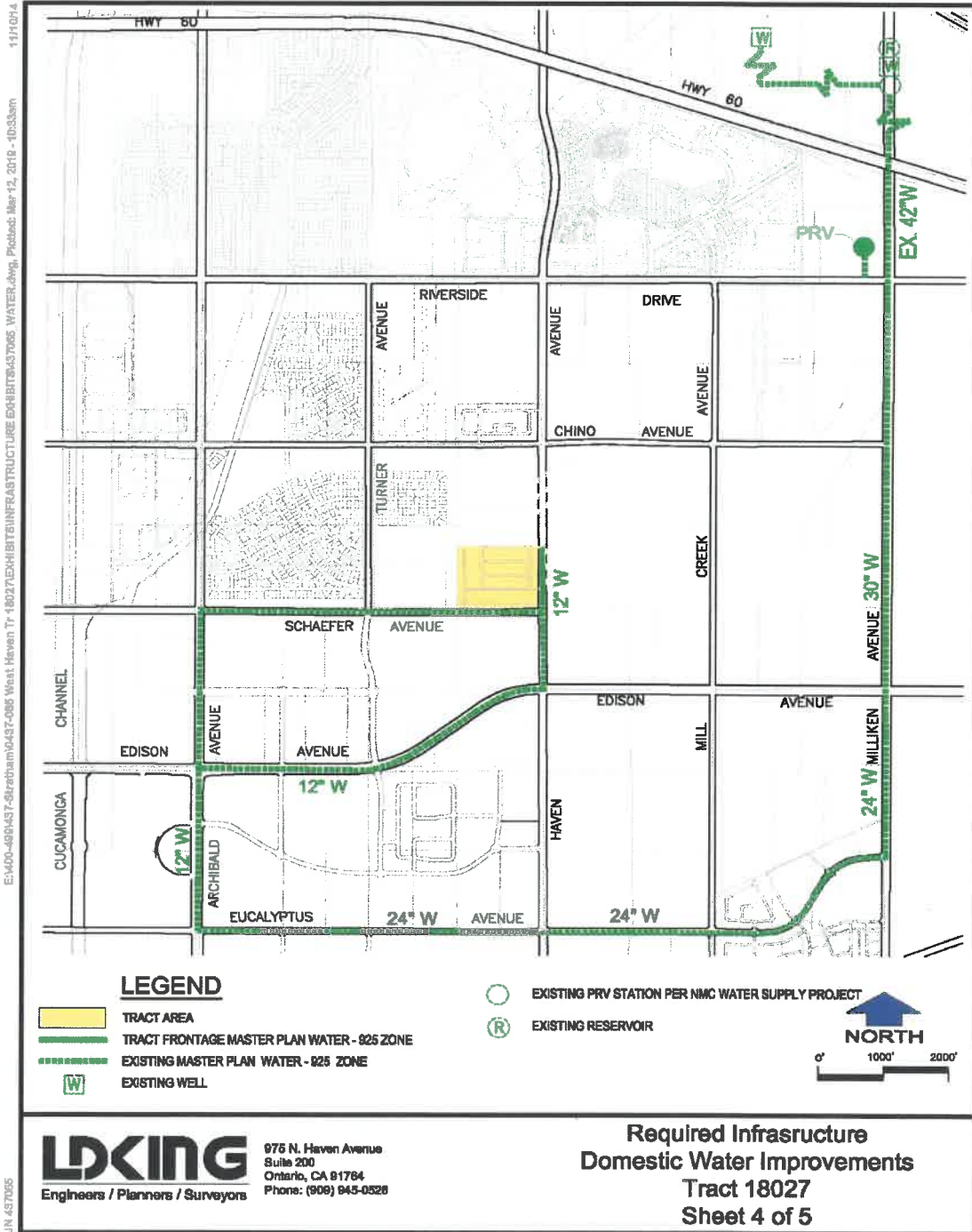
LDKING
 Engineers / Planners / Surveyors
 975 N. Haven Avenue
 Suite 200
 Ontario, CA 91764
 Phone: (909) 945-0526

EXHIBIT "F-R"

Required Domestic Water Infrastructure Improvements

Tentative Tract Map No. 18027

EXHIBIT F-R



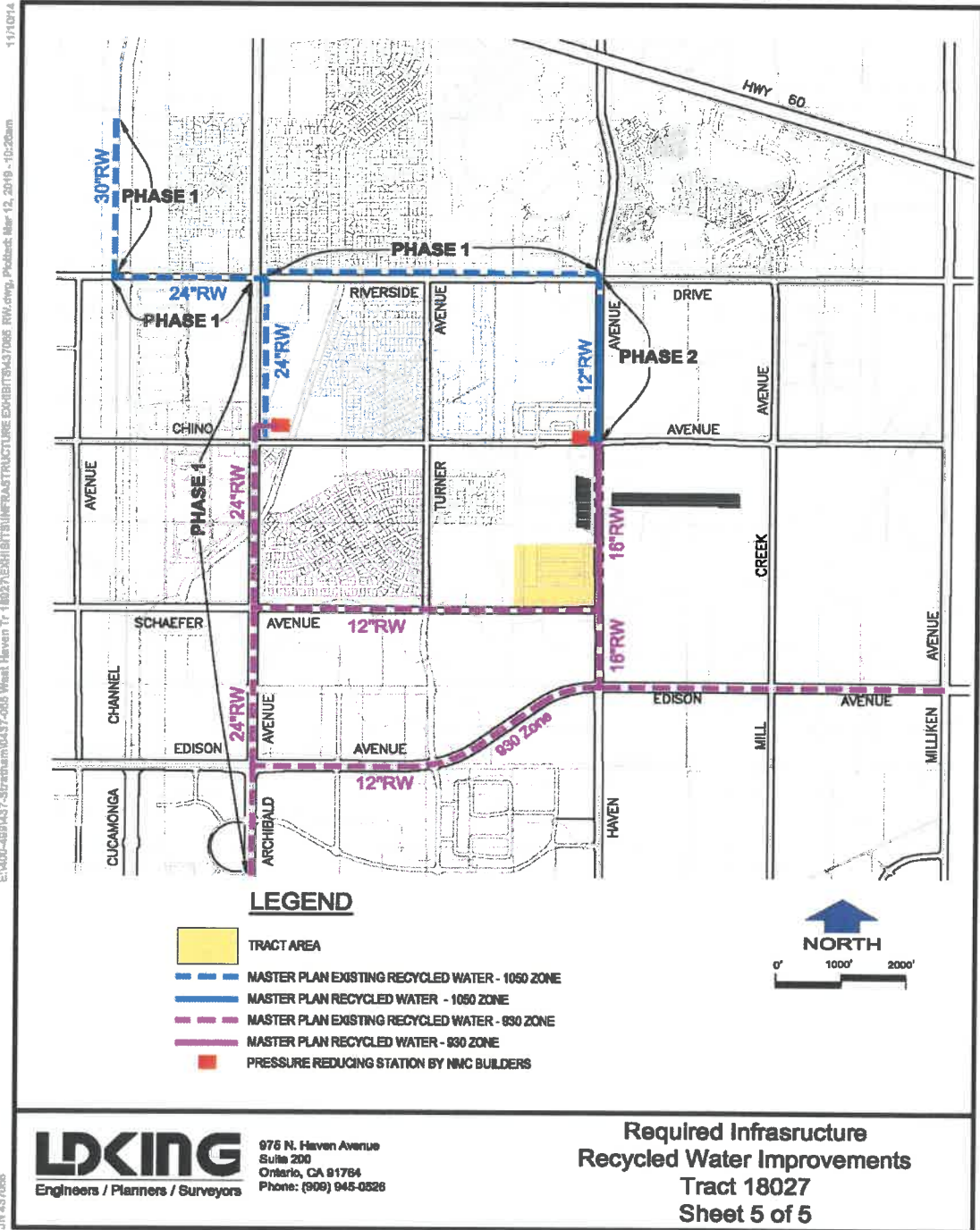
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 11/10/14
 JN 457065

EXHIBIT "F-R"

Required Recycled Water Infrastructure Improvements

Tentative Tract Map No. 18027

EXHIBIT F-R



11/10/24

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JR 437006

LDKING
 Engineers / Planners / Surveyors
 976 N. Haven Avenue
 Suite 200
 Ontario, CA 91764
 Phone: (909) 945-0526

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19738 LOCATED AT THE NORTHEAST CORNER OF MERRILL AVENUE AND CARPENTER AVENUE

RECOMMENDATION: That the City Council adopt a resolution approving an improvement agreement, improvement security and Final Parcel Map No. 19738 located at the northeast corner of Merrill Avenue and Carpenter Avenue within the West Ontario Commerce Center Specific Plan area.

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

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

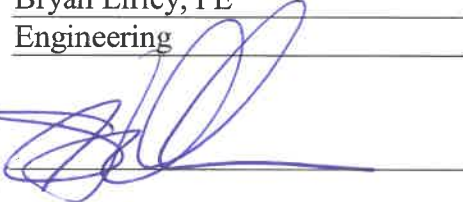
BACKGROUND: Final Parcel Map No. 19738, consisting of nine (9) industrial lots on 115.1 acres, as shown on Exhibit A, has been submitted by the developer, Ontario Land Ventures, LLC, of Newport Beach, California (Mr. Carl William Goltermann, Principal).

Tentative Parcel Map No. 19738 was approved by the Planning Commission (7 to 0) on July 24, 2018 and is consistent with the adopted West Ontario Commerce Center Specific Plan.

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

The developer has entered into an improvement agreement with the City for Final Parcel Map No. 19738 and has posted adequate security to ensure construction of the required public improvements.

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

Prepared by: Bryan Lirley, PE
Department: Engineering
City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

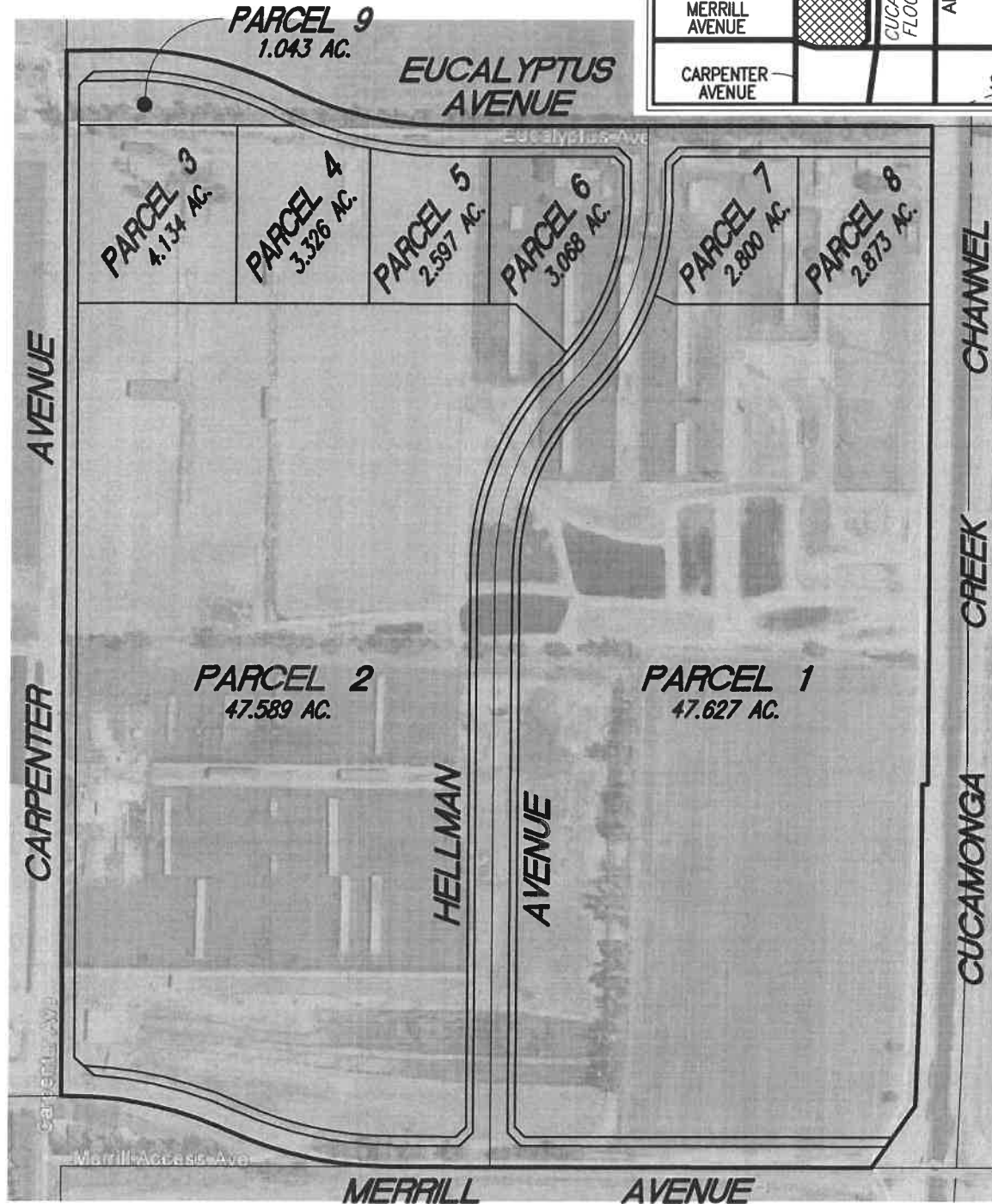
This map meets all conditions of the Subdivision Map Act and the Ontario Municipal Code and has been reviewed and approved by the City Engineer.

EXHIBIT A PM 19738

VICINITY MAP

SHEET 1 OF 1

N.T.S.



PREPARED BY:

Thienes Engineering, Inc.
 CIVIL ENGINEERING • LAND SURVEYING
 14349 FIRESTONE BOULEVARD
 LA MIRADA, CALIFORNIA 90638
 PH.(714)521-4811 FAX(714)521-4173

**CITY OF ONTARIO
 ENGINEERING DEPARTMENT**

FILE NO. PM - 19738

APPLICANT: ONTARIO LAND
 VENTURES, LLC.

PROJECT: PARCEL MAP
 NO. 19738

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19738, LOCATED AT THE NORTHEAST CORNER OF MERRILL AVENUE AND CARPENTER AVENUE.

WHEREAS, Tentative Parcel Map No. 19738, submitted for approval by the developer, Ontario Land Ventures, LLC, of Newport Beach, California (Mr. Carl William Goltermann, Principal) was approved by the Planning Commission of the City of Ontario on July 24, 2018; and

WHEREAS, Tentative Parcel Map No. 19738 consists of nine (9) industrial lots, being a subdivision of a portion of Government Lot 4 of Section 15, Township 2 South, Range 7 West, San Bernardino Meridian, together with portions of Government Lots 1 and 2, together with a portion of the Northeast $\frac{1}{4}$, all in Section 22, Township 2 South, Range 7 West, San Bernardino Meridian, according to the official plat thereof, in the Office of the County Recorder of said county; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Final Parcel Map No. 19738, said developer has offered an improvement agreement, together with good and sufficient security, in conformance with the City Attorney's approved format, for approval and execution by the City; and

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

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

1. That said Improvement Agreement be, and the same is, approved and the City Manager is authorized to execute same on behalf of said City, and the City Clerk is authorized to attest thereto; and
2. That said Improvement Security is accepted as good and sufficient, subject to approval as to form and content thereof by the City Attorney; and
3. That Final Parcel Map No. 19738, be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

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

PASSED, APPROVED, AND ADOPTED this 7th day of May 2019.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 7, 2019 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. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING FINAL PARCEL MAP NO. 19910 LOCATED ON MAITLAND STREET APPROXIMATELY 50 FEET WEST OF SULTANA AVENUE

RECOMMENDATION: That the City Council adopt a resolution approving Final Parcel Map No. 19910 located on Maitland Street, approximately 50 feet west of Sultana Avenue.

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

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

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

BACKGROUND: Final Parcel Map No. 19910, consisting of three (3) residential lots on 0.52 acres, as shown on Exhibit A, has been submitted by the developer, CRC Investments, LLC, (Mr. Abel Z. Alcazar, President), of Alta Loma, California.


Tentative Parcel Map No. 19910 was approved by the Planning Commission (6 to 0) on May 22, 2018.

Improvements will include water services, sewer laterals, parkway landscaping and curb & gutter. Improvements in parkway landscaping will be consistent with current City approved drought measures.

The developer has posted adequate security to ensure construction of the required public improvements. A subdivision improvement agreement will not be required because the remaining improvements are minor and will be completed as part of Encroachment Permit No. E201900497 issued to the developer on April 1, 2019.

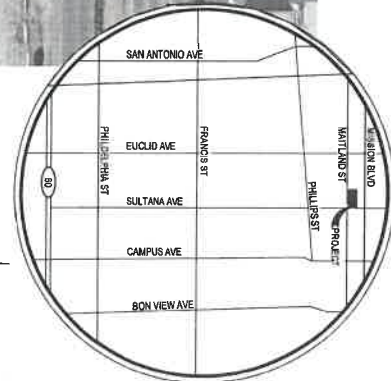
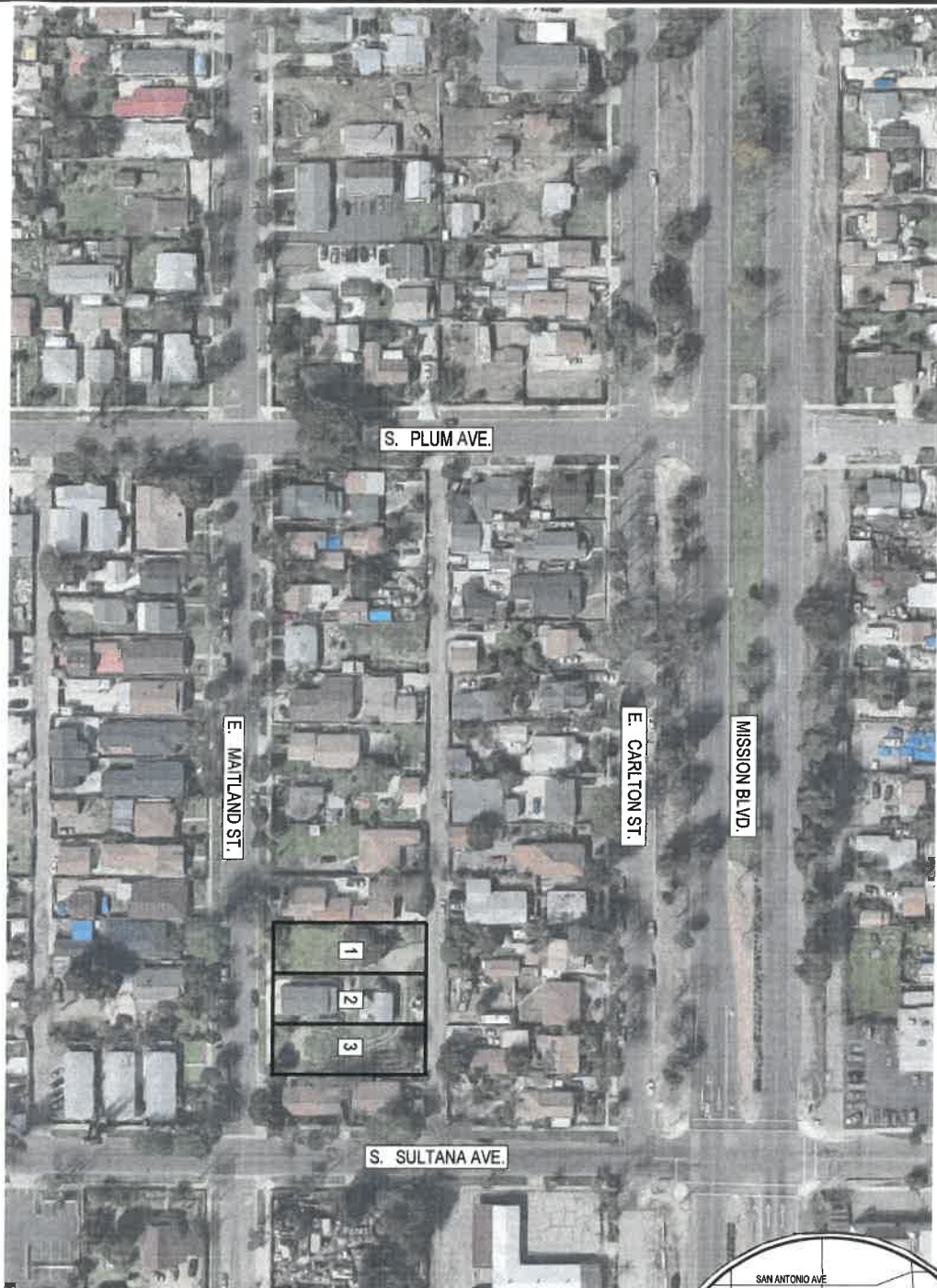
The map meets all conditions of the Subdivision Map Act and the Ontario Municipal Code and has been reviewed and approved by the City Engineer.

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

Prepared by: Antonio Alejos
Department: Engineering
City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

6



VICINITY MAP

PROJECT:

CIVIL ENGINEER:

EXHIBIT A - P.M. NO. 19910
 CRC INVESTMENTS, LLC
 419 E. MAITLAND STREET
 ONTARIO, CA 91761

Gil Zulueta Mendoza Associates, Inc.
 6185 MAGNOLIA AVENUE, #129
 RIVERSIDE, CA 92506
 P 951.286.9520 F 815.425.8582
 E-MAIL: gil@gzmassociates.com

JOB NO. 2254-01
Sheet No.
1 OF 1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL PARCEL MAP NO. 19910 LOCATED ON MAITLAND STREET APPROXIMATELY 50 FEET WEST OF SULTANA AVENUE.

WHEREAS, Tentative Parcel Map No. 19910, submitted for approval by the developer, CRC Investments, LLC, (Mr. Abel Z. Alcazar, President), of Alta Loma, California was approved by the Planning Commission of the City of Ontario on May 22, 2018; and

WHEREAS, Tentative Parcel Map No. 19910 being a division of portions of Lots 14, 15, and 16 in Block 136 of Villa Plots South Side Tract as shown on Map Recorded in Book 6, Page 11, and as described in Grant Deed Recorded February 24, 2010, in Instrument No. 2010-0072590 of Official Records, both in the Office of the Recorder of San Bernardino County; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Final Parcel Map No. 19910, said developer has posted sufficient improvement security; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ontario, California, that Final Parcel Map No. 19910, be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

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

PASSED, APPROVED, AND ADOPTED this 7th day of May 2019.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 7, 2019 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
CONSENT CALENDAR

SUBJECT: AWARD OF DESIGN SERVICE AGREEMENTS FOR ON-CALL PROFESSIONAL ENGINEERING SERVICES

RECOMMENDATION: That the City Council and Housing Authority approve and authorize the City Manager to execute three-year Design Services Agreements (on file in the Records Management Department) with: Kleinfelder, Inc., of Ontario, California; Infrastructure Engineering Corporation, of Irvine, California; and Stantec Consulting Services, Inc., of Irvine, California; and authorize the City Manager to extend the agreements for up to two (2) additional one (1) year periods consistent with City Council approved budgets.

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)

FISCAL IMPACT: Consultants will be compensated for on-call, as-needed services at the billing rates set forth in their respective agreements. The total compensation paid to any of the consultants in any year under the term of these agreements will be commensurate with the City Council approved work plans and budgets.

All firms have agreed to fixed billing rates set forth in their respective agreements for three years. At the City's discretion, up to two additional one-year extensions may be executed. Pricing for the option years will be negotiated, and any proposed fee increases will not exceed 3% per year.

BACKGROUND: The City's Water and Sewer Master Plans recommend numerous capital improvement projects to maintain water and sewer service reliability to the community. The City's sewer system includes approximately 407 miles of pipeline, about 35% of which is more than 50 years old. Similarly, the City's water system includes approximately 582 miles of pipeline, about 22% of which is more than 50 years old. Replacement and maintenance of these aging and undersized facilities is a part of the City's ongoing capital improvement program to maintain the reliability of water and sewer service to the residents and businesses of the City of Ontario. In order to facilitate the design

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Cynthia Heredia-Torres
Department: MU/Engineering
City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

7

workload associated with these projects, staff has identified a need to contract with multiple firms to provide on-call professional engineering services. These services include, but are not limited to, civil engineering, mechanical engineering, electrical engineering, hydrology and drainage engineering, erosion control and storm water pollution prevention plans, master planning, surveying, environmental services, grant writing support, and water resources planning and management support services.

Staff is recommending on-call contracts with three qualified professional engineering firms. Contracting with three firms will assure a cost effective option and sufficient resources are always available for projects and task orders as they arise. The execution of these agreements do not guarantee any payment or assignment to any firm. The pre-selection of firms on the basis of qualifications permits the assignment of tasks on the basis of best value or on the basis of specialized expertise or availability, as needed. In addition, staff is recommending that all contracts be executed between the firms and the City and Housing Authority, so that any City department can make use of these services for their respective projects.

On December 17, 2018, the City solicited statements of qualifications for professional engineering on-call services; and responses from the following were evaluated:

COMPANY	LOCATION
Kleinfelder, Inc.	Ontario, CA
Infrastructure Engineering Corporation	Irvine, CA
Stantec Consulting Services, Inc.	Irvine, CA
AKM Consulting Engineers	Irvine, CA
Albert A. Webb Associates	Riverside, CA
ERSC	Redlands, CA
HR Green Pacific	Corona, CA
IMEG Group	Ontario, CA
K & A	Corona, CA
KOA	Ontario, CA
Lee & Ro	City of Industry, CA
Ludwig Engineering	San Bernardino, CA
Michael Baker International	Ontario, CA
Montrose Engineering	Irvine, CA
Next Stage Engineering	Fresno, CA
NV5	Irvine, CA
TKE	Riverside, CA
WestLand Group, Inc.	Ontario, CA

Using a qualifications-based selection process, a panel of City staff from the Ontario Municipal Utilities Company, Economic Development Agency, and Public Works reviewed the statements of qualifications. Kleinfelder, Inc., Infrastructure Engineering Corporation, and Stantec Consulting Services, Inc., were judged to be the most qualified firms. As such, they are being recommended based on their broad range of expertise as demonstrated by their services provided to municipal agencies and capability to perform the work in a timely manner.

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
CONSENT CALENDAR

SUBJECT: FISCAL YEAR 2018-19 THIRD QUARTER BUDGET UPDATE REPORT

RECOMMENDATION: That the City Council approve the budget adjustments and recommendations as listed in the Fiscal Year 2018-19 Third Quarter Budget Update Report.

COUNCIL GOALS: Operate in a Businesslike Manner

FISCAL IMPACT: The recommended actions will affect several fund budgets as outlined in the Fiscal Year 2018-19 Third Quarter Budget Update Report and supporting schedules.

BACKGROUND: The Fiscal Year 2018-19 Third Quarter Budget Update Report reflects the Financial Services Agency's continued efforts to provide timely, accurate, and understandable financial information to assist the City Council with decision making and achieve their core goals. All funds have been reviewed in preparing this report. The emphasis of this report is on the General Fund, which funds the majority of government services including public safety, recreation, library, museum, parks, building, and planning. This report also discusses current year results, budget trends, and the economic outlook that may impact the City's resources.

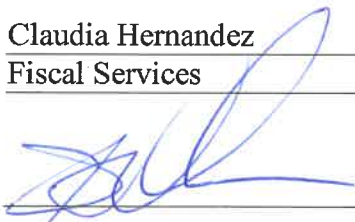
The primary purposes of this report are to:

- Revise the City's budget to reflect the City Council's actions taken since the Mid-Year Budget Update Report;
- Recommend personnel and organizational changes to enhance program operations and efficiency;
- Recommend budget adjustments that are consistent with City Council goals and objectives; and
- Comment on significant budget and economic trends which may impact this fiscal year's budget.

Third Quarter Budget Update Recommendations

Recommendations in this third quarter budget report are routine in nature and mainly comprised of previously approved City Council actions, adjustments in the revenue budget to reflect estimates based on current trends, and additional appropriations for new or ongoing programs/projects. For the General Fund,

STAFF MEMBER PRESENTING: Armen Harkalyan, Executive Director of Finance

Prepared by: Claudia Hernandez
Department: Fiscal Services
City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

8

these actions will bring the General Fund estimated available ending fund balance at the 18% goal set by City Council.

Major items proposed for the Third Quarter Budget Update in the General Fund are: additional \$4.7 million for property tax revenue as a result of a 10 percent growth in the assessed values citywide in the current fiscal year; increase of \$4.6 million for sales tax revenue due to the growth in business to business and new auto sales sectors (offset by an additional \$300,000 of sales tax rebates as a result of various City agreements); additional \$3.1 million for gains in development related revenue (costs associated with the higher development revenue will occur in the following year due to timing differences between receiving the developer fees and the incurrence of the expense); \$4.95 million appropriation for property acquisition and \$500,000 for related architect and design, and site clearance costs for the downtown Euclid Avenue revitalization project; and a \$3.0 million reduction regarding the funding of administrative costs from the utility funds.

Noteworthy budget adjustments in Other Funds include: appropriations of approximately \$3.95 million for additional costs for the new Fire Station located in Ontario Ranch (funding from development impact fees and Community Facilities District (CFD) taxes); reduction in personnel costs of \$5.0 million relating to the establishment of a retiree medical trust fund (approximately \$3.8 million in General Fund and \$1.2 million in other funds); appropriation increase of \$2.0 million regarding the State Route 60 Freeway at Archibald Avenue Interchange project (funding from development impact fees); an additional \$1.32 million for property acquisition and construction of a new water well (funding from the water utility fund); and \$1.0 million additional appropriation for the broadband high-speed telecommunications system.

Interim budget updates also present recommendations for personnel and organizational changes necessary to enhance program operations and efficiency. Current recommendations include organizational changes to the Ontario Municipal Utilities Company and the Administrative Services Department, which will result in a net zero position change and an overall General Fund annual increase of \$18,780 (across all funds, the increase is \$50,568).

Economic Outlook

Economic growth during the first half of 2019 was just over 3 percent, a stronger pace than expected. The first quarter growth drivers were the increases in business inventories and government spending. Gross Domestic Product (GDP), one of the primary indicators used to gauge the health of a country's economy, reported an annual rate of 3.2 percent for the first quarter of 2019. Consumer spending, however, grew only at 1.2% for the first quarter after three straight quarters of 2.5% growth or higher. The Consumer Confidence Index (CCI) fell to 124.1 in March from 131.4 in February. While the labor markets reported a solid growth with adding 196,000 jobs in March, after a weak performance in February, job growth has slowed. The monthly average of jobs added in 2018 was 223,000 compared to 180,000 of jobs on average in the first three months of 2019. The U.S. unemployment rate was unchanged at 3.8 percent and wage growth kept its momentum by growing faster than inflation. The Inland Empire unemployment rate increased to 4.5 percent and California increased to 4.3 percent. The good news for the local economy is that average weekly earnings (annualized) are climbing at 3.7%, the fastest growth rate since the Great Recession of 2008-09.

Housing has recently shown signs of rebounding as mortgage rates reversed their increases of mid-2018 and housing affordability improved. The National Association of Home Builders reported its index measuring builder sentiment gained a point to a reading of 63 in April, notching its highest level since October 2018. Locally, home prices have risen faster than neighboring areas and additional housing inventory is critical to maintaining the regional affordability advantage. Prices for existing single-family

homes sold in the Inland Empire increased by 6.7 percent while sales decreased 10.4 percent in March 2019 compared to the same time last year. Existing home sales continue to struggle as inventories have failed to keep pace with demand.

CalPERS

The California State Public Employees Retirement System (CalPERS) is considerably underfunded, primarily due to the lower than projected earning rates combined with significant investment losses incurred during the Great Recession. All of this has contributed to dramatic increases to the City's CalPERS employer contribution rates. With the recent adoption of amortization and smoothing policy changes by the CalPERS Board to address the severity of the underfunding, significant employer contribution rate increases have already begun. CalPERS' proposed rates will increase by nearly 70 percent by Fiscal Year 2022-23.

The CalPERS Board approved lowering the discount rate assumption (the long-term rate of return) in December 2016 from 7.5 percent to 7.0 percent over the next three years. This will increase Ontario's contribution costs by approximately \$4.3 million beginning in Fiscal Year 2018-19 and, by Fiscal Year 2022-23, the increase is \$18.9 million. The City's annual General Fund CalPERS pension expense will increase an average of almost 11 percent over the next five years, while the projected General Fund revenue growth is pegged at approximately 4.0 percent. Without future major revenue growth and limits on expenditures, the City will be facing a significant constraint on operating budgets in upcoming fiscal years.

Conclusion

Despite an overall solid economy that includes low unemployment, rising wages and increasing home values, 2019 will likely grow at a slower pace than it did during mid-2018, mostly due from consumer spending being weaker and business investment staying flat. The Federal Reserve has already indicated that it will postpone raising interest rates in 2019, a monetary policy to stimulate the economy when growth is staggering. As a result, Ontario needs to be vigilant of the economic uncertainties and possibly, as anticipated in our Five Year Forecast, a recession forthcoming in late 2020. The City will also be experiencing rapidly increasing pension expenses that will out-pace the growth in revenue in the coming fiscal years. Other major challenges the City continues to contend with locally are the rising cost of medical benefits as well as the overall cost of labor. In addition, the City should be mindful that in providing services to OIAA and Ontario Ranch, there is an absorption cost factor to consider, as service demands continue to grow and evolve. In order for the City to successfully manage these significant budget issues, it is recommended that Ontario practice fiscal discipline and establish proactive measures to safely navigate these upcoming fiscal challenges.

The Adopted Operating Budget for Fiscal Year 2018-19, as modified through this Third Quarter Budget Update, reflects the City Council's continued commitment to foster steady, managed growth and to provide the highest level of service to the community within the City's fiscal constraints. With the City Council's leadership and their prudent fiscal policies, the City's long-term fiscal health will further solidify its standing as the economic leader in the Inland Empire, and a formidable player in California and the nation.



Fiscal Year 2018-19
Third Quarter Budget Update

May 7, 2019

City of Ontario
 Five-Year General Fund Financial Forecast
 Fiscal Year 2018-19
 Third Quarter Budget Update

	FY 2018-19 Estimated Actuals	FY 2019-20 Proposed Budget*	FY 2020-21 Projected	FY 2021-22 Projected	FY 2022-23 Projected	FY 2023-24 Projected
Total Revenues	\$ 237,206,622	\$ 236,407,595	\$ 240,860,973	\$ 246,634,674	\$ 255,416,299	\$ 264,675,964
Transfers-In	33,057,229	36,669,992	27,502,269	22,877,510	23,413,283	23,725,201
Total Revenues & Transfers-In	<u>\$ 270,263,851</u>	<u>\$ 273,077,587</u>	<u>\$ 268,363,242</u>	<u>\$ 269,512,184</u>	<u>\$ 278,829,582</u>	<u>\$ 288,401,165</u>
Total Expenditures	\$ 244,582,531	\$ 259,866,108	\$ 262,899,488	\$ 269,809,702	\$ 276,995,223	\$ 282,926,257
Transfers-Out	20,207,360	12,358,182	10,097,620	10,175,172	10,254,276	10,334,961
Total Expenditures & Transfers-Out	<u>\$ 264,789,891</u>	<u>\$ 272,224,290</u>	<u>\$ 272,997,108</u>	<u>\$ 279,984,874</u>	<u>\$ 287,249,499</u>	<u>\$ 293,261,218</u>
Surplus/(Deficit)	<u>\$ 5,473,960</u>	<u>\$ 853,297</u>	<u>\$ (4,633,866)</u>	<u>\$ (10,472,690)</u>	<u>\$ (8,419,917)</u>	<u>\$ (4,860,053)</u>
Beginning Fund Balance	\$ 45,901,613	\$ 47,662,180	\$ 49,000,372	\$ 44,366,506	\$ 33,893,816	\$ 25,473,899
Ending Fund Balance	\$ 47,662,180	\$ 49,000,372	\$ 44,366,506	\$ 33,893,816	\$ 25,473,899	\$ 20,613,846
General Fund Reserve %	18%	18%	16%	12%	9%	7%
Economic Uncertainties Fund	\$ 3,713,393	\$ (484,895)	\$ -	\$ -	\$ -	\$ -

**Preliminary and subject to change*

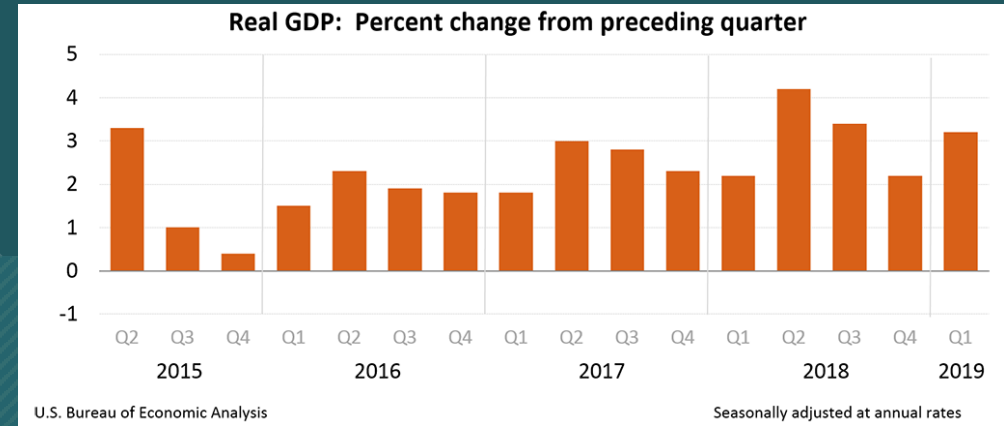
“One unexpected factor behind the acceleration in GDP growth in the first quarter was a sharp upturn in state and local government spending.”

-Greg Robb “Economy grows 3.2% in first quarter, GDP shows, in report showing strength as well as short-term boosts.” marketwatch.com, Apr 26, 2019



“The most important components of the economy – consumer spending and business investment – were both weak in the first quarter, and the housing market contracted for the fifth quarter in a row. The strength in G.D.P. was partly the result of a surge in inventories and a drop in imports, both of which are likely to reverse in the second quarter.”

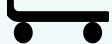

-Ben Casselman and Jim Tankersley “Overcoming Doubts, U.S. Economy Finds a Way Forward.” New York Times, Apr 26, 2019



Economic Indicators




GDP increased at an annual rate of 3.2% in the first quarter of 2019

 **Consumer Price Index**
0.4% (Mar) 

 **Consumer Confidence Index**
124.1 (Mar) 

 **Purchasing Managers Index (Mar)**
U.S. 55.3
I.E. 57.9 

 **Unemployment (Mar)**
U.S. 3.8 
CA 4.3 
I.E. 4.5

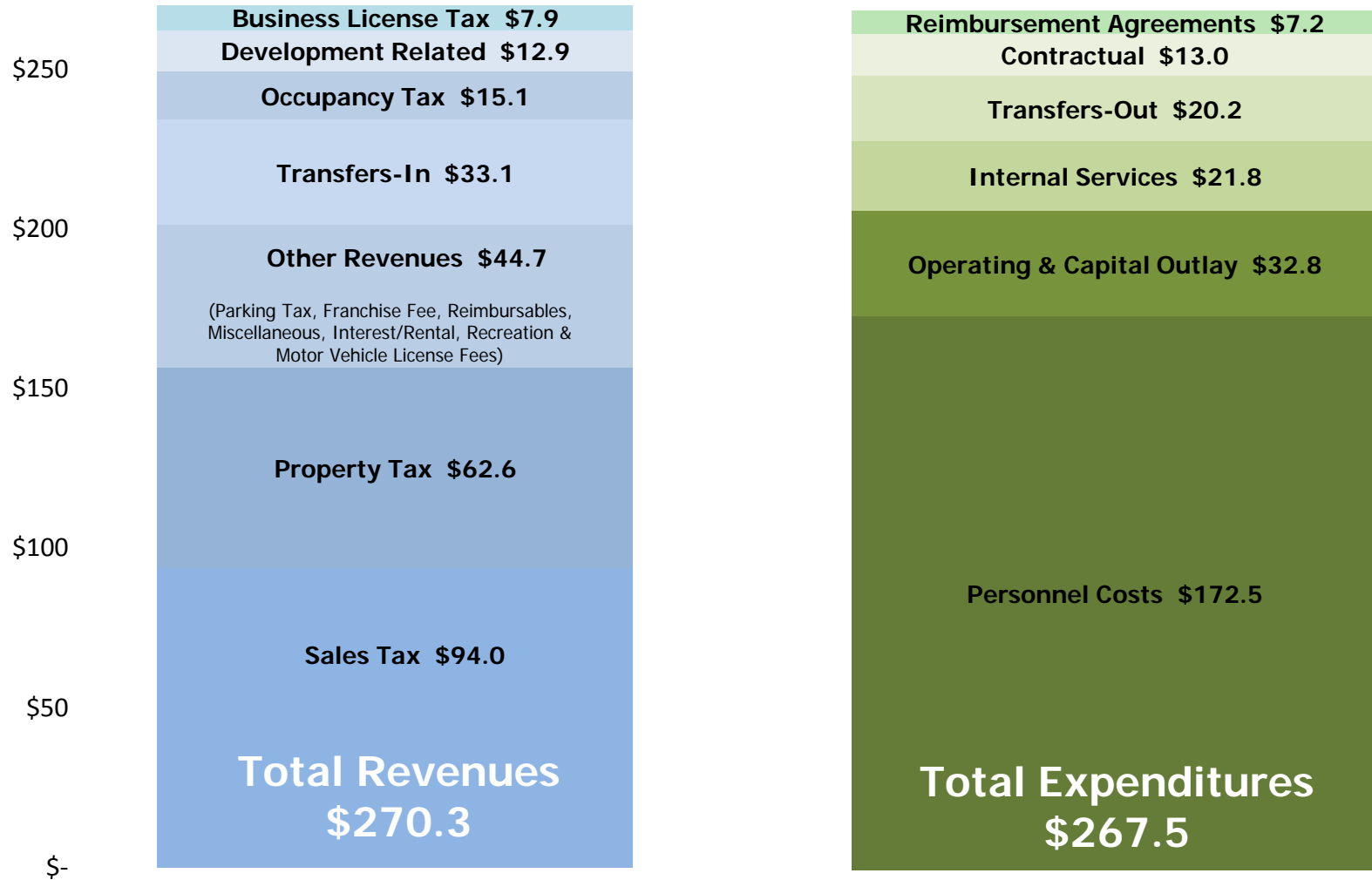
Southern California (Median Sold Price Existing Single-Family Homes)	Mar-19	Feb-19	Mar-18	Price MTM% Chg	Price YTY% Chg	Sales MTM% Chg	Sales YTY% Chg
Los Angeles	\$525,520	\$541,390	528,980	-2.9%	-0.7%	36.3%	-13.0%
Orange	\$809,500	\$792,500	824,450	2.1%	-1.8%	52.0%	-12.5%
Riverside	\$412,000	\$410,000	398,000	0.5%	3.5%	32.7%	-9.3%
San Bernardino	\$309,950	\$298,250	280,000	3.9%	10.7%	35.1%	-12.2%
San Diego	\$623,800	\$625,000	625,400	-0.2%	-0.3%	34.1%	-3.9%
Ventura	\$640,000	\$620,000	638,500	3.2%	0.2%	24.0%	-15.4%

Source: California Association of Realtors

City of Ontario
General Fund Expenditures By Category
Fiscal Year 2018-19
Third Quarter Budget Update
(in millions)

	FY 2018-19 Adopted Budget	First Quarter Budget Update	Mid-Year Budget Update	Third Quarter Budget Update	FY 2018-19 Revised Budget
Personnel Costs	\$ 178.7	\$ 0.1	\$ 2.5	\$ (8.8)	\$ 172.5
Operating	28.1	0.4	0.2	-	28.7
Contractual	10.3	1.1	1.2	0.4	13.0
Internal Service	21.8	-	-	-	21.8
Reimbursement Agreements	6.9	-	-	0.3	7.2
Capital Outlay	0.4	0.1	0.1	-	0.6
Transfers-Out	8.7	0.5	1.5	9.5	20.2
FY2017/18 Carryforward Encumbrances	-	3.5	-	-	3.5
Total Citywide Budget	\$ 254.9	\$ 5.7	\$ 5.5	\$ 1.4	\$ 267.5

City of Ontario
General Fund Expenditures By Category
Fiscal Year 2018-19
Third Quarter Budget Update
 (in millions)

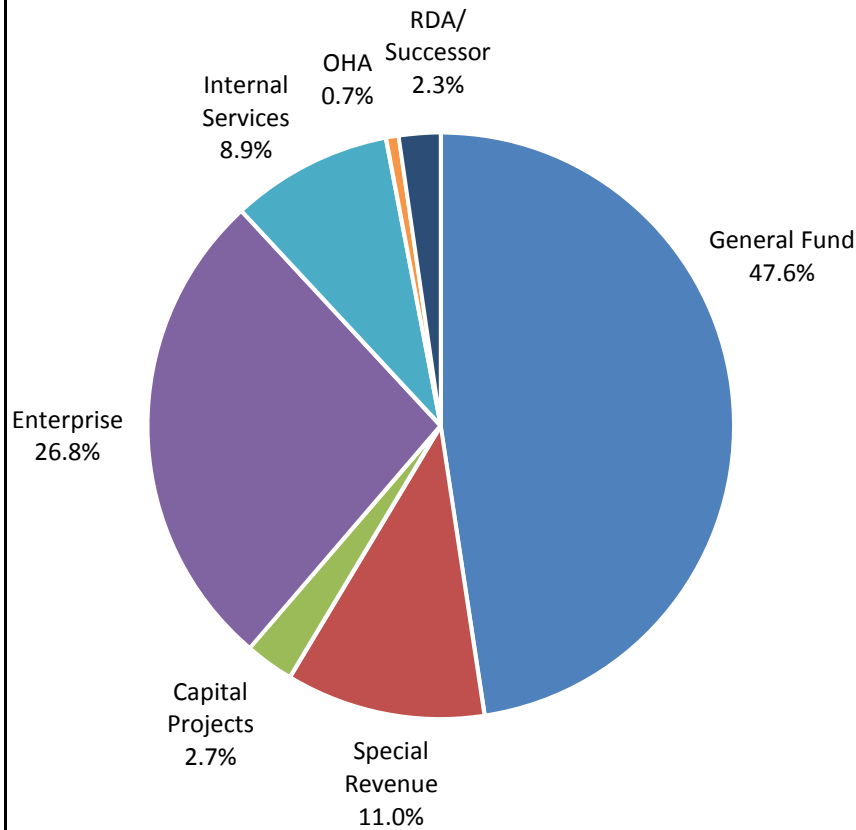


City of Ontario
Citywide Budget - All Funds
Fiscal Year 2018-19
Third Quarter Budget Update
 (in millions)

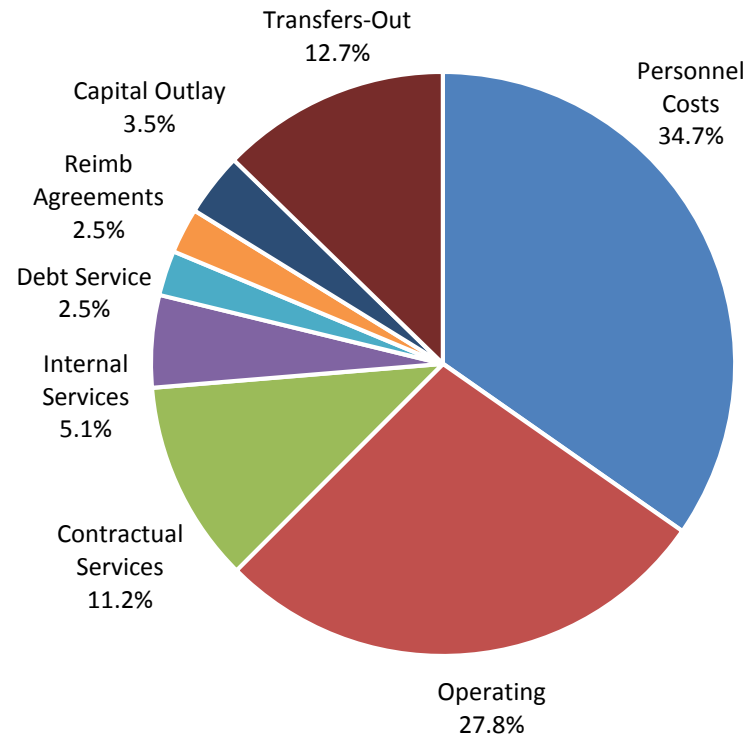
	FY 2018-19 Adopted Budget	First Quarter Budget Update	Mid-Year Budget Update	Third Quarter Budget Update	FY 2018-19 Revised Budget
Personnel Costs	\$ 223.2	\$ 0.3	\$ 2.5	\$ (9.9)	\$ 216.1
Operating	168.1	2.7	2.0	0.3	173.1
Contractual	53.2	3.2	3.2	10.2	69.8
Internal Services	31.9	-	-	-	31.9
Debt Service	15.4	-	-	-	15.4
Reimbursement Agreements	15.1	0.1	-	0.3	15.5
Capital Outlay	16.0	0.7	0.3	4.9	21.9
Transfers-Out	66.1	2.1	2.6	7.7	78.5
Total Citywide Budget	<u>\$ 589.0</u>	<u>\$ 9.1</u>	<u>\$ 10.6</u>	<u>\$ 13.5</u>	<u>\$ 622.2</u>

City of Ontario
 Citywide Budget - All Funds
 Fiscal Year 2018-19
 Third Quarter Budget Update

Sources \$568,298,374



Expenditures \$622,217,047



City of Ontario
 Summary of General Fund Recommended Revenue Adjustments
 Fiscal Year 2018-19
 Third Quarter Budget Update

Revenue Source	FY 2018-19 Adopted Budget	FY 2018-19 Current Budget	Recommended Third Quarter Adjustments	FY 2018-19 Revised Budget	Actuals (3/31/2019)	Percent of Budget Received
Sales Tax	\$ 89,400,000	\$ 89,400,000	\$ 4,579,720	\$ 93,979,720	\$ 56,454,569	60%
Business License Tax	7,600,000	7,600,000	333,020	7,933,020	7,458,314	94%
Occupancy Tax	15,000,000	15,000,000	58,500	15,058,500	9,361,746	62%
Parking Tax	3,000,000	3,000,000	304,150	3,304,150	2,068,058	63%
Franchise Fees	3,300,000	3,300,000	(187,500)	3,112,500	657,359	21%
Motor Vehicle License Fees	-	-	85,244	85,244	85,244	100%
Property Tax	57,900,000	57,900,000	4,665,475	62,565,475	35,225,936	56%
Development Related	8,348,000	9,364,058	3,541,942	12,906,000	9,544,904	74%
Recreation Programs	940,000	940,000	15,800	955,800	687,813	72%
Interest & Rentals	3,852,920	3,927,920	(113,847)	3,814,073	2,726,584	71%
Miscellaneous Revenues	26,973,373	27,086,288	845,512	27,931,800	20,661,869	74%
Reimbursables	2,612,315	5,562,315	(1,975)	5,560,340	2,810,410	51%
Transfers-In	33,247,940	36,057,229	(3,000,000)	33,057,229	31,009,814	
Total General Fund Revenues	\$ 252,174,548	\$ 259,137,810	\$ 11,126,041	\$ 270,263,851	\$ 178,752,620	66%

City of Ontario
 Summary of General Fund Recommended Expenditure Adjustments By Agency
 Fiscal Year 2018-19
 Third Quarter Budget Update

Agency	FY 2018-19 Adopted Budget	FY 2018-19 Current Budget	Recommended Third Quarter Adjustments	FY 2018-19 Revised Budget*	Expenditures (3/31/2019)	% Used
Administrative Services	\$ 5,070,970	\$ 5,317,106	\$ (104,987)	\$ 5,212,119	\$ 3,181,807	61%
Community Life & Culture	12,373,225	12,654,517	(193,922)	12,460,595	8,021,535	64%
Development	16,763,885	19,277,566	81,615	19,359,181	11,138,656	58%
Economic Development	12,550,102	13,875,102	250,720	14,125,822	7,026,853	50%
Elected Officials	601,877	601,877	-	601,877	360,964	60%
Financial Services	13,246,358	13,440,056	(192,563)	13,247,493	8,889,151	67%
Fire Department	58,240,718	60,938,753	(2,766,674)	58,172,079	43,601,605	75%
Housing & Neighborhood Preservation	4,152,814	4,152,814	(77,261)	4,075,553	2,513,548	62%
Human Resources	3,223,218	3,420,703	(61,592)	3,359,111	2,129,823	63%
Police Department	98,813,095	100,376,242	(4,763,688)	95,612,554	70,389,332	74%
Public Works	21,178,286	21,420,710	(233,136)	21,187,574	13,301,435	63%
Transfers-Out	8,720,000	10,730,262	9,477,098	20,207,360	10,713,587	53%
Total Expenditures	<u>\$ 254,934,548</u>	<u>\$ 266,205,708</u>	<u>\$ 1,415,610</u>	<u>\$ 267,621,318</u>	<u>\$ 181,268,294</u>	68%

* Includes FY2017/18 Carryforward Encumbrances

City of Ontario
Recommended Adjustments by Fund
Fiscal Year 2018-19
Third Quarter Budget Update

Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 001 - General Fund					
Sales Tax/Revise budget		4,279,720			4,279,720
Property Tax/Revise budget		4,665,475			4,665,475
Business License Tax/Revise budget		333,020			333,020
Occupancy Tax/Revise budget		58,500			58,500
Parking Tax/Revise budget		304,150			304,150
Franchise Fees/Revise budget		(187,500)			(187,500)
Motor Vehicle License Fees Revenue		85,244			85,244
Development Related/Revise budget		3,105,724			3,105,724
Recreation & Programs/Revise budget		15,800			15,800
Interest & Rentals/Revise budget		(113,847)			(113,847)
Miscellaneous Revenue/Revise budget		645,512			645,512
Reimbursables/Revise budget		(1,975)			(1,975)
Ontario Ranch Business Park Specific Plan-EIR (pass-thru) <i>(CC Apprvd 4/2/2019)</i>	436,218	436,218			-
Sales tax abatement (offset with Sales Tax Revenue)	300,000	300,000			-
Property sale proceeds/SW corner I-10 & Etiwanda Ave <i>(CC Apprvd 11/21/2017)</i>		200,000			200,000
Transfer-In (from Fund 024/025/026/027/029) ref: Cost Allocation/Revise budget			(3,000,000)		(3,000,000)
Transfer-Out (to Fund 017) W. Euclid Revitalization property acquisition <i>(CC Apprvd 2/19/2019)</i>				4,950,000	(4,950,000)
Transfer-Out (to Fund 017) W. Euclid Revitalization design and construction				500,000	(500,000)

City of Ontario
Recommended Adjustments by Fund
Fiscal Year 2018-19
Third Quarter Budget Update

Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Transfer-Out (to Fund 017) N. Euclid & C Street Improvements <i>(CC Apprvd 4/2/2019)</i>				250,000	(250,000)
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(8,799,271)			3,777,098	5,022,173
Recommended personnel change	1,565				(1,565)
	<u>(8,061,488)</u>	<u>14,126,041</u>	<u>(3,000,000)</u>	<u>9,477,098</u>	<u>9,710,431</u>
Fund 003 - Gas Tax					
Archibald Ave Pavement Rehabilitation/Revise budget <i>(CC Apprvd 4/16/2019)</i>	95,810				(95,810)
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(18,772)			14,739	4,033
	<u>77,038</u>	<u>-</u>	<u>-</u>	<u>14,739</u>	<u>(91,777)</u>
Fund 008 - CDBG					
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(7,634)			7,634	-
	<u>(7,634)</u>	<u>-</u>	<u>-</u>	<u>7,634</u>	<u>-</u>
Fund 009 - HOME Grants					
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(1,172)			1,172	-
	<u>(1,172)</u>	<u>-</u>	<u>-</u>	<u>1,172</u>	<u>-</u>
Fund 013 - A.D. Administration					
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(14,959)			13,228	1,731
	<u>(14,959)</u>	<u>-</u>	<u>-</u>	<u>13,228</u>	<u>1,731</u>

City of Ontario
Recommended Adjustments by Fund
Fiscal Year 2018-19
Third Quarter Budget Update

Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 014 - Mobile Source Air					
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(248)			151	97
	<u>(248)</u>	<u>-</u>	<u>-</u>	<u>151</u>	<u>97</u>
Fund 015 - General Fund Grants					
CA Dept of Public Health Stop Tobacco Access to Kids Grant <i>(CC Apprvd 3/5/2019)</i>	47,000	47,000			-
CA Firefighters Joint Apprenticeship Committee Grant/Additional grant allocation	33,800	33,800			-
FY 2018 COPS/ELEAS Grant/Revise Grant <i>(CC Apprvd 4/2/2019)</i>	29,502	29,502			-
California Library Association Grant: Lunch at the Library Program	6,000	6,000			-
FY 2016 Urban Area Security Initiative Grant/Additional grant allocation	3,470	3,470			-
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(7,181)			7,181	-
	<u>112,591</u>	<u>119,772</u>	<u>-</u>	<u>7,181</u>	<u>-</u>
Fund 017 - Capital Projects					
W. Euclid Revitalization property <i>(CC Apprvd 2/19/2019)</i> -(Transfer-In from Fund 001)	4,950,000		4,950,000		-
W. Euclid Revitalization design and construction (Transfer-In from Fund 001)	500,000		500,000		-
N. Euclid & C Street Improvements <i>(CC Apprvd 4/2/2019)</i> -(Transfer-In from Fund 001)	250,000		250,000		-
	<u>5,700,000</u>	<u>-</u>	<u>5,700,000</u>	<u>-</u>	<u>-</u>
Fund 018 - Building Safety					
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(23,763)			24,490	(727)
	<u>(23,763)</u>	<u>-</u>	<u>-</u>	<u>24,490</u>	<u>(727)</u>

City of Ontario
Recommended Adjustments by Fund
Fiscal Year 2018-19
Third Quarter Budget Update

Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 019 - Parkway Maintenance					
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(1,611)			1,701	(90)
	<u>(1,611)</u>	-	-	<u>1,701</u>	<u>(90)</u>
Fund 024 - Water Operating					
Utility vehicle replacement	40,000				(40,000)
Recommended personnel changes	1,841				(1,841)
Transfer-Out (to Fund 001) Cost Allocation/Revise budget				(1,124,046)	1,124,046
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(189,774)			216,742	(26,968)
	<u>(147,933)</u>	-	-	<u>(907,304)</u>	<u>1,055,237</u>
Fund 025 - Water Capital					
Well No. 43: Property acquisition & construction/Revise budget	1,320,000				(1,320,000)
Municipal Service Center Renovation/Revise budget	175,000				(175,000)
Abandon Out-of-Service Wells/Revise budget	150,000				(150,000)
Transfer-Out (to Fund 001) Cost Allocation/Revise budget				(352,457)	352,457
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(69,255)			57,823	11,432
	<u>1,575,745</u>	-	-	<u>(294,634)</u>	<u>(1,281,111)</u>

City of Ontario
Recommended Adjustments by Fund
Fiscal Year 2018-19
Third Quarter Budget Update

Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 026 - Sewer Operating					
Recommended personnel changes	992				(992)
Transfer-Out (to Fund 001) Cost Allocation/Revise budget				(517,974)	517,974
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(69,008)			72,373	(3,365)
	<u>(68,016)</u>	<u>-</u>	<u>-</u>	<u>(445,601)</u>	<u>513,617</u>
Fund 027 - Sewer Capital					
Municipal Service Center Renovation/Revise budget	75,000				(75,000)
Transfer-Out (to Fund 001) Cost Allocation/Revise budget				(57,651)	57,651
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(44,854)			37,037	7,817
	<u>30,146</u>	<u>-</u>	<u>-</u>	<u>(20,614)</u>	<u>(9,532)</u>
Fund 029 - Integrated Waste					
Municipal Service Center Renovation/Revise budget	250,000				(250,000)
Recommended personnel changes	(184)				184
Transfer-Out (to Fund 001) Cost Allocation/Revise budget				(947,872)	947,872
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(304,237)			422,336	(118,099)
	<u>(54,421)</u>	<u>-</u>	<u>-</u>	<u>(525,536)</u>	<u>579,957</u>

City of Ontario
Recommended Adjustments by Fund
Fiscal Year 2018-19
Third Quarter Budget Update

Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 032 - Equipment Services					
Low carbon fuel standards credit program		110,000			110,000
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(117,463)			130,952	(13,489)
	<u>(117,463)</u>	<u>110,000</u>	<u>-</u>	<u>130,952</u>	<u>96,511</u>
Fund 033 - Self Insurance					
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(16,648)			16,629	19
	<u>(16,648)</u>	<u>-</u>	<u>-</u>	<u>16,629</u>	<u>19</u>
Fund 034 - Information Technology					
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(149,627)			139,834	9,793
	<u>(149,627)</u>	<u>-</u>	<u>-</u>	<u>139,834</u>	<u>9,793</u>
Fund 035 - IT Broadband					
High Speed Telecommunications System/Revise budget	1,000,000				(1,000,000)
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(24,411)			18,896	5,515
	<u>975,589</u>	<u>-</u>	<u>-</u>	<u>18,896</u>	<u>(994,485)</u>
Fund 048 - Ontario Housing Authority					
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(19,388)			9,900	9,488
	<u>(19,388)</u>	<u>-</u>	<u>-</u>	<u>9,900</u>	<u>9,488</u>

City of Ontario
Recommended Adjustments by Fund
Fiscal Year 2018-19
Third Quarter Budget Update

Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 070 - Street Light Maintenance					
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(1,009)			983	26
	<u>(1,009)</u>	<u>-</u>	<u>-</u>	<u>983</u>	<u>26</u>
Fund 076 - Facility Maintenance					
City facilities emergency maintenance repairs (Transfer-in from fund 098)	145,000		145,000	-	-
	<u>145,000</u>	<u>-</u>	<u>145,000</u>	<u>-</u>	<u>-</u>
Fund 077 - Storm Drain Maintenance					
Retiree Medical/Revise budget - Transfer-Out (to Fund 099)	(31,383)			29,101	2,282
	<u>(31,383)</u>	<u>-</u>	<u>-</u>	<u>29,101</u>	<u>2,282</u>
Fund 098 - General Fund Trust					
Transfer-out (to Fund 076) for City facilities emergency maintenance repairs				145,000	(145,000)
	<u>-</u>	<u>-</u>	<u>-</u>	<u>145,000</u>	<u>(145,000)</u>
Fund 099 - Other Post Employment Benefits					
Transfer-in (from various funds) Retiree Medical/Revise budget			5,000,000		5,000,000
	<u>-</u>	<u>-</u>	<u>5,000,000</u>	<u>-</u>	<u>5,000,000</u>

City of Ontario
Recommended Adjustments by Fund
Fiscal Year 2018-19
Third Quarter Budget Update

Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 180 - NMC Regional Streets					
State Route 60 Freeway at Archibald Ave Interchange/Revise budget	2,000,000				(2,000,000)
	<u>2,000,000</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(2,000,000)</u>
Fund 190 - NMC Fire Impact					
Fire Station No. 9/Revise budget	3,952,568				(3,952,568)
	<u>3,952,568</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(3,952,568)</u>
Total Other Fund Adjustments	<u>13,913,402</u>	<u>229,772</u>	<u>10,845,000</u>	<u>(1,632,098)</u>	<u>(1,206,532)</u>

City of Ontario
 Recommended Personnel and Organizational Changes
 Fiscal Year 2018-19
 Third Quarter Budget Update

Agency	Position	Action	Salary Range
Administrative Services	Community Relations & Communications Manager (1)	Deletion	\$ 9,147 - \$ 11,118
	Communications & Community Relations Director (1)	Addition	\$ 10,488 - \$ 12,747
OMUC-Integrated Waste	Integrated Waste Division Manager (1)	Deletion	\$ 8,577 - \$ 10,426
	Integrated Waste Assistant Division Manager (1)	Addition	\$ 7,237 - \$ 8,795
OMUC-Integrated Waste	Integrated Waste Supervisor (1)	Deletion	\$ 5,524 - \$ 6,713
	Integrated Waste Assistant Division Manager (1)	Addition	\$ 7,237 - \$ 8,795
OMUC-Engineering	Utilities Engineering Director to (1)	Title Change	\$ 11,781 - \$ 14,319
	Utilities Engineering Division Manager (1)		\$ 11,781 - \$ 14,319
OMUC-Utilities	Utilities Operations Director (1)	Deletion	\$ 12,047 - \$ 14,643
	Utilities Assistant General Manager (1)	Addition	\$ 13,841 - \$ 16,824
OMUC-Utilities	Water/Sewer Maintenance Manager (1)	Deletion	\$ 8,129 - \$ 9,883
	Utilities Operations Division Manager (1)	Addition	\$ 9,143 - \$ 11,114

City of Ontario
Recommended Personnel and Organizational Changes
Fiscal Year 2018-19
Third Quarter Budget Update

Agency	Position	Action	Salary Range
<u>Impact by Fund</u>		<u>Current Budget Impact</u>	<u>Annual Budget Impact</u>
Fund 001	General Fund	\$ 1,565	\$ 18,780
Fund 024	Water Operating	1,841	22,092
Fund 026	Sewer Operating	992	11,904
Fund 029	Integrated Waste	(184)	(2,208)
Total		\$ 4,214	\$ 50,568

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION ACCEPTING A GRANT THROUGH THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS FUTURE COMMUNITIES PILOT PROJECT PROGRAM

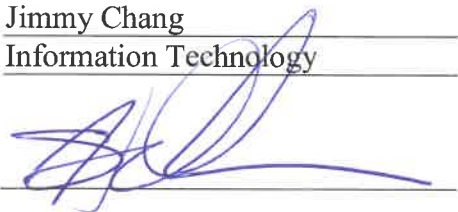
RECOMMENDATION: That the City Council adopt a resolution approving the acceptance of \$418,000 of grant funds through the Southern California Association of Governments (SCAG) Future Communities Pilot Project Program (FCPP); and authorize the City Manager to execute any documents or agreements, such as memorandums of understanding, necessary to complete the application and implementation of the program.

COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Pursue City's Goals and Objectives by Working with Other Governmental Agencies
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: If accepted, the grant will provide approximately \$418,000 for projects and programs in downtown Ontario. The projects and programs will be administered by the City along with several government and community-based partners. The City will serve as the fiscal agent and will be responsible for the administration of the funds, principally through an invoice-reimbursement agreement with SCAG. The grant term is eighteen months, starting with the execution of a grant agreement, commencing in July 2019. SCAG requires approximately \$104,000 in local matching funds which are included in the IT Broadband Fund to be considered in the fiscal year 2019-20 Proposed Budget.

BACKGROUND: The Future Communities Pilot Program (FCPP) is a grant program designed to provide local cities and counties with the resources needed to reduce emissions-producing vehicle miles traveled (VMT) using new technology and data solutions. The FCPP is a partnership between SCAG and the Mobile Source Air Pollution Reduction Committee (MSRC) to improve air quality and implement the SCAG 2016 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). VMT and emission reduction goals support the State's Climate Change Scoping Plan,

STAFF MEMBER PRESENTING: Elliott Ellsworth, Executive Director Information Technology

Prepared by: Jimmy Chang
Department: Information Technology
City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

9

which outlines strategies for achieving California's 2030 greenhouse gas target. The FCPP is also a major component of the SCAG Future Communities Initiative, which is a three-year work program for implementing the policy direction from SCAG's Open Data/Big Data, Smart and Connected SCAG Region Committee.

FCPP funding is made available to cities and municipalities within the South Coast Air Quality Management District (SCAQMD) portions of Los Angeles, Orange, Riverside and San Bernardino counties, and is funded through a combination of MSRC funding and Senate Bill 1 – The Road Maintenance and Rehabilitation Program (SB1). Proposed projects must consider the requirements outlined below to ensure compliance with the requirements of both funding sources.

The FCPP has the following goals, which will shape the pilot selection process described in this document: (1) Apply new technologies and data analytics to test innovative approaches for reducing emissions-producing VMT from local travel and municipal operations. (2) Explore opportunities for data analytics and technology projects in a variety of contexts/communities, including projects that support and engage disadvantaged communities. (3) Improve efficiency and reduce the costs of city and county municipal services. (4) Identify and quantify relative impacts of a variety of technology-based VMT reduction strategies. (5) Promote replicable Pilot Projects that support new policy development, improve processes for government service provision, and pilot innovative engagement practices with private sector mobility providers.

Ontario's offering for the FCPP starts from a systems perspective and progressively layers in integrated capability that adds value incrementally through a rapid validation process. Local municipalities with the ability to provide a flexible methodology that can identify significant problems and challenges, state hypotheses to explore and test, prototype and implement small projects that reduce risk to full-scale integration into City activities. This approach is not limited to Smart Cities or technology adoption. It is powerful in any situation for which there is uncertainty, limited resources to deploy and stakeholder outcomes are prioritized. Providing this service in a central location that is accessible to all identified stakeholders is crucial.

This approach will be demonstrated through FCPP when the City partners with private industry to deploy an established innovation and entrepreneurship framework within an existing City building in the heart of historic downtown Ontario. From this central location, a convergence of municipal, residents, established companies, start-ups and non-profits can share their needs, access data, and make informed decisions to rapidly explore emerging solutions more corroboratively, quickly and effectively than before.

Four key pilot programs have been approved by SCAG to decrease vehicles on the roads, increase family and community strength, improve wellness, and enhance quality of life. The selection of these projects was based on SCAG areas of interest, greatest learning potential, prior investments, current realities and the strategic direction of the City: (1) Centralized and Accessible Smart City Hub, (2) Smart City Corridor in Historic Downtown, (3) Intelligent collection of commercial refuse pilot, and (4) Final mile mobility and incentives pilot. A team of industry leading experts were used to support the City's proposal and are committed to supporting the realization of project outcomes.

This collective approach should reduce unnecessary trips and optimize routes for the integrated waste collection fleet to reduce VMT of integrated waste collection vehicles by 25%, attract 50 commuters to work locally, reduce VMT by 350,000 miles by attracting commuters to work locally, accumulate 50,000 micro-mobility trips, and reduce VMT by 10,000 with micro-mobility rides.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ACCEPTANCE OF GRANT FUNDS FROM THE FUTURE COMMUNITIES PILOT PROJECT PROGRAM AND AUTHORIZING THE EXECUTION OF ALL NECESSARY DOCUMENTS AND AGREEMENTS.

WHEREAS, the SCAG has been delegated the responsibility for the administration of this grant program, establishing necessary procedures, and entering into agreement with SCAQMD for assistance in administration of the grant program; and

WHEREAS, the City of Ontario will enter into an agreement with SCAG, and thereby be responsible for compiling and submitting all invoices and reporting requirements for the City and all partners in implementation of the grant; and

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

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

SECTION 2. The City Council hereby declares its support for accepting grant funding from the Future Communities Pilot Project program and authorizes the City Manager or his designee(s) to take all necessary steps to fulfill the requirements set forth in the grant.

SECTION 3. The City Council certifies that the City will comply with the provisions of Section 1771.5 of the State Labor Code and that City administrated projects will comply with any laws and regulations including, but not limited to, legal requirements for building codes, health and safety codes, disabled access laws, environmental law and, that prior to commencement of construction, all applicable permits will have been obtained; and

SECTION 4. The City Council certifies that the City will work toward the Governor's State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1; and

SECTION 5. The City Council hereby appoints the City Manager, or designee, as agent to conduct all negotiations, and execute and submit all documents including, but not limited to applications, agreements, memoranda of understanding, payment requests and so on, which may be necessary for the completion of the grant application and grant program implementation.

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

PASSED, APPROVED, AND ADOPTED this 7th day of May 2019.

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. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 7, 2019 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. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
CONSENT CALENDAR

SUBJECT: RECOGNITION OF “HISTORIC PRESERVATION MONTH” IN THE CITY OF ONTARIO

RECOMMENDATION: That the City Council Proclaim the month of May 2019 as “Historic Preservation Month” in the City of Ontario.

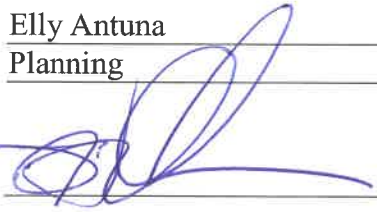
COUNCIL GOALS: Focus Resources in Ontario’s Commercial and Residential Neighborhoods Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: None.

BACKGROUND: Since 1971, the National Trust for Historic Preservation has conducted nationwide campaigns to celebrate historical places and showcase preservation activities. In 2005, the National Trust began designating the month of May as Historic Preservation Month. The goals of Historic Preservation Month are to promote historical places for the purpose of instilling national and community pride, promote heritage tourism, and showcase the social and economic benefits of historic preservation. This year, the City is celebrating historic preservation month by continuing the “Model Colony” Awards program, presentation and reception.

The 2019 Ontario Historic Preservation Month and Model Colony Awards program theme, “Discover and Rediscover Ontario,” encourages the community to revisit their favorite historic resources and to discover new ones. Ontario has many resources that have not yet been uncovered or places that have been uncovered but not much is known about them. Whether it is a mid-century modern, ranch style home from the recent past or an early Craftsman bungalow hidden behind overgrown landscaping, Historic Preservation Month is a perfect time to discover a new historic place. Additionally, many members of the community have historic places that they love, those familiar focal points that are consistently there and are uniquely “Ontario.” These historic and cultural resources are not only physical remnants of Ontario’s history but are vessels for new stories and experiences that are worthy of rediscovery.

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

Prepared by: Elly Antuna
Department: Planning
City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

10

PROCLAMATION

WHEREAS, "*Discover and Rediscover Ontario*" is the theme for Historic Preservation Month 2019, sponsored by the City of Ontario; and

WHEREAS, the City's character and history are reflected in its cultural, historical, and architectural heritage with an emphasis on the "Model Colony" as declared by an Act of the Congress of the United States in 1903 and presented at the St. Louis World's Fair in 1904; and

WHEREAS, the City's historical foundation should be preserved and promoted in order to foster an understanding of the City's past, and provide future generations the opportunity to appreciate, enjoy, and understand Ontario's rich heritage; and

WHEREAS, historic preservation is an effective tool for managing smart growth, revitalizing neighborhoods, fostering local pride, and maintaining community character while enhancing livability; and

WHEREAS, historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life, and all ethnic backgrounds; and

WHEREAS, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

WHEREAS, historic preservation provides an opportunity for the citizens of Ontario to be involved in the community and participate in the revitalization of the City; and

WHEREAS, HISTORIC PRESERVATION MONTH provides an opportunity to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

WHEREAS, May 2019, has been proclaimed HISTORIC PRESERVATION MONTH in the United States; and

NOW, THEREFORE, the City of Ontario, its City Council and staff members do declare the month of May 2019 as

HISTORIC PRESERVATION MONTH

Given this 7th day of May, 2019, by the Ontario City Council

Paul S. Leon, Mayor
Ruben Valencia, Mayor Pro Tem
Alan D. Wapner
Jim W. Bowman
Debra Dorst-Porada
Council Members

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
CONSENT CALENDAR

SUBJECT: MAINTENANCE SERVICE AGREEMENTS FOR LANDSCAPE MAINTENANCE AT PARK PLACE AND AT THE ONTARIO SOCCER PARK

RECOMMENDATION: That the City Council take the following actions:

- (A) Authorize the City Manager to execute a three-year Maintenance Service Agreement (on file with the Records Management Department) for Contract No. PM1819-7 with SoCal Land Maintenance Inc., located in Anaheim, California, for an annual estimated cost of \$69,564 plus a contingency of \$6,956, for landscape maintenance at Park Place;
- (B) Authorize the City Manager to execute a three-year Maintenance Service Agreement (on file with the Records Management Department) for Contract No. PM1819-9 with Brightview Landscape Services, Inc., located in Upland, California, for an annual estimated cost of \$182,736 plus a contingency of \$18,274 and monitoring services of \$44,585, for landscape maintenance at the Ontario Soccer Park; and
- (C) Authorize the addition of future service areas; and the option to extend the agreements for up to two additional years consistent with City Council approved budgets.

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

FISCAL IMPACT: The estimated annual base cost of the proposed agreements are as follows:

- (A) The SoCal Land Maintenance, Inc. Maintenance Service Agreement is \$69,564 plus \$6,956 of contingency for unforeseen maintenance that might be needed due to weather, events, or extraordinary circumstances for a total of \$76,520 for each of the first three years, or a total of \$229,560. At the City's sole discretion, two one-year extensions may be exercised, the first

STAFF MEMBER PRESENTING: Tito Haes, Executive Director Public Works

Prepared by: Roberto Perez
Department: Parks and Maintenance

City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019

Approved: _____

Continued to: _____

Denied: _____

11

option year includes a base price increase of 3% and no base price increase is called for in the second option year.

- (B) The Brightview Landscape Services, Inc. Maintenance Service Agreement is \$182,736 plus \$62,859 of contingency for unforeseen maintenance that might be needed due to weather, events, or extraordinary circumstances and monitoring services for a total of \$245,595 for each of the first three years, or a total of \$736,785. At the City’s sole discretion, two one-year extensions may be exercised which include base price increases of 3% for each option year.

Appropriations for landscape maintenance services will be included in the Fiscal Year 2019-20 Proposed Annual Operating Budget.

Future contracting actions will be commensurate with the City Council authorized work programs and adopted budgets. Contracting for a multi-year period will allow the City to avoid the cost of re-bidding the contract annually, provide for service continuity, and better projection of future years’ costs.

BACKGROUND: A summary of the proposal results follows:

(A) Park Place

In March 2019, the City solicited proposals for landscape maintenance services for Park Place in Ontario Ranch. Five proposals were received, all of them met the bid criteria and standards necessary to perform this work.

<u>Vendor</u>	<u>Location</u>	<u>Amount</u>
SoCal Land Maintenance Inc.	Anaheim, CA	\$ 69,564
Merchants Landscape	Rancho Cucamonga, CA	\$ 69,600
Green Tech	Whittier, CA	\$ 78,336
DW Landscape	Upland, CA	\$102,000
Brightview Landscape Services, Inc.	Upland, CA	\$107,244

SoCal Landscape Services Inc. located in Anaheim, California, submitted a proposal that met all the required specifications with a base cost, three-year total of \$208,692. Based on their proposal, credentials, pricing and favorable reference checks, staff recommends award of the Maintenance Services Agreement to SoCal Land Maintenance, Inc.

(B) Ontario Soccer Park

In March 2019, the City solicited proposals for landscape maintenance services for the Ontario Soccer Park. Nine proposals were received, all of them met the bid criteria and standards necessary to perform this work.

<u>Vendor</u>	<u>Location</u>	<u>Amount</u>
Brightview Landscape Services	Upland, CA	\$182,736
SoCal Land Maintenance, Inc.	Anaheim, CA	\$186,840
Landscape West Management Services	Anaheim, CA	\$211,460
CLS Landscape Management, Inc.	Chino, CA	\$217,374
Priority Landscape Services	Brea, CA	\$226,056
Green Tech Landscapes, Inc.	Whittier, CA	\$233,700
Excel Landscape, Inc.	Corona, CA	\$249,456

MCE Corporation
Mariposa Landscapes, Inc.

Concord, CA
Irwindale, CA

\$249,755
\$371,548

Brightview Landscape Services Inc. located in Upland, California, submitted a proposal that met all the required specifications with a base cost, three-year total of \$548,208. Based on their proposal, credentials, pricing and favorable reference checks, staff recommends award of the Maintenance Services Agreement to Brightview Landscape Services, Inc.

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
CONSENT CALENDAR

SUBJECT: AWARD A CONSTRUCTION AGREEMENT FOR CONCRETE SIDEWALK REPAIR SERVICES

RECOMMENDATION: That the City Council authorize the City Manager to execute a one-year Construction Agreement (on file with the Records Management Department) for Contract No. SM1819-4 with CT&T Concrete Paving Inc., located in Diamond Bar, California, for an estimated cost of \$150,000; and authorize the addition of future service areas consistent with the City Council approved budgets.

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

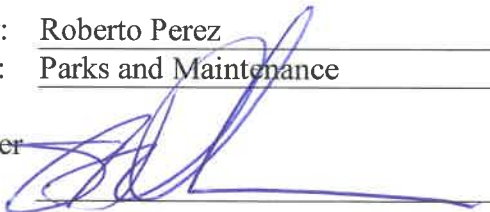
FISCAL IMPACT: The estimated base cost of the proposed Construction Agreement is \$150,000. Appropriations from Community Development Block Grant funds are included in the Fiscal Year 2018-19 Adopted Operating Budget for concrete sidewalk repair and maintenance services. Actual expenditures will be based on the fixed unit pricing applied to the extent of services actually rendered.

BACKGROUND: In March 2019, the City solicited bids for Contract No. SM1819-4 for sidewalk repair services citywide. Five bids were received. Four bids met the bid criteria and standards necessary to perform this work and one was deemed non-responsive. The proposed base cost ranged from \$150,000 to 333,800.

<u>Vendor</u>	<u>Location</u>
CT&T Concrete Paving, Inc.	Diamond Bar, CA
CJ Concrete	Santa Fe Springs, CA
FS Contractors.	Rancho Cucamonga, CA
GM Sager	Anaheim, CA
Jergenson Construction *	Oak Hills, CA

* *Bid Proposal was incomplete and therefore deemed non-responsive*

STAFF MEMBER PRESENTING: Tito Haes, Executive Director Public Works

Prepared by: Roberto Perez
Department: Parks and Maintenance
City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

12

CT&T Concrete Paving, Inc. located in Diamond Bar, California, submitted the lowest bid that met all the required specifications with base cost total of \$150,000. Based on their bid, credentials, pricing and favorable reference checks, staff recommends award of a Construction Agreement to CT&T Concrete Paving, Inc.

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
CONSENT CALENDAR

SUBJECT: AMENDMENT TO THE ARCHITECTURAL DESIGN SERVICES AGREEMENT FOR THE DEVELOPMENT OF INTERIM FIRE STATION NO. 9

RECOMMENDATION: That the City Council take the following actions:

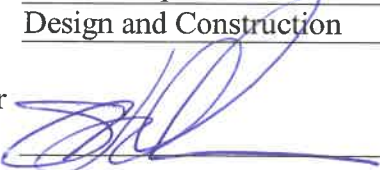
- (A) Authorize the City Manager to execute an amendment to the Architectural Design Services Agreement D&C18-003-FS9 (on file in the Records Management Department) with WLC Architects of Rancho Cucamonga, California, for additional services in the amount of \$50,300 for an amended contract amount of \$300,725 plus a contingency of \$30,073; and
- (B) Authorize the City Manager to execute any related and necessary documents, including the filing of a notice of completion at the conclusion of all construction related activities related to the project.

COUNCIL GOALS: Maintain the Current High Level of Public Safety
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 current Adopted Capital Improvement Program Budget includes appropriations totaling \$10,033,189 for the Fire Station No. 9 project. To complete the pre-construction phase of the project, additional services are needed for the design of the interim fire station and bidding coordination for the construction of the new traffic signal and street infrastructure for the permanent fire station location. The costs for the interim fire station and required infrastructure will be funded by NMC Builders (NMCB) pursuant to the First Amended and Restated Construction Agreement between the City and NMCB. The proposed design of Interim Fire Station No. 9 will be funded by Development Impact Fees.

The available budget for architectural services for this project is \$507,290. The project original Architectural Services Agreement with WLC Architects, Inc. is established at \$300,725, plus a 10% contingency of \$30,073 for a total amount of \$330,798. The cost for the proposed expanded services

STAFF MEMBER PRESENTING: Tito Haes, Executive Director Public Works

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

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

13

amendment is \$50,300. Based on the amount originally budgeted, this proposed amendment will have no additional impact on the General Fund.

BACKGROUND: The design of Fire Station No. 9 was divided into two components, design of the facility and the street infrastructure. The City hired WLC Architects to design the Fire Station facility, while Lewis Development Corporation developed the street infrastructure design of Park Vista Drive, Loyalty Place and the new traffic signal at Archibald Avenue. Now the designs are complete and WLC has agreed to coordinate the bidding and construction management of the entire development to their existing contract. Construction of the Fire Station and off-site improvements are slated to begin in the fall of 2019 and be complete by the winter of 2021.

In January 2019, Fire Station No. 9 design development was extended due to grading reevaluations and has delayed the opening of the permanent fire station to serve Ontario Ranch residents until the winter of 2021. To provide residents timely fire safety services, the City is moving forward with an interim modular fire station. The interim fire station will be located on the north east corner of Eucalyptus and Turner Avenue. It is anticipated that construction for the interim facility will begin this summer and will be ready to serve residents by November 2019.

WLC has agreed to complete the new and remaining activities (construction documents, bidding commissioning and construction administration) at a cost of \$300,725, plus a 10% contingency of \$30,073. The proposal is within industry standards and staff recommends approval.

CITY OF ONTARIO

Agenda Report
May 7, 2019


SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES); ADOPTION OF A RESOLUTION TO INCUR BONDED INDEBTEDNESS; AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES

RECOMMENDATION: That the City Council consider and:

- (A) Adopt a resolution establishing Community Facilities District No. 40 (Emerald Park Facilities), authorizing the levy of special taxes within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution deeming it necessary to incur bonded indebtedness within Community Facilities District No. 40 (Emerald Park Facilities);
- (C) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 40 (Emerald Park Facilities);
- (D) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
- (E) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 40 (Emerald Park Facilities); and
- (F) Adopt a resolution authorizing the execution and delivery of an acquisition and funding agreement with BrookCal Ontario LLC, a Delaware corporation.

STAFF MEMBER PRESENTING: Armen Harkalyan, Executive Director of Finance

Prepared by: Bob Chandler
Department: Management Services
City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

14

COUNCIL GOALS: Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

FISCAL IMPACT: The use of Mello-Roos financing for facilities in the residential development of the Emerald Park project is estimated to generate approximately \$6.2 million, which will be used to help fund a portion of the public infrastructure improvements that will serve the project. Since Mello-Roos bonds are not a direct obligation of the City, and are paid from special taxes levied on each taxable parcel in the district, there is no General Fund impact from the issuance of Mello-Roos bonds.

BACKGROUND: The Mello-Roos Community Facilities Act of 1982 provides local government, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to fund governmental services and to finance various kinds of public infrastructure facilities. With the adoption of Resolution 2014-061 on June 17, 2014, the City Council authorized the levy of special taxes to fund various city services for the district. Under the Mello-Roos Act, the initial steps in the formation of a community facilities district to finance public improvements are adopting resolutions declaring the intention to establish a community facilities district, authorize the levy of special taxes, and to issue bonds. Accordingly, on April 2, 2019, the City Council approved Resolution No. 2019-029, a Resolution of Intention to establish City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) and authorize the levy of special taxes, and Resolution No. 2019-030, declaring the City Council's intention to issue bonds for the district. The Resolution of Intention set the public hearing date for the regularly scheduled City Council meeting on May 7, 2019, to consider formation matters.

In the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony ("First Amended and Restated Construction Agreement") between the City and NMC Builders LLC, the City agreed to cooperate with the members of NMC Builders, LLC in the formation of community facilities districts to assist in the financing of the public improvements included in the agreement. BrookCal Ontario, LLC, an NMC Builders member, has provided a written petition to the City requesting formation of a community facilities district for the Emerald Park project in Ontario Ranch. The Emerald Park project addresses the development of approximately 24 gross acres located generally east of Archibald Avenue, south of La Avenida Drive, and north of Ontario Ranch Road. At build out, the development is projected to include 265 units, comprised of 48 detached and 217 attached units.

Included, as part of the resolution of formation is the proposed Rate and Method of Apportionment of Special Tax for the District. The terms of the Rate and Method of Apportionment of Special Tax are consistent with the City Council's adopted Mello-Roos Local Goals and Policies in all aspects, except that the percentage of assessed value of the total annual tax obligation plus the Homeowners Association (HOA) fee exceeds the adopted policy thresholds, in aggregate, by .14% for the detached units, and by .28% for attached units. However, as was previously authorized for previous developers in Ontario Ranch, and as is consistent with the "enhanced level of amenities" provisions of the Memorandum of Understanding executed between the City and NMC Builders on July 21, 2015 (the MOU), it is recommended that the policy threshold limitations be waived in this instance in recognition of the significantly enhanced level of amenities and services to be provided by the project's HOA(s), which are of the type contemplated by the MOU.

Under the proposed Rate and Method of Apportionment, the portion of the maximum annual special tax rates which will be used to fund debt service payments on the bonds is fixed and will not increase over time. As proposed, the amount of bonds authorized for the district (\$24 million) is set intentionally higher than the current estimated bond amount (approximately \$6.2 million) in order to allow future City Councils the option, without increasing the amount of the annual special taxes, to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund City services. The term and structure of the Rate and Method of Apportionment of Special Tax for the Emerald Park project is consistent with those of the previously adopted Rates and Methods of Apportionment for Ontario Ranch community facilities districts. This ensures that the special tax rates levied on all residential property owners in community facilities districts in Ontario Ranch are developed in a consistent and equivalent manner. In addition, under the provisions of the Mello-Roos Act, to ensure that home buyers are making an informed decision, all residential builders in the Ontario Ranch districts will be required to disclose the maximum annual special tax amount to each homeowner before entering into a sales contract.

Attached are five resolutions and an ordinance. The first resolution establishes the community facilities district, with the rate and method of apportionment of special taxes, and authorizes the levy of special taxes within the district. The second resolution deems the necessity of incurring bonded indebtedness for the district. The third calls for a special landowner election to be held on May 7, 2019. The fourth resolution declares the results of the election, including a statement from the City Clerk as to the canvass of ballots, and directs the recording of the Notice of Special Tax Lien. The ordinance authorizes the levying of special taxes, and the final resolution authorizes the execution and delivery of an acquisition and funding agreement with BrookCal Ontario, LLC.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 50 (WEST ONTARIO LOGISTICS CENTER SERVICES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

WHEREAS, on April 2, 2019, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District Proposed to be Named City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services) and to Authorize the Levy of Special Taxes" (the "Resolution of Intention"), stating its intention to establish a community facilities district (the "Community Facilities District") proposed to be named City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services), to authorize the levy of special taxes within the Community Facilities District to finance certain services and setting the date for a public hearing to be held on the establishment of the Community Facilities District; and

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

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

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

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

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

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

WHEREAS, there has been filed with the City Clerk of the City a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 8, 2019, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the proposed Community Facilities District for each of the 90 days preceding the close of said public hearing.

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

SECTION 1. The foregoing recitals are true and correct.

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

SECTION 3. The Community Facilities District is hereby named "City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services)."

SECTION 4. The services (the "Services") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Services" on Exhibit A hereto. The incidental expenses proposed to be incurred are described under the caption "Incidental Expenses" on Exhibit A hereto. No facilities are proposed to be financed by the Community Facilities District.

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

SECTION 6. Except where funds are otherwise available, a special tax sufficient to pay for all Services, secured by recordation of a continuing lien against all nonexempt real property in the Community Facilities District, will be annually levied within the Community Facilities District. The rate and method of apportionment of the special tax (the "Rate and Method"), in sufficient detail to allow each landowner within the proposed Community Facilities District to estimate the maximum amount that he or she will have to pay, is described in Exhibit B attached hereto, which is by this reference incorporated herein. The obligation to pay the special tax may not be prepaid and permanently satisfied. The special tax will be collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as the City Council shall determine, including direct billing of the affected property owners.

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

SECTION 7. The name, address and telephone number of the office that will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and that will be responsible for estimating further special tax levies pursuant to Section 53340.2 of the Act are as follows: Management Analyst, Management Services, City of Ontario, 303 East B Street, Ontario, California 91764, (909) 395-2341.

SECTION 8. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the Community Facilities District and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the City Council ceases.

SECTION 9. The boundary map of the Community Facilities District has been recorded in San Bernardino County in Book 88 at Page 24 of Maps of Assessments and Community Facilities Districts in the San Bernardino County Recorder's Office (Document No. 2019-0104807).

SECTION 10. The annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the Community Facilities District is hereby established at \$19,000,000.

SECTION 11. Pursuant to the provisions of the Act, the levy of the special tax and a proposition to establish the appropriations limit specified above shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The City Council hereby finds and determines that that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 8, 2019, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax. The voting procedure shall be by mailed or hand-delivered ballot.

SECTION 12. The City Council hereby finds and determines that all proceedings up to and including the adoption of this Resolution were valid and in conformity with the requirements of the Act. In accordance with Section 53325.1 of the Act, such finding shall be final and conclusive.

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

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

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

PASSED, APPROVED, AND ADOPTED this 7th day of May 2019.

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. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 7, 2019 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. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

SERVICES AND INCIDENTAL EXPENSES

Services

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

Incidental Expenses

The incidental expenses proposed to be incurred include the costs associated with the creation of the Community Facilities District, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District.

EXHIBIT B

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT No. 40 (EMERALD PARK FACILITIES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) ("CFD No. 40") and collected each Fiscal Year, commencing in Fiscal Year 2019-20, in an amount determined by the City Council of the City of Ontario through the application of the Rate and Method of Apportionment, as described below. All of the real property in CFD No. 40, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

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

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

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 40: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 40 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City or CFD No. 40 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 40 of complying with City, CFD No. 40, or obligated persons disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 40 related to the analysis and reduction, if any, of the Special Tax on Single Family Property in accordance with Section C.1 herein; the costs of the City or CFD No. 40 related to an appeal of the Special Tax; the costs associated with the release of funds from any escrow account; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead relating to CFD No. 40; and amounts estimated or advanced by the City or CFD No. 40 for any other

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

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

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

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

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

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

"Bonds" means any bonds or other debt (as defined in Section 53317(d) of the Act) issued by CFD No. 40 under the Act and payable from Special Taxes.

"Buildable Lot" means an individual lot, within a Final Subdivision Map or an area expected by CFD No. 40 to become Final Mapped Property, such as the area within a Tentative Tract Map, for which a building permit may be issued without further subdivision of such lot.

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

"CFD No. 40" means City of Ontario Community Facilities District No. 40 (Emerald Park Facilities).

"City" means the City of Ontario, California.

"City Council" means the City Council of the City, acting as the legislative body of CFD No. 40.

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

"County" means the County of San Bernardino.

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

“Developed Property” means for each Fiscal Year, all Taxable Property, exclusive of Final Mapped Property, Taxable Property Owner Association Property, and Taxable Public Property, for which a building permit or other applicable permit for new construction was issued after January 1, 2018, and before May 1 of the prior Fiscal Year.

“Expected Residential Lot Count” means 265 Buildable Lots of Single Family Property or, as determined by the CFD Administrator, the number of Buildable Lots of Single Family Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

“Facilities” means the public facilities authorized to be financed, in whole or in part, by CFD No. 40.

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

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

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

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

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

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

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

“Non-Residential Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued by the City permitting the construction of one or more non-residential structures or facilities.

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

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

“Price Point Consultant” means any consultant or firm of such consultants selected by CFD No. 40 that (a) has substantial experience in performing price point studies for residential units within community facilities districts established under the Act or otherwise estimating or confirming pricing for residential units in such community facilities districts, (b) has recognized expertise in analyzing economic and real estate data that relates to the pricing of residential units in such community facilities districts, (c) is in fact independent and not under the control of CFD No. 40 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 40, (ii) the City, (iii) any owner of real property in CFD No. 40, or (iv) any real property in CFD No. 40, and (e) is not connected with CFD No. 40 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 40 or the City.

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

“Property Owner Association Property” means, for each Fiscal Year, any property within the boundaries of CFD No. 40 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

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

“Public Property” means, for each Fiscal Year, property within the boundaries of CFD No. 40 that is (a) owned by, irrevocably offered to, or dedicated to the federal government, the State, the County, the City, or any local government or other public agency or (b) encumbered by an easement for purposes of public or utility right-of-way that makes impractical its use for any purpose other than that set forth in such easement, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

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

“Residential Floor Area” means all of the Square Footage of living area within the perimeter of a Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be as set forth in the building permit(s) issued for such Assessor’s Parcel, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 40. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor’s Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

“Services” means the services authorized to be financed, in whole or in part, by CFD No. 40.

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

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

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

“Special Tax” means the special tax authorized by the qualified electors of CFD No. 40 to be levied within the boundaries of CFD No. 40.

“Special Tax Requirement” means for any Fiscal Year that amount required, after taking into account available amounts held in the funds and accounts established under the Indenture, for CFD No. 40 to: (i) pay debt service on all Outstanding Bonds which is

due in the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including, but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay Administrative Expenses; (iv) provide any amounts required to establish or replenish any reserve fund for the Bonds; (v) pay directly for acquisition or construction of Facilities, or the cost of Services, to the extent that the inclusion of such amounts does not increase the Special Tax levy on Final Mapped Property or Undeveloped Property; (vi) without duplicating any amounts described in clause (iv), above, provide an amount equal to reasonably anticipated Special Tax delinquencies based on the delinquency rate for the Special Tax in the previous Fiscal Year as determined by the CFD Administrator, as limited by the Act.

“Square Footage” or “Sq. Ft.” means the floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 40, issued for construction of Single Family Property, Other Residential Property, or Non-Residential Property, plus any square footage subsequently added to a building of Non-Residential Property after issuance of a building permit for expansion or renovation of such building.

“State” means the State of California.

“Taxable Property” means, for each Fiscal Year, all of the Assessor’s Parcels within the boundaries of CFD No. 40 that are not exempt from the Special Tax pursuant to law or Section E below.

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

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

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

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

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

“**TTM 18937**” means Tentative Tract Map No. 18937, the area of which is located within CFD No. 40.

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

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

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2019-20, all Taxable Property within CFD No. 40 shall be classified as Developed Property, Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below. Assessor’s Parcels of Single Family Detached Property shall be assigned to Land Use Classes 1 through 13, and Assessor’s Parcels of Single Family Attached Property shall be assigned to Land Use Classes 14 through 21, as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor’s Parcels. Other Residential Property shall be assigned to Land Use Class 22, and Non-Residential Property shall be assigned to Land Use Class 23.

C. MAXIMUM SPECIAL TAX

1. Special Tax

At least 30 days prior to the issuance of Bonds, the Assigned Special Tax on Developed Property (set forth in Table 1 below) shall be analyzed in accordance with and subject to the conditions set forth in this Section C. At such time, CFD No. 40 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class. If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to Units within one or more Land Use Classes of Single Family Property to be constructed within CFD No. 40 exceeds 1.95% of the Minimum Sale Price of such Units, the Assigned Special Tax shall be reduced to the extent necessary to cause the Total Tax Burden that shall apply to Units within such Land Use Class(es) not to exceed 1.95% of the Minimum Sale Price of such Units.

Each Assigned Special Tax reduction for a Land Use Class shall be calculated by the CFD Administrator separately, and it shall not be required that such reduction be proportionate among Land Use Classes. In connection with any reduction in the Assigned Special Tax, the Backup Special Tax shall also be reduced by the CFD Administrator based on the percentage reduction in Maximum Special Tax

revenues within the Tentative Tract Map area(s) where the Assigned Special Tax reductions occurred. Upon determining the reductions, if any, in the Assigned Special Tax and Backup Special Tax required pursuant to this Section C, the CFD Administrator shall complete the Certificate of Modification of Special Tax substantially in the form attached hereto as Exhibit A (the “Certificate of Modification”), shall execute such completed Certificate of Modification, and shall deliver such executed Certificate of Modification to CFD No. 40. Upon receipt thereof, if in satisfactory form, CFD No. 40 shall execute such Certificate of Modification. The reduced Assigned Special Tax and Backup Special Tax specified in such Certificate of Modification shall become effective upon the execution of such Certificate of Modification by CFD No. 40.

The Special Tax reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien, which CFD No. 40 shall cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by CFD No. 40. The reductions in this section apply to Single Family Property, but not to Other Residential Property or Non-Residential Property.

a. Developed Property

1) *Maximum Special Tax*

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

2) *Assigned Special Tax*

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

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

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Detached Property	< 1,701	\$2,073 per Unit
2	Single Family Detached Property	1,701 – 1,900	\$2,147 per Unit
3	Single Family Detached Property	1,901 – 2,100	\$2,305 per Unit

4	Single Family Detached Property	2,101 – 2,300	\$2,508 per Unit
5	Single Family Detached Property	2,301 – 2,500	\$2,626 per Unit
6	Single Family Detached Property	2,501 – 2,700	\$2,793 per Unit
7	Single Family Detached Property	2,701 – 2,900	\$2,942 per Unit
8	Single Family Detached Property	2,901 – 3,100	\$3,100 per Unit
9	Single Family Detached Property	3,101 – 3,300	\$3,258 per Unit
10	Single Family Detached Property	3,301 – 3,500	\$3,416 per Unit
11	Single Family Detached Property	3,501 – 3,700	\$3,574 per Unit
12	Single Family Detached Property	3,701 – 3,900	\$3,732 per Unit
13	Single Family Detached Property	> 3,900	\$3,890 per Unit
14	Single Family Attached Property	< 801	\$1,211 per Unit
15	Single Family Attached Property	801 – 950	\$1,289 per Unit
16	Single Family Attached Property	951 – 1,100	\$1,429 per Unit
17	Single Family Attached Property	1,101 – 1,300	\$1,779 per Unit
18	Single Family Attached Property	1,301 – 1,500	\$1,931 per Unit
19	Single Family Attached Property	1,501 – 1,700	\$2,125 per Unit
20	Single Family Attached Property	1,701 – 1,900	\$2,309 per Unit
21	Single Family Attached Property	> 1,900	\$2,430 per Unit
22	Other Residential Property		\$46,243 per Acre
23	Non-Residential Property		\$46,243 per Acre

3) *Backup Special Tax*

The Backup Special Tax shall be \$2,603 per Unit for Single Family Detached Property and \$1,948 per Unit for Single Family Attached Property. However, if the Expected Residential Lot Count does not equal 48 for Single Family Detached Property or 217 for Single Family Attached Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property and Single Family Attached Property according to the following formula:

$$\text{Backup Special Tax} = \$124,944 \div \text{Expected Residential Lot Count for Single Family Detached Property}$$

$$\text{or } \$422,763 \div \text{Expected Residential Lot Count for Single Family Attached Property}$$

If any portion of a Final Subdivision Map, or any area expected by CFD No. 40 to become Final Mapped Property, such as the area within TTM 18937 or any other Tentative Tract Map, changes any

time after the City has issued Bonds, causing an adjustment to the number of Designated Buildable Lots, then the Backup Special Tax for all Designated Buildable Lots of Single Family Detached Property or Single Family Attached Property subject to the change shall be calculated according to the following steps:

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

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

Step 3: Apply the amount(s) determined in Step 2 as the Backup Special Tax per Unit for Single Family Detached Property or Single Family Attached Property.

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

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

The Maximum Special Tax for Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property shall be \$46,243 per Acre, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

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

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

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Each Fiscal Year, beginning with Fiscal Year 2019-20, the CFD Administrator shall determine the Special Tax Requirement for such Fiscal Year. The Special Tax shall then be levied as follows:

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

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

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

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

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

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

Notwithstanding the above, under no circumstances shall the Special Tax levied in any Fiscal Year on any Assessor's Parcel of Single Family Property or Other Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of delinquency or default by the owner or owners of any other Assessor's Parcel or Assessor's Parcels within CFD No. 40 by more than ten percent above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults.

E. EXEMPTIONS

No Special Tax shall be levied on up to 4.85 Acres of Public Property and up to 5.69 Acres of Property Owner Association Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property or Property Owner Association Property.

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

F. APPEALS

Any property owner may file a written appeal of the Special Tax with CFD No. 40 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

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

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

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

G. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the Special Taxes may be collected in such other manner as the City Council shall determine, including direct billing of affected property owners.

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

“**CFD Public Facilities**” means \$6,933,000 for each Prepayment Period, or such lower number as determined by the City Council to be sufficient to fund the Facilities and Services to be provided by CFD No. 40.

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

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

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

“**Prepayment Period 1**” means July 1, 2019, through June 30, 2053.

“**Prepayment Period 2**” means July 1, 2053, through June 30, 2086.

“**Prepayment Period 3**” means July 1, 2086, through June 30, 2120.

1. **Prepayment in Full**

The obligation of an Assessor's Parcel to pay the Special Tax may be prepaid as described herein, provided that a prepayment may be made only for Assessor's Parcels for which a building permit for new construction was issued after January 1, 2018, and only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge a fee for providing this service. Prepayment in any six month period must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

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

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

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

Paragraph No.

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel, and determine the Prepayment Period for the proposed prepayment.
2. Compute the Assigned Special Tax and Backup Special Tax for the Assessor's Parcel to be prepaid based on the Developed Property Special Tax which is, or could be, charged in the current Fiscal Year. For Assessor's Parcels of Final Mapped Property (for which a building permit has been issued but which is not yet classified as Developed Property) to be prepaid, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.
3. (a) Divide the Assigned Special Tax computed pursuant to Paragraph 2 by the total estimated Assigned Special Tax for CFD No. 40 based on the Developed Property Special Tax which could be charged in the current Fiscal Year on all expected development through buildout of CFD No. 40, excluding any Assessor's Parcels which have been prepaid, and

(b) Divide the Backup Special Tax computed pursuant to Paragraph 2 by the estimated total Backup Special Tax at buildout of CFD No. 40, excluding any Assessor's Parcels which have been prepaid.
4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
6. Compute the Future Facilities Costs for the applicable Prepayment Period.
7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").

8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.
10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the "Defeasance Amount".
11. Verify the administrative fees and expenses of CFD No. 40, including the costs to compute the prepayment, the costs to invest the prepayment proceeds, the costs to redeem Bonds, and the costs to record any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").
12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement on the prepayment date or the redemption date.
13. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to Paragraphs 4, 5, 7, 10, and 11, less the amount computed pursuant to Paragraph 12 (the "Prepayment Amount").
14. From the Prepayment Amount, the amounts computed pursuant to Paragraphs 4, 5, 10, and 12 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to Paragraph 7 shall be deposited into the Expenditures Fund. The amount computed pursuant to Paragraph 11 shall be retained by CFD No. 40.

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

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

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

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Special Tax that may be levied on Taxable Property within CFD No. 40 (after excluding 4.85 Acres of Public Property and 5.69 acres of Property Owner Association Property) both prior to and after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

2. Prepayment in Part

The Special Tax on an Assessor's Parcel for which a building permit for new construction was issued after January 1, 2018, may be partially prepaid. The amount of the prepayment shall be calculated as in Section H.1, except that a partial prepayment shall be calculated by the CFD Administrator according to the following formula:

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

The terms above have the following meaning:

- PP = the partial prepayment
- PF = the Prepayment Amount (full prepayment) for the Special Tax calculated according to Section H.1
- AE = the Administrative Fees and Expenses determined pursuant to paragraph 11 above
- % = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax

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

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of such owner's intent to partially prepay the Special Tax and the percentage by which the Special Tax shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request and may charge a fee for providing this service. With respect to any Assessor's Parcel that is partially prepaid, the CFD Administrator shall (i) distribute the remitted prepayment funds according to Section H.1, and (ii) indicate in the records of CFD No. 40 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax

with respect to such Assessor's Parcel, equal to the outstanding percentage (100% - "%", as defined above) of the Maximum Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D during the Prepayment Period in which the partial prepayment is made.

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

I. TERM OF SPECIAL TAX

The Fiscal Year after which no further Special Tax shall be levied or collected is Fiscal Year 2119-2120, except that the Special Tax that was lawfully levied in or before such Fiscal Year and that remains delinquent may be collected in subsequent years.

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 1 OF 3)**

CFD No. 40 CERTIFICATE

1. Pursuant to Section C.1 of the Rate and Method of Apportionment of Special Tax (the “Rate and Method”) for City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) (“CFD No. 40”), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 40 has been modified.
 - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 40, as stated in Section C.1.a.2 of the Rate and Method of Apportionment, has been modified as follows:

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

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Detached Property	< 1,701	\$[] per Unit
2	Single Family Detached Property	1,701 – 1,900	\$[] per Unit
3	Single Family Detached Property	1,901 – 2,100	\$[] per Unit
4	Single Family Detached Property	2,101 – 2,300	\$[] per Unit
5	Single Family Detached Property	2,301 – 2,500	\$[] per Unit
6	Single Family Detached Property	2,501 – 2,700	\$[] per Unit
7	Single Family Detached Property	2,701 – 2,900	\$[] per Unit
8	Single Family Detached Property	2,901 – 3,100	\$[] per Unit
9	Single Family Detached Property	3,101 – 3,300	\$[] per Unit
10	Single Family Detached Property	3,301 – 3,500	\$[] per Unit
11	Single Family Detached Property	3,501 – 3,700	\$[] per Unit
12	Single Family Detached Property	3,701 – 3,900	\$[] per Unit
13	Single Family Detached Property	> 3,900	\$[] per Unit

EXHIBIT A

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

14	Single Family Attached Property	< 801	\$[] per Unit
15	Single Family Attached Property	801 – 950	\$[] per Unit
16	Single Family Attached Property	951 – 1,100	\$[] per Unit
17	Single Family Attached Property	1,101 – 1,300	\$[] per Unit
18	Single Family Attached Property	1,301 – 1,500	\$[] per Unit
19	Single Family Attached Property	1,501 – 1,700	\$[] per Unit
20	Single Family Attached Property	1,701 – 1,900	\$[] per Unit
21	Single Family Attached Property	> 1,900	\$[] per Unit
22	Other Residential Property		\$[] per Acre
23	Non-Residential Property		\$[] per Acre

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

The Backup Special Tax shall be \$[] per Unit for Single Family Detached Property and \$[] per Unit for Single Family Attached Property. However, if the Expected Residential Lot Count does not equal 48 for Single Family Detached Property or 217 for Single Family Attached Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property and Single Family Attached Property according to the following formula:

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

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

EXHIBIT A

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

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 40 Bonds.
3. Upon execution of this certificate by CFD No. 40, CFD No. 40 shall cause an amended notice of Special Tax lien for CFD No. 40 to be recorded reflecting the modifications set forth herein.

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

GOODWIN CONSULTING GROUP, INC.
CFD ADMINISTRATOR

By: _____ Date: _____

The undersigned acknowledges receipt of this Certificate and of the modification of the Assigned Special Tax and the Backup Special Tax for Developed Property as set forth in this Certificate.

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 40
(EMERALD PARK FACILITIES)

By: _____ Date: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES).

WHEREAS, on April 2, 2019, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 40 (Emerald Park Facilities), and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) (the "Community Facilities District") and to authorize the levy of special taxes within the Community Facilities District to finance certain public facilities and services; and

WHEREAS, on April 2, 2019, the City Council also adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, to Incur Bonded Indebtedness of the Proposed City of Ontario Community Facilities District No. 40 (Emerald Park Facilities)" (the "Resolution to Incur Bonded Indebtedness") declaring the necessity for incurring bonded indebtedness and setting the date for a public hearing to be held on the proposed debt issue; and

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

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

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

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

WHEREAS, on this date, the City Council adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities),

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

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

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 8, 2019, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of said public hearing; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on May 7, 2019, and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on May 7, 2019.

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

SECTION 1. The foregoing recitals are true and correct.

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

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

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

SECTION 5. The maximum aggregate amount of debt to be incurred is \$24,000,000.

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

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

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

SECTION 9. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 8, 2019, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings held by the City Council on the proposed debt issue for the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 10. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), and (b) to the holding of said election on May 7, 2019. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on May 7, 2019.

SECTION 11. The date of the special community facilities district election (which shall be consolidated with the special district election to levy a special tax within the Community Facilities District) at which time the proposition shall be submitted to the voters is May 7, 2019.

SECTION 12. The election is to be conducted by mail ballot. The mailed ballots are required to be received in the office of the City Clerk no later than 7:30 p.m. on May 7, 2019; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

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

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

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

PASSED, APPROVED, AND ADOPTED this 7th day of May 2019.

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. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 7, 2019 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. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES).

WHEREAS, on this date, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation"), establishing City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) (the "Community Facilities District"), authorizing the levy of a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District; and

WHEREAS, on this date, the City Council also adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities)" (the "Resolution Deeming it Necessary to Incur"), deeming it necessary to incur bonded indebtedness in the maximum amount of \$24,000,000; and

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

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

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 8, 2019, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings on the establishment of the Community Facilities District and the proposed debt issue for the Community Facilities District; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to

the holding of said special election on May 7, 2019 and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on May 7, 2019.

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

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

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

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

SECTION 4. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 8, 2019, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings heretofore held by the City Council on the establishment of the Community Facilities District and the proposed debt issue for the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 5. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), (b) to the holding of said election on May 7, 2019, and (c) to the waiver of any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on May 7, 2019.

SECTION 6. The City Council hereby calls a special election to submit to the qualified electors of the Community Facilities District the combined proposition to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District, which election shall be held at 303 East B Street, Ontario, California, on May 7, 2019. The City Council has caused to be provided to the City Clerk, as the official to conduct said election, the Resolution of Formation, the Resolution of Deeming it Necessary to Incur, a certified map of sufficient scale and clarity to show the boundaries of the Community Facilities District, and a sufficient description to allow the City Clerk to determine the boundaries of the Community Facilities District.

The voted ballots shall be returned to the City Clerk not later than 7:30 p.m. on May 7, 2019; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

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

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

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

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

SECTION 9. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk at 303 East B Street, Ontario, California, to and including 7:30 p.m. on May 7, 2019, whether said ballots be personally delivered or received by mail. The City Clerk shall have available ballots which may be marked at said location on the election day by said qualified electors.

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

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

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

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

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

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

PASSED, APPROVED, AND ADOPTED this 7th day of May 2019.

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. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 7, 2019 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. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

OFFICIAL BALLOT

CITY OF ONTARIO
May 7, 2019

SPECIAL ELECTION

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

INSTRUCTIONS TO VOTERS:

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

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 40
(EMERALD PARK FACILITIES)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) (the "Community Facilities District") be authorized to incur bonded indebtedness in a maximum aggregate amount of not to exceed \$24,000,000 and levy a special tax in order to finance certain facilities and services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$24,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" and the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within City of Ontario Community Facilities District No. 40 (Emerald Park Facilities)," each adopted by the City Council of the City of Ontario on May 7, 2019?

Yes:

No:

RESOLUTION NO. _____

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

WHEREAS, on May 7, 2019, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 40 (Emerald Park Facilities)" (the "Resolution Calling Election"), calling for a special election of the qualified electors within City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) (the "Community Facilities District"); and

WHEREAS, pursuant to the terms of the Resolution Calling Election and the provisions of the Act, the special election was held on May 7, 2019; and

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

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

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

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

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

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

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

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

PASSED, APPROVED, AND ADOPTED this 7th day of May 2019.

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. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 7, 2019 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. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 40
(EMERALD PARK FACILITIES)

CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on May 7, 2019, I canvassed the returns of the special election held on May 7, 2019, for the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities), that the total number of ballots cast in said Community Facilities District and the total number of votes cast for and against the proposition are as follows and that the totals as shown for and against the proposition are true and correct:

	<u>Qualified Landowner Votes</u>	<u>Votes Cast</u>	<u>YES</u>	<u>NO</u>
City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) Special Election, May 7, 2019	20	—	—	—

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) (the "Community Facilities District") be authorized to incur bonded indebtedness in a maximum aggregate amount of not to exceed \$24,000,000 and levy a special tax in order to finance certain facilities and services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$24,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" and the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within City of Ontario Community Facilities District No. 40 (Emerald Park Facilities)," each adopted by the City Council of the City of Ontario on May 7, 2019?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 7th day of May, 2019.

BY: _____
SHEILA MAUTZ, CITY CLERK

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES).

WHEREAS, on April 2, 2019, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 40 (Emerald Park Facilities), and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) (the "Community Facilities District") and to finance certain public facilities (the "Facilities") and services (the "Services"); and

WHEREAS, on May 7, 2019, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation"), "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities)" and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 40 (Emerald Park Facilities)", which resolutions established the Community Facilities District, authorized the levy of a special tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of incurring indebtedness, levying a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District, respectively; and

WHEREAS, on May 7, 2019, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act.

THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby authorizes and levies special taxes within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method of Apportionment"). The

special taxes are hereby levied commencing in fiscal year 2019-20 and in each fiscal year thereafter until the last fiscal year in which such special taxes are authorized to be levied pursuant to the Rate and Method of Apportionment.

SECTION 2. The City Council may, in accordance with subdivision (b) of Section 53340 of the Act, provide, by resolution, for the levy of the special tax in future tax years at the same rate or at a lower rate than the rate provided by this Ordinance. In no event shall the special tax be levied on any parcel within the Community Facilities District in excess of the maximum tax specified therefor in the Rate and Method of Apportionment.

SECTION 3. The special tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Rate and Method of Apportionment.

SECTION 4. The proceeds of the special tax shall only be used to pay, in whole or in part, the cost of providing the Facilities and Services and incidental expenses pursuant to the Act.

SECTION 5. The special tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes, unless another procedure is adopted by the City Council.

SECTION 6. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the Community Facilities District, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the Community Facilities District shall not be affected.

SECTION 7. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

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

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2019.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held _____ and adopted at the regular meeting held _____, 2019 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

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

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

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

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

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

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

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

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

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

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

WHEREAS, in order to provide such a mechanism, the City anticipates that it will, subject to the provisions of the City of Ontario Mello-Roos Community Facilities Act of 1982 Local Goals and Policies, pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 (the "Act"), establish three community facilities districts (each, a "Community Facilities District"), the boundaries of each of which will include a portion of the Property; and

WHEREAS, it is anticipated that, pursuant to the Act, the proceedings of the City Council of the City and an election held within each Community Facilities District, each Community Facilities District will be authorized to levy special taxes within such

Community Facilities District (the "Special Taxes") and issue special tax bonds (the "Bonds") secured by such Special Taxes in order to finance certain of the Facilities; and

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

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

WHEREAS, the first of such Community Facilities Districts, the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities), has been established under the provisions of the Act; and

WHEREAS, the City Council is or will be the legislative body of each of the Community Facilities Districts.

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

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

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

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

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

PASSED, APPROVED, AND ADOPTED this 7th day of May 2019.

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. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 7, 2019 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. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER RESOLUTIONS REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 50 (WEST ONTARIO LOGISTICS CENTER SERVICES) AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES


RECOMMENDATION: That the City Council consider and:

- (A) Adopt a resolution establishing City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services), authorizing the levy of a special tax within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services);
- (C) Adopt a resolution declaring the results of the special election and directing the recording of the Notice of Special Tax Lien; and
- (D) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services).

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

FISCAL IMPACT: In accordance with the City Council's long standing direction that development of the Ontario Ranch generate sufficient revenues to fund its required City services without reliance on the existing financial resources of the existing City, the use of Mello-Roos financing in connection with the West Ontario Logistics Center development is projected to generate approximately \$371,500 per year, at

STAFF MEMBER PRESENTING: Armen Harkalyan, Executive Director of Finance

Prepared by: Bob Chandler
Department: Management Services
City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

15

build-out, to fund City services. As proposed, the maximum annual tax rate is \$.31 per square foot for the project's anticipated 1,197,820 square feet. The use of Mello-Roos financing is critical in achieving the City Council's goal of "Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch". The use of Mello-Roos financing for the West Ontario Logistics Center development will not generate funds for facilities, and bonds will not be issued as part of this formation.

BACKGROUND: The Mello-Roos Community Facilities Act of 1982 provides local government, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to finance various kinds of public infrastructure facilities and government services. Government services that may be included in a community facilities district include police protection services, fire protection and suppression services, ambulance and paramedic services, maintenance and lighting of parks, parkways, streets, roads, open space and flood and storm drain protection services, and maintenance and operation of any real property or tangible property with an estimated useful life of five or more years that is owned by the governmental entity.

On April 2, 2019, the City Council approved Resolution No. 2019-031, a Resolution of the City of Ontario, California, of Intention to establish City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services) and to authorize the levy of special taxes within the district (Resolution of Intention). The West Ontario Logistics Center project addresses the development of approximately 55 gross acres located south of Merrill Avenue, east of Carpenter Avenue and west of Cucamonga Channel.

The Community Facilities District is being formed pursuant to the provisions of the Landowner's Development Agreement, and the First Amended and Restated Construction Agreement between the City and NMC Builders. Included, as part of the Resolution of Intention, is the proposed Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services). The terms of the Rate and Method of Apportionment of Special Tax are consistent with the City Council's adopted Mello-Roos local goals and policies, and City staff have discussed the proposed Rate and Method of Apportionment of Special Tax with the landowner. The Resolution of Intention set the public hearing on the establishment of the community facilities district for May 7, 2019. In accordance with requirements of the resolution, the City Clerk has published a notice of the time and place of this hearing pursuant to Section 53322 of the California Government Code at least seven days before the hearing.

Attached are three resolutions and an ordinance. The first resolution establishes the community facilities district, with the rate and method of apportionment of special tax, and authorizes the levy of special tax within the district. The second resolution calls for a special landowner election to be held on May 7, 2019. The third resolution declares the results of the election and includes a statement from the City Clerk as to the canvass of ballots, and directs the recording of the Notice of Special Tax Lien. The ordinance authorizes the levying of special taxes within the district. As noted, the issuance of bonds is not being contemplated for this project, so there is no resolution to issue bonds as part of this formation.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 50 (WEST ONTARIO LOGISTICS CENTER SERVICES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

WHEREAS, on April 2, 2019, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District Proposed to be Named City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services) and to Authorize the Levy of Special Taxes" (the "Resolution of Intention"), stating its intention to establish a community facilities district (the "Community Facilities District") proposed to be named City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services), to authorize the levy of special taxes within the Community Facilities District to finance certain services and setting the date for a public hearing to be held on the establishment of the Community Facilities District; and

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

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

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

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

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

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

WHEREAS, there has been filed with the City Clerk of the City a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 8, 2019, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the proposed Community Facilities District for each of the 90 days preceding the close of said public hearing.

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

SECTION 1. The foregoing recitals are true and correct.

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

SECTION 3. The Community Facilities District is hereby named "City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services)."

SECTION 4. The services (the "Services") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Services" on Exhibit A hereto. The incidental expenses proposed to be incurred are described under the caption "Incidental Expenses" on Exhibit A hereto. No facilities are proposed to be financed by the Community Facilities District.

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

SECTION 6. Except where funds are otherwise available, a special tax sufficient to pay for all Services, secured by recordation of a continuing lien against all nonexempt real property in the Community Facilities District, will be annually levied within the Community Facilities District. The rate and method of apportionment of the special tax (the "Rate and Method"), in sufficient detail to allow each landowner within the proposed Community Facilities District to estimate the maximum amount that he or she will have to pay, is described in Exhibit B attached hereto, which is by this reference incorporated herein. The obligation to pay the special tax may not be prepaid and permanently satisfied. The special tax will be collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as the City Council shall determine, including direct billing of the affected property owners.

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

SECTION 7. The name, address and telephone number of the office that will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and that will be responsible for estimating further special tax levies pursuant to Section 53340.2 of the Act are as follows: Management Analyst, Management Services, City of Ontario, 303 East B Street, Ontario, California 91764, (909) 395-2341.

SECTION 8. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the Community Facilities District and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the City Council ceases.

SECTION 9. The boundary map of the Community Facilities District has been recorded in San Bernardino County in Book 88 at Page 24 of Maps of Assessments and Community Facilities Districts in the San Bernardino County Recorder's Office (Document No. 2019-0104807).

SECTION 10. The annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the Community Facilities District is hereby established at \$19,000,000.

SECTION 11. Pursuant to the provisions of the Act, the levy of the special tax and a proposition to establish the appropriations limit specified above shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The City Council hereby finds and determines that that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 8, 2019, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax. The voting procedure shall be by mailed or hand-delivered ballot.

SECTION 12. The City Council hereby finds and determines that all proceedings up to and including the adoption of this Resolution were valid and in conformity with the requirements of the Act. In accordance with Section 53325.1 of the Act, such finding shall be final and conclusive.

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

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

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

PASSED, APPROVED, AND ADOPTED this 7th day of May 2019.

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. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 7, 2019 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. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

SERVICES AND INCIDENTAL EXPENSES

Services

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

Incidental Expenses

The incidental expenses proposed to be incurred include the costs associated with the creation of the Community Facilities District, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District.

EXHIBIT B
CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 50
(WEST ONTARIO LOGISTICS CENTER SERVICES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services) ("CFD No. 50") and collected each Fiscal Year commencing in Fiscal Year 2019-20, in an amount determined by the City Council of the City of Ontario through the application of the Rate and Method of Apportionment, as described below. All of the real property in CFD No. 50, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms as may hereinafter be set forth have the following meanings:

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

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 50: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 50 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 50 related to an appeal of the Special Tax; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead related to CFD No. 50; and amounts estimated or advanced by the City or CFD No. 50 for any other administrative purposes of CFD No. 50, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

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

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

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

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

“**CFD No. 50**” means City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services).

“**City**” means the City of Ontario, California.

“**City Council**” means the City Council of the City, acting as the legislative body of CFD No. 50.

“**County**” means the County of San Bernardino.

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

“**Gated Apartment Community Dwelling Unit**” means a Multiple Family Dwelling Unit within a gated community that, within such community, is primarily served by private interior streets.

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

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

“**Multiple Family Dwelling Unit**” means a Unit within any residential building containing two or more dwelling units, including attached condominiums, townhomes, duplexes, triplexes, and apartments, but excluding Gated Apartment Community Dwelling Units.

“**Non-Residential**” means any buildings that are for commercial lodging use, commercial retail use, institutional use (e.g., churches, private schools), commercial restaurant use, office use, or industrial use.

“**Non-Residential Property**” means, for each Fiscal Year, an Assessor’s Parcel for which a building permit for new construction was issued after January 1, 2019, and before May 1 of the prior Fiscal Year, for a Non-Residential use.

“**Property Owner Association Property**” means, for each Fiscal Year, property within the boundaries of CFD No. 50 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

“**Proportionately**” means that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Taxable Property.

“**Public Property**” means, for each Fiscal Year, property within the boundaries of CFD No. 50 that is (a) owned by, irrevocably offered to, or dedicated to the federal government, the State, the County, the City, or any local government or other public agency or (b) encumbered by an easement for purposes of public or utility right-of-way that makes impractical its use for any purpose other than that set forth in such easement, provided that

any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

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

“Residential Property” means, for each Fiscal Year, an Assessor’s Parcel for which a building permit for new construction of one or more Units was issued after January 1, 2019, and before May 1 of the prior Fiscal Year.

“Services” means the services authorized to be financed, in whole or in part, by CFD No. 50, including: police protection services; fire protection and suppression services; ambulance and paramedic services; maintenance and lighting of parks, parkways, streets, roads, and open space; flood and storm protection services; and maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the City.

“Special Tax” means the special tax authorized by the qualified electors of CFD No. 50 to be levied within the boundaries of CFD No. 50.

“Special Tax Requirement” means the amount necessary in any Fiscal Year to pay the cost of the Services, Administrative Expenses, and an amount equal to Special Tax delinquencies based on the historical delinquency rate for Special Taxes, as determined by the CFD Administrator.

“Single Family Detached Dwelling Unit” means any residential building containing only one Unit on one legal lot, including single family residences and single family detached residential condominium units.

“Square Footage” or **“Sq. Ft.”** means, with respect to a building of Non-Residential Property, the gross floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 50, for such building, plus any square footage subsequently added to a building of Non-Residential Property after issuance of a building permit for expansion or renovation of such building.

“State” means the State of California.

“Taxable Property” means, for each Fiscal Year, all Assessor’s Parcels of Residential Property and Non-Residential Property within the boundaries of CFD No. 50 which are not exempt from the Special Tax pursuant to law or Section E below.

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

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2019-20, all Taxable Property within CFD No. 50 shall be classified as Residential Property (Single Family Detached Dwelling Unit, Multiple Family Dwelling Unit, or Gated Apartment Community Dwelling Unit) or Non-Residential Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for each Assessor's Parcel classified as Taxable Property shall be determined by reference to Table 1 below.

**TABLE 1
MAXIMUM SPECIAL TAX**

Land Use Class	Maximum Special Tax Fiscal Year 2019-20
Residential Property:	
Single Family Detached Dwelling Unit	\$1,687 per Unit
Multiple Family Dwelling Unit	\$1,462 per Unit
Gated Apartment Community Dwelling Unit	\$1,226 per Unit
Non-Residential Property	\$0.31 per Sq. Ft.

On January 1 of each Fiscal Year, commencing January 1, 2020, the Maximum Special Tax to be applied in the next Fiscal Year shall be subject to an automatic increase at a rate equal to 4.0% of the amount in effect for the prior Fiscal Year.

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

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Each Fiscal Year, beginning with Fiscal Year 2019-20, the CFD Administrator shall determine the Special Tax Requirement. The Special Tax shall then be levied Proportionately on each Assessor's Parcel of Taxable Property up to 100% of the applicable Maximum Special Tax for such Assessor's Parcel, until the Special Tax Requirement is satisfied. However, the Special Tax levied in any Fiscal Year shall not increase by more than 4.0% of the amount of the Special Tax levied in the prior Fiscal Year.

E. EXEMPTIONS

Notwithstanding anything in this Rate and Method of Apportionment to the contrary, no Special Tax shall be levied on Public Property or Property Owner Association Property.

F. APPEALS

Any property owner may file a written appeal of the Special Tax with CFD No. 50 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

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

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

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

G. MANNER OF COLLECTION

The Special Taxes shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the Special Taxes may be collected in such other manner as the City Council shall determine, including direct billing of affected property owners.

H. TERM OF SPECIAL TAX

The Special Tax shall continue to be levied indefinitely on an annual basis on all Taxable Property in CFD No. 50.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 50 (WEST ONTARIO LOGISTICS CENTER SERVICES).

WHEREAS, on this date, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation"), establishing City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services) (the "Community Facilities District"), authorizing the levy of a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District; and

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

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

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 8, 2019, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings on the establishment of the Community Facilities District; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on May 7, 2019 and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on May 7, 2019.

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

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

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

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

SECTION 4. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of April 8, 2019, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings heretofore held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 5. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, (b) to the holding of said election on May 7, 2019, and (c) to the waiver of any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on May 7, 2019.

SECTION 6. The City Council hereby calls a special election to submit to the qualified electors of the Community Facilities District the combined proposition to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District, which election shall be held at 303 East B Street, Ontario, California, on May 7, 2019. The City Council has caused to be provided to the City Clerk, as the official to conduct said election, the Resolution of Formation, a certified map of sufficient scale and clarity to show the boundaries of the Community Facilities District, and a sufficient description to allow the City Clerk to determine the boundaries of the Community Facilities District.

The voted ballots shall be returned to the City Clerk not later than 7:30 p.m. on May 7, 2019; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

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

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

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

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

SECTION 9. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk at 303 East B Street, Ontario, California, to and including 7:30 p.m. on May 7, 2019, whether said ballots be personally delivered or received by mail. The City Clerk shall have available ballots which may be marked at said location on the election day by said qualified electors.

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

SECTION 11. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 12. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 7th day of May 2019.

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. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 7, 2019 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. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

OFFICIAL BALLOT

CITY OF ONTARIO
MAY 7, 2019

SPECIAL ELECTION

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

INSTRUCTIONS TO VOTERS:

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

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 50
(WEST ONTARIO LOGISTICS CENTER SERVICES)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services) (the "Community Facilities District") be authorized to levy a special tax in order to finance certain services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$19,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District," adopted by the City Council of the City of Ontario on May 7, 2019?

Yes:

No:

RESOLUTION NO. _____

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

WHEREAS, on May 7, 2019, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services)" (the "Resolution Calling Election"), calling for a special election of the qualified electors within City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services) (the "Community Facilities District"); and

WHEREAS, pursuant to the terms of the Resolution Calling Election and the provisions of the Act, the special election was held on May 7, 2019; and

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

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

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

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

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

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

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

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

PASSED, APPROVED and ADOPTED this 7th day of May 2019.

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. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held May 7, 2019 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. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held May 7, 2019.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 50
(WEST ONTARIO LOGISTICS CENTER SERVICES)

CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on May 7, 2019, I canvassed the returns of the special election held on May 7, 2019, for the City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services), that the total number of ballots cast in said Community Facilities District and the total number of votes cast for and against the proposition are as follows and that the totals as shown for and against the proposition are true and correct:

	Qualified Landowner Votes	Votes Cast	YES	NO
City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services) Special Election, May 7, 2019	57	—	—	—

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services) (the "Community Facilities District") be authorized to levy a special tax in order to finance certain services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$19,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District," adopted by the City Council of the City of Ontario on May 7, 2019?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 7th day of May, 2019.

By: _____
Sheila Mautz, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 50 (WEST ONTARIO LOGISTICS CENTER SERVICES).

WHEREAS, on April 2, 2019, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District Proposed to be Named City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services) and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services) (the "Community Facilities District") and to finance certain services (the "Services"); and

WHEREAS, on May 7, 2019, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation") and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 50 (West Ontario Logistics Center Services)," which resolutions established the Community Facilities District, authorized the levy of a special tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of levying a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District, respectively; and

WHEREAS, on May 7, 2019, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act.

THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby authorizes and levies special taxes within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method of Apportionment"). The special taxes are hereby levied commencing in fiscal year 2019-20 and in each fiscal year thereafter until the last fiscal year in which such special taxes are authorized to be levied pursuant to the Rate and Method of Apportionment.

SECTION 2. The City Council may, in accordance with subdivision (b) of Section 53340 of the Act, provide, by resolution, for the levy of the special tax in future tax years at the same rate or at a lower rate than the rate provided by this Ordinance. In no event shall the special tax be levied on any parcel within the Community Facilities District in excess of the maximum tax specified therefor in the Rate and Method of Apportionment.

SECTION 3. The special tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Rate and Method of Apportionment.

SECTION 4. The proceeds of the special tax shall only be used to pay, in whole or in part, the cost of providing the Services and incidental expenses pursuant to the Act.

SECTION 5. The special tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes, unless another procedure is adopted by the City Council.

SECTION 6. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the Community Facilities District, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the Community Facilities District shall not be affected.

SECTION 7. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2019.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held _____ and adopted at the regular meeting held _____, 2019 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

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

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
May 7, 2019

SECTION:
PUBLIC HEARINGS

SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDING CHAPTERS 3, 7 AND 8B OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO SEWER FEES AND INTEGRATED WASTE, SEWER AND WATER SERVICES


RECOMMENDATION: That the City Council conduct a public hearing to:

- (A) Consider all written protests against the proposed increases in the rates for sewer services in accordance with California Constitution, Article XIII D, Section 6(a); and
- (B) Introduce and waive further reading of an ordinance amending Chapter 3, of Title 6 of the Ontario Municipal Code related to integrated waste services; and
- (C) Introduce and waive further reading of an ordinance amending Chapter 7, of Title 6 of the Ontario Municipal Code related to sewer services and authorizing increases to the rates for sewer service charges and fees; and
- (D) Introduce and waive further reading of an ordinance amending Chapter 8B, of Title 6 of the Ontario Municipal Code relating to water services.

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

FISCAL IMPACT: A component of the City's sewer service fees and charges includes a pass through of the costs imposed upon the City by the Inland Empire Utilities Agency (IEUA) for treatment of sewage. IEUA has previously approved charges for treatment of sewage necessary to provide adequate revenues to meet their operational needs through FY 2019-20, and in order to continue passing through the IEUA increased costs it is necessary for the City to adopt the proposed adjustments. The current average residential combined utility bill (integrated waste, sewer and water) is about \$128.60 per month. The recommended pass through will result in an average monthly increase of \$1.61, or 1.25%.

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Michael Sigsbee
Department: MU/Administration
City Manager Approval: 

Submitted to Council/O.H.A. 05/07/2019
Approved: _____
Continued to: _____
Denied: _____

16

BACKGROUND: Pursuant to Proposition 218 (California Constitution, Article XIII D, Section 6), the City is required to comply with the following procedures prior to increasing sewer services fees and charges:

Proposition 218 Procedure

1. Parcels upon which the increased fee or charge is proposed to be imposed have been identified, and Proposition 218 Notice (“Notice”) was mailed on March 22, 2019 to (a) the record owner (as defined in California Government Code Section 53750(j) (the “Owner”) of each identified parcel (as defined in California Government Code Section 53750(g); and (b) any customer of record who, at the time the notice is mailed, has a billing account with the City and is directly liable to pay the fee (“Customer”) for an identified parcel.
2. The Notice contained (a) the amount of the fee or charge; (b) the basis on which it was calculated; (c) the reason for the increase; and (d) the date, time, and location the City Council will conduct a public hearing on the proposed increase.
3. A public hearing was scheduled for May 7, 2019 (at least 45 days after the Notice was mailed) to consider all written protests against the proposed increase to the fee or charge. If at the conclusion of the hearing written protests against the proposed increased fee are presented by a majority of Owners/Customers of parcels to be charged, the City may not increase the fee.

Resolution 2007-097 (adopted on August 21, 2007) established the following procedures for considering protests against proposed rate increases in accordance with California Constitution, Article XIII D, Section 6(a):

1. Each Owner or Customer may submit one written protest per parcel. Each protest must be submitted to the City Clerk at 303 East “B” Street, Ontario, California 91764, or in person at the public hearing.
2. All protests must be received by the City Clerk by the close of the public hearing. Any protest received after the close of the public hearing, even if postmarked prior to that time, will not be accepted or counted.
3. Each protest must be in writing and provide the location of the identified parcel (by assessor’s parcel number or street address) and include the signature of the Owner or Customer. Protests submitted by e-mail will not be accepted. Although oral comments or testimony at the public hearing will not qualify as a formal written protest, the City Council welcomes input from the public during the public hearing on the proposed fee.
4. To be valid, a protest must (a) state that it is in opposition to the proposed fee; and (b) contain the original signature of an Owner or Customer of the identified parcel. Any protest that does not contain this information or an original signature of either an Owner or Customer shall not be tabulated.
5. Any Owner or Customer who submits a protest may withdraw it by submitting a written request to withdraw the protest. The request must be submitted to the City Clerk prior to the close of the public hearing either at 303 East “B” Street, Ontario, California 91764, or in person at the public hearing. The withdrawal of a protest must include the location of the identified parcel (by assessor’s parcel or street address) and include the original signature of the Owner or Customer who submitted the protest. Only the

Owner or Customer who submitted the protest may withdraw it. A request to withdraw a protest submitted by e-mail will not be accepted.

6. If an identified parcel is owned by more than a single Owner or more than one name appears on the City's records as the Customer for the identified parcel, or if the Customer is not the Owner, each Owner or Customer may submit a protest; provided, however, only one protest will be counted per identified parcel. Any one protest submitted in accordance with these procedures shall be sufficient to count as a protest for that identified parcel.
7. The City Clerk shall determine the validity of all protests. The City Clerk shall not accept as valid any protest if the City Clerk determines that any of the following conditions exist:
 - a. The protest is not in writing.
 - b. The protest does not provide the location of the identified parcel by either assessor's parcel number or street address.
 - c. The protest does not contain an original signature of an Owner or Customer of the property identified on the protest.
 - d. The protest does not state its opposition to the proposed fee which is the subject of the protest proceeding.
 - e. The protest is not received by the City Clerk prior to the close of the public hearing on the proposed fee.
 - f. A valid request to withdraw the protest is received prior to the close of the public hearing on the proposed fee.
8. The City Clerk's decision regarding the validity of a protest or a request for the withdrawal of a protest of shall constitute a final action of the City and shall not be subject to any internal appeal.
9. The City Clerk may begin to tabulate protests at any time after the close of the public hearing on the proposed fee. In the event the City Clerk cannot complete the tabulation of the protests before the conclusion of the City Council meeting, the City Council may continue the action to impose or not impose the fee to another City Council meeting date. The continuation of the action on the item to another meeting does not reopen the public hearing on the proposed fee.
10. A majority protest exists if valid written protests are timely submitted and not withdrawn by the Owners of or Customers with respect to, a majority of the identified parcels.

Proposed IEUA Pass Through Rate Adjustment & Ordinance Changes

The proposed rate increase for the IEUA pass through adjustment as well as other changes to reflect current operating practices and legislative mandates are set forth in the attached ordinance amending Chapters 3, 7 and 8B of Title 6, of the Ontario Municipal Code relating to sewer fees and integrated waste, sewer and water services.

Utility services for integrated waste, sewer and water are operated as separate Enterprise Funds and are not commingled with the City's General Fund. These utility services are funded by the fees and charges (rates) to the customers and the budgets are approved annually. Rates and services are reviewed periodically to ensure that the established service rates are:

- a. Adequate to recover costs reasonably borne in providing the services;
- b. Equitable to all customer classes;
- c. In compliance with all State and Federal regulations; and
- d. Easily explained to customers.

The City contracts with IEUA for sewer treatment at regional sewer treatment facilities owned and operated by IEUA. The IEUA Board of Directors sets the treatment rate per EDU (equivalent dwelling unit = one single-family residence) which is charged to the City and passed through on the City utility bills. The basis and reasons for the proposed increase is to enable the City to recover the pass through costs imposed upon the City by IEUA for treatment of sewage. The proposed adjustment will authorize the City to (1) increase the IEUA component of sewer service fees to reflect the actual costs from IEUA, and (2) continue passing through cost increases from IEUA for a four year period, commencing July 1, 2020. The monthly IEUA pass through rate for sewer treatment is recommended to increase by \$1.61 per EDU from the current \$18.39 per EDU to \$20.00 per EDU effective on bills sent on or after July 1, 2019.

If approved by the City Council, the City may annually implement any IEUA pass through adjustments for a four-year period commencing July 1, 2020, through and including July 1, 2023. Provided, however, that: (1) any increase in the IEUA pass through adjustment shall not exceed 10% per year; and (2) in no event shall such rates be increased as a result of an IEUA pass through adjustment by more than the cost of providing sewer treatment service. Any IEUA pass through adjustment will only impact the rates for the IEUA charge as established above. Prior to implementing any increase in the sewer service charges as a result of any IEUA pass through adjustment, the City will provide written notice of the rate increase not less than 30 days prior to its effective date.

Additionally, the ordinance includes changes to Chapter 3, 6 and 7B of Title 6 to adopt future rates by resolution similar to the annual budget adoption process to help streamline the fee adoption process. Currently, the Municipal Code requires changes to utility rates and charges to be made by ordinance which requires a second reading at a separate meeting and become effective 31 days after adoption. Adopting by resolution will allow for proposed rates and charges to be adopted at the conclusion of the public hearing and may become effective immediately.

As a result of the passage of the California Global Warming Solutions Act (AB 32) and the subsequent related legislation and regulations that have followed it, and the recent name change from Solid Waste to Integrated Waste, various elements of Chapter 3 of Title 6 of the Ontario Municipal Code require revision and updating. The City and our customers are responding to new and evolving legislative mandates related to expanded diversion and recycling requirements that is intended to help reduce greenhouse gas emissions, such as commercial and industrial recycling, food waste recycling, and tire, mattress, and electronic waste handling and recycling. Additionally, references throughout the Code have been updated to reflect the recent name change for Integrated Waste Operations.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING INCREASES TO THE RATES FOR ITS SEWER SERVICE CHARGES, MAKING CERTAIN REVISIONS TO THE ONTARIO MUNICIPAL CODE RELATING TO INTEGRATED WASTE MANAGEMENT, SEWER CHARGES, AND WATER FEES AND CHARGES, AND TAKING OTHER ACTIONS RELATED THERETO.

WHEREAS, the City provides sewer service to properties within its service area, and is authorized to charge sewer service charges to pay for the costs of such service; and

WHEREAS, the City collects wastewater within its service area, and pays the Inland Empire Utilities Agency ("IEUA") to treat wastewater discharged and collected within the City; and

WHEREAS, the rate structure for sewer service charges is comprised of two components: (i) a charge for capital replacement, operations and maintenance, billing, customer service, and other related costs ("City Charge"); and (ii) a treatment charge for costs imposed on the City by the Inland Empire Utilities Agency ("IEUA Charge") that is passed through by the City to its sewer customers; and

WHEREAS, the rate structure for the City Charge is determined based on customer class, with residential customers paying an amount per unit, and non-residential paying an amount per EDU, plus an additional unit charge depending on the type of non-residential customer at issue; and

WHEREAS, customer classes are determined based on shared characteristics of the wastewater discharged to the City's wastewater system, including strength and flow of such wastewater; and

WHEREAS, in 2016, after conducting a rate study to analyze the City's sewer service revenue requirements, the City previously determined to increase its rates for sewer service in order to cover: (i) current and projected operations and maintenance costs of the City's sewer system (the "System"); and (ii) the capital infrastructure improvements needed to repair, replace, and update the System; and

WHEREAS, the prior rates adopted by the City included a schedule of increases, and authorized the City to pass through increased rates imposed on the City by IEUA for the IEUA Charge through and including July 1, 2017; and

WHEREAS, since 2017, the rates imposed by IEUA for the IEUA Charge have increased, and the City has determined that it is necessary to increase the IEUA Charge to reflect such increased rates from IEUA, effective July 5, 2019; and

WHEREAS, the City Charge, which was previously established based on a rate study prepared for such purpose, does not need to be increased at this time; and

WHEREAS, in order to capture future wholesale wastewater rate increases imposed by IEUA, the City has further determined to authorize a four-year schedule of rate increases to the IEUA Charge for the cost of any future rate increases adopted by the IEUA Board of Directors and imposed on the City for the treatment of sewer discharged and collected within the City, commencing July 1, 2020 through and including July 1, 2023, (each such rate increase by the IEUA is referred to herein as an "IEUA Pass Through") provided, however, that (1) any increase in the IEUA Charge as a result of an IEUA Pass Through shall not exceed 10% per year; (2) in no event shall such rates be increased as a result of an IEUA Pass Through by more than the cost of providing sewer service; and

WHEREAS, the schedule of proposed rates for the sewer service charges is attached hereto as Exhibit "A" and by this reference incorporated herein and by this reference made an operative part hereof; and

WHEREAS, in addition, the City wishes to make certain changes to its Municipal Code to reflect the rates adopted herein, all as set forth in Exhibit "B" hereto; and

WHEREAS, the rates imposed by IEUA, which are passed through to customers through the IEUA Charge, are set from time to time by IEUA, and the 2016 rate study supporting the City Charge (which is not increasing above previously authorized levels) is available for inspection at the offices of the City Clerk; and

WHEREAS, the City Council hereby finds and determines the following with regard to the proposed rate increases to the sewer service charges:

1. The revenues derived from the proposed sewer service charges will not exceed the funds required to provide the sewer services and shall be used exclusively for the wastewater system;

2. The amount of the proposed sewer service charges will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition;

3. The proposed sewer service charges will not be imposed on a parcel unless the sewer services are actually used by, or immediately available to, the parcel;

4. The proposed sewer service charges will not be used for any other purpose than that for which they are imposed;

5. The proposed sewer service charges are not levied for general governmental services;

6. The proposed sewer service charges represent increases in the charges needed to operate sewer collection and treatment facilities; and

WHEREAS, the City hereby finds and determines that in accordance with the provisions of California Constitution article XIII D, section 6 ("Article XIII D"):

1. The City identified the parcels upon which the sewer service charges are proposed to be imposed, and calculated the amount of the charges proposed to be imposed;

2. On March 22, 2019, the City mailed written Notice to the record owners of the parcels upon which the sewer service charges are proposed to be imposed and any tenants directly liable for the payment of sewer service charges ("customers") which explained: (a) the amount of the charges; (b) the basis on which they were calculated; (c) the reason for the increases; and (d) the date, time, and location of the public hearing on the proposed increases; and

3. On May 7, 2019 (more than 45 days after mailing the Notice), the City conducted a public hearing and considered all written protests against the proposed increases to the sewer service charges.; and

4. At the conclusion of the public hearing, written protests against the proposed increases to the sewer service charges were not presented by a majority of customers subject to the proposed charges; and

WHEREAS, in accordance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, the City Staff has determined that the amendments to the Municipal Code, and the increases in sewer service charges are exempt from CEQA pursuant to Section 15378 and Section 15273 of the CEQA Guidelines because: (a) the increased charges are for the purpose of meeting operational and maintenance expenses of the aforementioned services; and (b) the charges constitute the creation of a funding mechanism/other governmental fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.; and

WHEREAS, the City Council now wishes to adopt the increased rates for the sewer service fees set forth in Exhibit "A" hereto, and to further adopt certain amendments to the City's Municipal Code to allow for future rates for water and sewer to be adopted by resolution, and to make additional changes relating to integrated waste management;

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

SECTION 1. The City Council hereby finds and determines that the recitals discussed above are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

SECTION 2. Commencing July 5, 2019, the City Council hereby authorizes and establishes the rates for the sewer service charges in the amounts set forth in Exhibit "A".

SECTION 3. Commencing July 1, 2020, through and including July 1, 2023, the City Council hereby authorizes annually passing through to customers any IEUA Pass Through. Any IEUA Pass Through may be implemented for the four year period commencing July 1, 2020, through and including July 1, 2023, provided, however, that: (1) any increase in the rates for the IEUA Charge set forth in Exhibit "A" as a result of any IEUA Pass Through shall not exceed 10% per year; and (2) in no event shall such rates be increased as a result of an IEUA Pass Through by more than the cost of providing sewer service. Any IEUA Pass Through will only impact the rates for the IEUA Charge set forth in Exhibit "A". Prior to implementing any increase in the sewer service charges as a result of any IEUA Pass-Through, the City shall cause notice to be mailed at least 30 days in advance of the effective date of the IEUA Pass-Through.

SECTION 4. The City Council hereby authorizes and directs the City Manager to implement and take all actions necessary to effectuate the rates for the sewer service charges set forth herein.

SECTION 5. Chapter 3, Title 6, Volume 1 of the Ontario Municipal Code, entitled Integrated Solid Waste Management, is replaced in its entirety as provided for in Exhibit B hereto. Section 6-7.703 of Article 7, Chapter 7, Title 6, Volume 1 of the Ontario Municipal Code, entitled Sewer Revenue Charge Rates, and Section 6-8.51 of Chapter 8B, Title 6, Volume 1 of the Ontario Municipal Code, entitled Service Fees and Charges, are amended in their entirety and replaced as provided for below:

"Sec. 6-7.703. Sewer revenue charge rates.

In addition to other fees, assessments, or charges provided by the Municipal Code or adopted by the City Council, the owner or occupant of any parcel of property for which no other sewer service charge is provided, and which parcel of property is connected to the sewer system of the City, shall pay monthly sewer service charges as established from time to time by resolution of the City Council.

Sec. 6-8.51. Service fees and charges.

(a) Residential, non-residential, and private fire service water fees and charges. In addition to other fees, assessments, or charges provided by the Municipal Code or adopted by the City Council, the owner or occupant of any parcel of property for which no other water service fee or charge is provided, and which parcel of property is connected to the water system of the City, shall pay monthly water service fees and charges as established from time to time by resolution of the City Council.

(b) Turning water supply on and off. No charge shall be made for shutting off and turning on water supply when requested by the customer for the closing of an old account or the beginning of a new one. When service has been discontinued due to non-payment of utility bills or for any infraction of the rules, the charges to restore water service shall be as listed above. The customer shall pay these charges, plus the amount of any outstanding bills before service can be restored.

(c) Construction water. All construction water shall be metered and charged.

(d) Reserved.

(e) Water meter testing fee. Water meter testing fee shall be based on the actual costs of removal, testing and reinstallation of the meter.

(f) Bacterial coliform examination fee. The City, as part of its inspection fees, shall assume the cost of the first set of examinations.

(g) Other water service work. This charge is based on actual time, travel and material cost based on the City's burden of labor and overhead rates in effect at the time service is provided.

(h) Outside City services. For water furnished to any customer outside the City limits, the rates shall be double the rates charged inside the City. The City Council may, however, provide otherwise by written agreement with any city, county, or other governmental agency.

(i) Charges for agricultural use. Charges for usage of recycled water for agricultural service where the agricultural use provides assignment of water production rights to the City shall be determined by the Utilities General Manager; provided, however, such charges will be consistent with the most recent rate study and current rates charged by the Chino Basin Watermaster for replenishment assessments.

(j) Charges for unmetered service. Unmetered usage of water and charges for unmetered usage of water shall be authorized by the Utilities General Manager prior to such usage; provided, however, such charges shall be reasonably in accordance with the charges established by resolution adopted by the City Council."

SECTION 6. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 7. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance. In the event that the sewer service fees adopt herein conflict with any other fees or charges previously adopted by the City, it is the express intent of the City Council that the sewer service fees adopted hereby shall control.

SECTION 8. The City Council hereby authorizes future rates for sewer service fees to be adopted by resolution or ordinance. To the extent the City adopts future rates for sewer service fees by resolution, and such future adopted rates for sewer service fees conflict with this or any other ordinance adopted by the City, the resolution adopting future rates for sewer service fees shall control and supersede.

SECTION 9. This Ordinance shall become effective thirty (30) calendar days after its adoption by the City Council.

SECTION 10. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2019.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held _____ and adopted at the regular meeting held _____, 2019 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 TO
ORDINANCE NO. ____**

(a) The rate structure for City sewer service charges is comprised of two components: (1) a charge for capital replacement, operations and maintenance, billing, customer service, and other related costs (“City Charge”); and (2) a treatment charge for costs imposed on the City by Inland Empire Utilities Agency (“IEUA Charge”) that is passed through by the City to its sewer customers.

(b) The monthly charges for sewer services shall be the sum of the IEUA Charge as listed under sub-section (c) below plus the City Charge as listed under sub-section (d) below.

(c) The current rate for the IEUA Charge per equivalent dwelling unit (“EDU”) is \$18.39, and the adopted rates for the IEUA Charge per EDU effective July 5, 2019, is \$20.00. Future rate increases adopted by the IEUA Board of Directors and imposed on the City for the treatment of wastewater discharged and collected in the City shall be passed through to City customers at the rates adopted by IEUA (each such rate increase by the IEUA is referred to herein as a “Pass Through”). Once adopted by the IEUA Board of Directors, the actual Pass Through will be applied to the rates for the IEUA Charges as follows:

1. The monthly rate for the IEUA Charge per unit for single-family residential property shall be equal to the charge per one (1) EDU.
2. The monthly rate for the IEUA Charge per unit for multiple-family residential property shall be equal to the charge per seven tenths of one (0.7) EDU.
3. The monthly rate for the IEUA Charge for non-residential customers shall be equal to the charge per one (1) EDU multiplied by the number of EDUs assigned to the non-residential customer’s property.

(d) The monthly rates for the City Charge for single-family and multiple family residential customers are billed on a per residential building unit basis. The rates for certain non-residential customers are billed on a EDU basis. The rates for these customers shall be as follows:

Customer Classification	City Charge Rates (\$/EDU or unit)	
	Current Rates	Effective 07/05/2019
Single Family Residential per Month per Unit	\$13.63	\$13.63
Multiple Family Residential per Month per Unit	\$13.10	\$13.10
Non-Residential per Month per EDU (1)	\$13.63	\$13.63

(e) In addition to the EDU Charge listed above, the City Charge for certain non-residential customers also includes a Unit Charge, as set forth below. The Unit Charge is not being increased:

City Charge Rates Per Building or Room for Non-Residential Customers	Current Rates (\$)	Rates (\$) Effective 07/05/2019
Hotel/Motel per room charge	8.55	8.55
Professional Offices per building unit charge	13.45	13.45
Other Commercial per building unit charge	32.90	32.90
Categorical/Significant Industry per permitted unit	123.00	123.00
Class II Industry per permitted unit	123.00	123.00
Other Industries per permitted unit	61.60	61.60

**EXHIBIT B TO
ORDINANCE NO. ____**

CHAPTER 3: INTEGRATED SOLID WASTE MANAGEMENT

Article 1: General Provisions

- 6-3.101 Declaration of policy
- 6-3.102 Purpose and objectives
- 6-3.103 Administration
- 6-3.104 Applicability
- 6-3.105 Exclusive jurisdiction
- 6-3.107 Definitions

Article 2: Prohibitions

- 6-3.201 Accumulations
- 6-3.202 Burning of solid waste
- 6-3.203 Contamination of green waste and commingled recycling
- 6-3.204 Dangerous and infected substances
- 6-3.205 Dead animals
- 6-3.206 Dumping and burying
- 6-3.207 Scavenging
- 6-3.208 Solid waste not subject to routine collection
- 6-3.209 Unauthorized containers

Article 3: Solid Waste Services

- 6-3.301 Responsibility to provide for collection
- 6-3.302 Placement of solid waste in containers
- 6-3.303 Maintenance of collection containers
- 6-3.304 Responsibility to provide for and use integrated waste collection services
- 6-3.305 Exemption from service
- 6-3.306 Residential collection containers
- 6-3.307 Residential collection frequency
- 6-3.308 Residential receptacles, placement
- 6-3.309 Residential collections of bulky items
- 6-3.310 Responsibility to provide for and use collection services
- 6-3.311 Commercial collection containers
- 6-3.312 Commercial collection frequency
- 6-3.313 Commercial containers, placement
- 6-3.314 Commercial storage standards

Article 4: Rates and Provisions for Services and Billing

- 6-3.401 Integrated waste collection charges
- 6-3.402 Special service charges
- 6-3.403 Waiver of advanced payment or deposit
- 6-3.404 Physically challenged/elderly discount
- 6-3.405 Set-out/set-back service
- 6-3.406 Excess tonnage, weight violations
- 6-3.408 Abatement collection charges
- 6-3.409 Collection fees, customers to be billed
- 6-3.410 Collection and payment
- 6-3.411 Collection, delinquent fees

Article 5: Allowable Composting and Recycling

- 6-3.501 Backyard residential composting
- 6-3.502 Commercial collection of recyclables and organics
- 6-3.503 Permit required
- 6-3.504 Permit application
- 6-3.505 Permit conditions
- 6-3.506 Appeal
- 6-3.507 Public access to information and confidentiality
- 6-3.508 Commercial collection of recyclables, property owner responsibility
- 6-3.509 Charitable organizations
- 6-3.510 Disposal of recyclables and organics

Article 6: Business Recycling Requirements

- 6-3.600 Purpose
- 6-3.601 Business recycling plan
- 6-3.602 Construction and demolition recycling plan
- 6-3.603 Alternative compliance
- 6-3.604 Mandatory business recycling
- 6-3.605 Mandatory commercial business organics service

Article 7: Reduction and Reuse Provisions

- 6-3.701 City recycled goods policy

Article 1: General Provisions

Sec. 6-3.101. Declaration of policy.

The City Council of the City of Ontario hereby finds and declares:

- (a) The intent and purpose of this chapter is to comply with state law on solid waste management as it is found in California Public Resources § 40000 *et seq.*

(b) State law requires local agencies such as the City to control and reduce their waste streams, and meet per capita waste generation goals each year. This reduction requires an ongoing evolution of the practices within the City to include elements that reduce waste generation, promote reuse and require collection of recyclables and organic waste.

(c) The accumulation, collection, removal, disposal, composting, and recycling of solid waste shall be controlled by the City for the protection of the public health, safety and welfare and to contribute toward the diminution of health hazards and pollution in the City. The City Council finds that to give practical effect to this policy, a comprehensive system for the periodic collection, removal, disposal, composting and/or recycling of integrated waste from all premises in the City is essential and benefits all residents of the City; therefore, all such occupants are made responsible for the collection, disposal, composting, and/or recycling of solid waste.

(d) The provisions of this chapter shall control in the event of any inconsistencies between this chapter and any other City ordinances, resolutions, or other written arrangements.

(e) Nothing in this chapter shall limit the right of an individual person, organization, or other entity to donate, sell or otherwise dispose of recyclables or organics, provided that any such donation, sale or disposal is in accordance with the provisions of this chapter.

(f) The City Manager shall be responsible for reviewing solid waste collection services, contracts, permits, fees and rates and for making recommendations on the administration of the above to the City Council for final approval.

Sec. 6-3.102. Purpose and objectives.

This chapter sets forth uniform requirements and regulations for the direct and indirect users of the solid waste collection services of the City. It also allows for the City to comply with all applicable state and federal laws, including, but not limited to, The Integrated Waste Management Act of 1989, California Code Title 14 Division 7 and any subsequent amendments to each.

Sec 6-3.103. Administration.

Except as otherwise provided in this chapter, the City Manager shall administer, implement, direct and cause enforcement of the provisions of this chapter. Whenever any power is granted to or a duty is imposed upon the City Manager, the City Manager or his or her designee shall exercise this power or perform this duty.

Sec 6-3.104. Applicability.

This chapter shall apply to all users of the City's non-organic waste, recycling, green waste and other organics collection services within the City and to users outside the City who are by permit, contract, or agreement with the City, users of the City's non-organic waste, recycling and green waste and other organics collection services or are conducting business or activities within the City which fall under the provisions of this chapter.

Sec 6-3.105. Exclusive jurisdiction.

(a) The collection of all solid waste within the City shall be performed under the direction of the City Manager, and for such purposes, the City may use City personnel, enter into contract agreements with private hauling firms or approve franchise agreements to perform such collection, provided that the City shall respect all continuation rights required by the Public Resources Code,

(b) Residential integrated waste management collection services and commercial integrated waste management collection services shall be provided exclusively by or under the direction of the City. A solid waste enterprise may not provide waste collection services except as authorized by the City pursuant to § 6-3.105(a). This section does not prohibit the commercial collection of recyclables or organics pursuant to §§ 6-3.502 through 6-3.510, provided all such commercial collection of recyclables or organics complies with the provisions of this chapter.

(c) No person shall provide collection or integrated waste services within the City without the City's approval, which approval shall be issued only on a vote of the City Council and may be removed for failure to comply with the health and sanitation regulation of the City and San Bernardino County.

(d) Each violation of this section will be considered an infraction and subject to penalties listed in § 1-2.01.

Sec. 6-3.107. Definitions.

For the purpose of this chapter, unless otherwise apparent from context, certain words and phrases used in this chapter shall have the meanings hereinafter designated. The definitions in this chapter are included for reference purposes only and are not intended to narrow the scope of definitions set forth in federal or state laws or regulations. Words used in this chapter in the singular may include the plural and the plural may include the singular. Use of the masculine shall also mean feminine and neuter.

(a) "Account." A statement or record utilized by the City for billing customers that receive integrated waste services.

(b) "Administrator." The City Utilities Manager or his or her designee.

(c) "Bin." City provided or privately owned integrated waste containers, generally with a lid, that are collected by a front-loading collection vehicle.

(d) "Bulky item." Any item unable to be collected through normal collection method, such as appliance, furniture or bundled brush.

(e) "Business recycling plan." A business recycling plan as set forth in § 6-3.601.

(f) "C & D" or "construction and demolition debris." Lumber, paper, cardboard, metals, masonry (brick, concrete, and the like), carpet, plastic, pipe (plastic, metal, and clay), drywall, rocks, dirt, and green waste related to land development. These materials produce debris that is not hazardous waste, defined by Public Resources Code § 40141.

(g) "Cart." The City-provided plastic, solid waste container with a tight-fitting lid and wheels, collected by automated side-loading collection vehicle. Carts may be in the sizes and colors determined by the City.

(h) "City." The City of Ontario, California.

(i) "City Manager." The chief administrative officer of the City of Ontario or his or her designee.

(j) "Collection." The operation of gathering together and transporting of discarded materials subject to this Chapter to a point of disposal and/or recycling or composting center/facility.

(k) "Collector." A person employed by the City or any other person (or the agents or employees thereof) whom the City shall have contracted with to collect, carry, transport, compost, and/or recycle non-organic waste, recyclables and organics within the City.

(l) "Commercial." A business, industrial, commercial establishment, or construction site and any multiple-family residential dwellings with five (5) units or more on one account.

(m) "Commercial Recycler Collection Permit." A permit issued by the Integrated Waste Department of the Ontario Municipal Utilities Company pursuant to Article 5 herein, for the hauling of commercial recyclables.

(n) "Compactor." A privately owned receptacle for compressing waste used in commercial establishments, collected by a front-loading or a roll-off vehicle.

(o) "Compost." The product resulting from the controlled biological decomposition of organic wastes that are source separated from the municipal waste stream or which are separated at a centralized facility.

(p) "Container." A cart, bin, roll-off, compactor or similar receptacle used to temporarily store solid waste, organics or recyclables for collection service.

(q) "Customer." The owner and/or occupant of any property within the City that is required to participate in the City's integrated waste, including green waste, other organics and recyclables collection program.

(r) "Divert." To use material for any purpose other than disposal in a landfill or transformation facility.

(s) "Food waste." Discarded raw, cooked, or processed edible substances, ices, beverages, ingredients used or intended for use or for sale in whole or in part for human consumption, and chewing gum. Food waste is a subset of organics.

(t) "Green building." The use of materials in a more efficient manner. Green building practices can include salvaging dimensional lumber from structures, using reclaimed aggregates, or designing the structure in way that requires less material.

(u) "Green waste." Tree and shrubbery trimmings, tree roots less than six (6) inches in diameter, vegetation matter resulting from land clearing, grass, weeds, straw, or leaves, wood

chips, sawdust and other household garden organic materials which have been segregated from other solid waste materials for the purpose of deposit at a designated collection location, including curbside location, for collection and transportation to a compost facility. Green waste does not include palm fronds, cactus or tree limbs, roots or stumps larger than six (6) inches in diameter. Green waste is a subset of organics.

(v) "Hazardous waste." A waste, or combination of wastes, which because of its quantity, concentration or physical, chemical, or infectious characteristics may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(2) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Unless expressly provided otherwise, "hazardous waste" includes extremely hazardous waste and acutely hazardous waste.

(w) "Integrated Waste." The City's Integrated Waste Department.

(x) "Non-organic waste." Solid waste that does not include recyclables and organics. Solid waste shall include food waste unless collection of food waste is provided for separately or as part of organic waste collection services.

(y) "Occupant." One who has certain legal rights to or control over the premises occupied; a tenant or owner.

(z) "Organics," "organic waste" and "organic material." Solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges. Organics are a subset of solid waste.

(aa) "Person." An individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(bb) "Property owner." The record owner of a property and includes the homeowner/business owner association of a residential/business condominium project.

(cc) "Recyclable materials" or "recyclables." Non-organic reusable waste materials, including but not limited to, metal, glass, and plastic that are to be collected, separated or processed and used as raw materials. "Recyclables" may include paper products, printing and writing paper, wood and dry lumber and textiles. Recyclables are a subset of solid waste.

(dd) "Recycle" or "recycling." The process of collecting, sorting, cleansing, treating, and reconstructing materials that would otherwise become refuse or garbage, and returning them to the economic mainstream in the form of raw material for new, revised, or reconstituted products which meet the quality standards necessary to be used in the marketplace. This includes, without limitation, items intended for "re-use" or "personal use," irrespective of their intended return to economic mainstream or marketplace.

(ee) "Residential." Any residential dwelling or apartment house.

(ff) "Reuse." Further or repeated use of construction or demolition debris.

(gg) "Roll-off bin or roll-off." A compactor or open-top City-owned or private container collected by a roll-off collection vehicle.

(hh) "Scavenging." The removal of any solid waste material without authorization of the property owner and/or the City.

(ii) "Solid waste." All putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. Solid waste does not include hazardous, radioactive waste or medical waste.

(jj) "Solid waste enterprise." An entity authorized by the County of San Bernardino or other regulatory authority to provide integrated waste services in such area prior to its annexation by the City.

Article 2. Prohibitions

Sec. 6-3.201. Accumulations.

(a) Every person owning or occupying any building, lot or premises in the City shall keep such property in a clean and sanitary condition; this includes placing all solid waste in the appropriate container with the exception of bulky items. The property owner or occupant shall not cause or permit organic waste to collect or accumulate for more than one (1) week, or cause or permit any other solid waste to accumulate for a period in excess of one (1) month; provided, however, the provisions of this section shall not be construed to interfere with any occupant keeping building materials upon premises during construction, reconstruction, or repair of a building or structure thereon under a valid building permit, nor with the keeping of wood neatly piled upon such premises for household use.

(b) The Administrator may require a greater number of collections per week or may require placement of additional containers upon finding that an unhealthful, unsightly, or public nuisance exists under the current service level. In such an event, the customer shall pay for additional collections and/or containers at the current fee schedule. Prior to imposing such a requirement and rate adjustment, the City shall provide at least two (2) written notifications at least seven (7) days apart to the customer as listed on the City billing. The customer may appeal such a determination in writing to the City Manager within seven (7) days of the second notice. The City shall not impose the service adjustments until the seven (7) day appeal period has passed, or if appealed, until the City Manager determines the outcome of the appeal.

(c) If a member of the Integrated Waste staff observes that a property owner or occupant has violated this section, Integrated Waste staff will notify Code Enforcement. If the Code Enforcement officer determines a violation of this section, the Code Enforcement officer will tag the container or property with a notice of violation requiring the property owner or occupant to bring the property into compliance. It is expected that the property owner's or occupant's attempt to comply with the directives of the notice of violation will require input from

the Integrated Waste Department. If the property owner or occupant does not respond to or comply with the notice of violation, the City will take the necessary steps to bring the property into compliance, including, if necessary, cleaning and sanitizing the container and area. The property owner shall be held responsible for all fees and costs incurred as a result of the City bringing the property into compliance.

Sec. 6-3.202. Burning of solid waste.

No solid waste shall be burned within the City.

Sec. 6-3.203. Contamination of green waste and commingled recycling.

(a) No person shall place in any container identified for recyclables, green waste, food waste or organics any material other than that identified material. The containers set aside for recyclables, green waste, food waste or organics shall be used only for recyclables, green waste, food waste or organics and no other materials.

(b) If, upon inspection by the Collector, it is determined that the recyclables, green waste, food waste or organics container is contaminated, it shall be tagged and the container shall not be collected. If the customer wishes a special return collection prior to the next scheduled collection day, the customer shall be charged for the special collection. Charges for special collection are listed in § 6-3.402 of this chapter.

Sec. 6-3.204. Dangerous and infected substances.

(a) No person shall place or deposit in any container for collection pursuant to the provisions of this chapter any unbroken and exposed hypodermic needles, medicines, pills, poisons, caustic acids, explosives or similar dangerous substances which may cause human injury or harm.

(b) No person shall place or deposit in any container for collection pursuant to the provisions of this chapter wearing apparel, bedding or other articles from any home or place where any infectious or contagious disease has prevailed. The owner or occupant of any premises where an infectious or contagious disease has prevailed shall forthwith notify the San Bernardino County Health Officer and shall dispose of such articles in accordance with his or her directions.

Sec. 6-3.205. Dead animals.

(a) No person shall place or deposit upon any public street, park, or alley or in any container for the collection pursuant to the provisions of this chapter, any dead animal.

(b) The bodies of any dead animals within the City shall be promptly removed to such place as may be designated by the Administrator. In the event the owner of such dead animal is known, such owner shall pay the cost of removal of the dead animal. If such animal is found upon any public street, park or alley or upon private property, the City shall arrange for the removal of such dead animal in the event the owner of such dead animal is not found.

Sec. 6-3.206. Dumping and burying.

No person shall dump, place or deposit upon or bury in any lot, land, street, alley, water or waterway within the City any solid waste or substance condemned by the San Bernardino County Health Department or any other deleterious or offensive substance; provided, however, the provisions of this section shall not apply to any land used by as a properly permitted landfill, transfer station, materials recovery facility, organic waste processing facility or similar use.

Sec. 6-3.207. Scavenging.

(a) Only the City or a holder of a Commercial Recycler Collection Permit shall remove any recyclables or organics, which have been segregated from other solid waste, and placed at the curbside or at a designated collection location for recyclables or organics collection.

(b) The recyclables or organics are the property of the City or the holder of a Commercial Recycler Collection Permit upon the placement of the container for collection. No unauthorized person shall remove non-organic waste, recyclables or organics from City containers.

(c) In any civil action by the City against a person alleged to have violated any provision of this section, the court may award a civil penalty of not more than One Thousand Dollars (\$1,000.00) for each unauthorized removal against the unauthorized person removing the solid waste.

(d) Violation of this section is unlawful and shall be a misdemeanor. Each separate unauthorized removal shall be a separate violation.

Sec. 6-3.208. Solid waste not subject to routine collection.

Solid Waste not subject to routine collection shall include large household appliances, furniture, logs, stumps, construction waste, dirt or junked automobiles or automobile parts.

Sec. 6-3.209. Unauthorized containers.

(a) Containers used to collect solid waste placed in the City by unauthorized haulers are subject to impoundment. Containers shall be placed in a storage facility and the hauler shall be responsible for all fees incurred as a result of the impoundment.

(b) Containers violating this section of the chapter shall be tagged by Code Enforcement, or Integrated Waste Department staff, for removal within twenty-four (24) hours. If the container is not removed within twenty-four (24) hours, the container will be impounded by the City without granting any further notice or warning. The confiscated container will be placed in a storage facility and the hauler shall be responsible for all fees incurred as a result of the impoundment.

Article 3. Solid Waste Services

Sec. 6-3.301. Responsibility to provide for collection.

The property owner or occupant of any residential unit within the City is responsible to provide for the removal of solid waste from such premises in accordance with provisions of this chapter.

Sec. 6-3.302. Placement of solid waste in containers.

- (a) All solid waste shall be placed in suitable containers furnished by the City.
- (b) Ashes shall be thoroughly moistened to prevent them from scattering and starting the container on fire.
- (d) Dog droppings, sanitary napkins, and items that are unsanitary and offensive shall be securely wrapped and placed in the non-organic waste container.
- (e) Hazardous wastes such as, but not limited to, pesticides, used motor oil and other lubricants, car batteries, television and computer monitors, and tires shall not be placed into the City's containers. Household hazardous waste may be disposed of properly by being taken to household hazardous waste collection centers or any other designated collection points.
- (f) All lubricants, such as motor oil, shall be disposed of in the proper manner by being taken to a household hazardous waste drop-off center or any other officially designated collection point.
- (g) All solid waste placed in a container shall be placed loosely in such container so as to ensure the ease of disposal.
- (h) All materials placed into container shall be contained within said container and lid, if applicable, shall be shut completely. Until removed by the collector, the customer shall be responsible for the clean-up of any and all discards which the customer has generated, dumped, spilled or otherwise lost or littered, notwithstanding human and animal interference, wind or other natural forces and weather during storage, collection, removal or transfer. The collector shall be responsible for any discards spilled during collection, removal or transfer by the collector.

Sec. 6-3.303. Maintenance of collection containers.

All collection containers shall be kept in clean and sanitary condition by the owner or person using the same.

Sec. 6-3.304. Responsibility to provide for and use integrated waste collection services.

- (a) Every person owning or occupying a residential unit within the City shall provide for integrated waste collection services in accordance with the provisions of this chapter.
- (b) It shall be unlawful for the owner or occupant of any residential unit within the City to fail or neglect to provide for the removal of non-organic waste, recyclables, green waste or other organics from such premises in accordance with provisions of this chapter.

Sec. 6-3.305. Exemption from service.

Any customer may make an application for exemption from integrated waste collection services on the basis that a developed property is unoccupied, and that no non-organic waste, green waste, other organics or recyclable materials shall be placed or offered for collection by the City or its authorized collector, from such property. The Administrator may temporarily exempt such property from participation in the City's integrated waste collection program for the

limited period while the property is unoccupied; provided, that any such statement or representation shall be made in affidavit form, fully sworn to by the person making such statement or representation and filed with the Administrator. An exemption shall be valid only for the time that the statements made in the affidavit continue to be true. Any violation of provisions of the exemption shall result in termination of the exemption and shall require the customer to subscribe to the integrated waste collection services in accordance with this chapter.

Sec. 6-3.306. Residential collection containers.

As many needed City-provided carts may be used and shall be charged according to the integrated waste schedule of charges contained in § 6-3.401(a).

Sec. 6-3.307. Residential collection frequency.

All non-organic waste, recycling, green waste and other organics shall be collected from residential units a minimum of one (1) time per week. The City shall specify the number and different types of carts which are required.

Sec. 6-3.308. Residential receptacles, placement.

(a) Residential non-organic waste, recycling, and green waste carts shall be placed for collection by 6:00 a.m. on the scheduled collection day, but not prior to the evening preceding the collection day. Carts shall be removed no later than the evening after collection day. Such carts shall be placed for collection along the alley where a useable alley exists. Where there is no useable alley, such carts shall be placed for collection near the street curb. Where no curbs or walks exist, such carts shall be placed in a location convenient for collection along the street right-of-way and placed at least three (3) feet from any mailboxes, cars, or any other obstructions for safety and efficiency.

(b) Any obstructing object(s) that prevent the integrated waste collector from collecting residential carts will be reported to Code Enforcement. The Code Enforcement officer will tag the obstructing object(s) (e.g. basketball hoop) with a notice of violation requiring immediate removal. If the property owner is issued two (2) notice of violations for the same obstructing object(s), the City will impound the object(s) without granting any further notice or warning. The confiscated object(s) will be placed in a storage facility and the property owner shall be responsible for all fees incurred as a result of the impoundment.

(c) If the provisions of this section are not fully complied with, the Integrated Waste Collector shall place a tag indicating a violation on the cart. No collection shall be made until the provisions of this section are complied with. The resident may request a collection prior to the next scheduled collection date and shall be charged as listed in § 6-3.401(a) of this chapter.

(d) It shall be the customer's responsibility to provide means of entering and exiting premises, adequate collection vehicle turning radius, and vertical and horizontal clearance for the integrated waste collectors and equipment.

(e) In all cases of dispute or complaints arising from or concerning the place where carts from residential units shall be placed while awaiting the removal of their contents, the Administrator shall forthwith designate the place and his or her decision shall be final.

(f) Residential customers may receive bin service when permitted by the Administrator. Except as otherwise determined by the Administrator, bin service shall be subject to the same provisions in this chapter for residential cart service.

Sec. 6-3.309. Residential collections of bulky items.

(a) Residential customers are entitled to four (4) bulky item pick-ups per calendar year as part of the regular residential monthly service fees, on an appointment basis that is to be made one (1) week prior to the desired collection day. Items are to be identified to ensure efficient and proper collection. Additional collections are subject to charges listed in § 6-3.401(a) of this chapter.

(b) Materials to be collected shall be limited to five (5) individual items that can be easily handled by two (2) persons.

(c) If the bulky item pick-up exceeds the customer's bulky item collection limits as specified in subsections (a) or (b), the City may pick up the bulky item and charge the customer according to fees listed in § 6-3.401(a).

Sec. 6-3.310. Responsibility to provide for and use collection services.

(a) The property owner or occupant of any commercial establishment within the City shall make arrangements for the removal of non-organic waste, recyclables, green waste and other organics from such premises in accordance with provisions of this chapter.

(b) It shall be unlawful for the owner or occupant of any commercial establishment within the City to fail or neglect to provide for the removal of non-organic waste, recyclables, green waste or other organics from such premises in accordance with provisions of this chapter.

Sec. 6-3.311. Commercial collection containers.

All commercial establishments shall utilize one of the various sizes of bins, roll-offs or other containers available through the City for the collection of non-organic waste, recyclables, green waste and other organics. The commercial establishment may utilize cart service with the Administrator's consent, and the Administrator shall otherwise establish the minimum level of required collection service pursuant to the procedures in § 6-3.201.

Sec. 6-3.312. Commercial collection frequency.

All non-organic waste, recycling, green waste and other organics generated at commercial establishments shall be collected a minimum of one (1) time per week. Roll-off service shall be provided a minimum of one (1) time every 14 days if the collection material is free from putrescible material, or the container may be removed. The Administrator may otherwise establish the minimum level of required collection service pursuant to the procedures in § 6-3.201.

Sec. 6-3.313. Commercial containers, placement.

(a) All commercial collection carts, bins, roll-offs or other containers shall be placed in an area approved by the City, which shall be easily accessible to the Integrated Waste Collector.

(b) In all cases of disputes or complaints arising from or concerning the placement of carts, bins, roll-offs or other containers, a written notice shall be given to the City. In all cases of disputes or complaints, the Administrator shall designate the placement, and his or her decision shall be final.

Sec. 6-3.314. Commercial storage standards.

All new development projects utilizing commercial collection bins rather than cart collection of non-organic waste which:

(a) Have submitted a site plan on or after September 1, 1993 for development plan review as prescribed by Title 9, Planning and Zoning;

(b) Are existing development projects which will be adding thirty percent (30%) or more to the existing floor area; or

(c) Are existing development projects which will be adding one thousand (1,000) square feet or more, shall meet the requirements of this section.

All qualifying development projects shall include an area set aside for the provision of adequate and accessible enclosures for the storage of recyclables, non-organic waste and organics in proper containers. The design, construction and accessibility of the enclosures shall be shown on the site plan in conformance with the standards and specifications of the Integrated Waste Department and the design guidelines adopted by the City's Planning Department.

Article 4. Rates and Provisions for Services and Billing

Sec. 6-3.401. Integrated waste collection charges.

(a) In addition to other fees, assessments or charges provided by the Municipal Code or adopted by the City Council, the owner or occupant of any residential premises or any commercial establishment shall pay monthly integrated waste service charges as established from time to time by a resolution of the City Council.

(b) The Revenue Services Department shall collect all charges authorized by the City Council pursuant to this section.

(c) The City Council may require any person liable for payment of an integrated waste service charges to make a reasonable advanced payment with the Revenue Services Department as security for the payment of such charges.

(d) All monies received from the collection of integrated waste shall be deposited in the integrated waste fund of the City.

Sec. 6-3.402. Special service charges.

(a) Charges for special services shall be based on actual costs of collection and disposal as determined by the Administrator.

(b) The Administrator may establish charges for integrated waste collection services, for special events, or other special circumstances.

Sec. 6-3.403. Waiver of advanced payment or deposit.

(a) Any customer may make a request for a waiver of the advanced payments required for temporary residential and construction site commercial bin service, residential roll-off service, and commercial roll-off service. The Administrator has the authority, in his or her sole discretion, to grant a waiver of any such advanced payments. In exercising such discretion, the Administrator shall take into account the following conditions:

(1) Whether the customer has maintained an active water or integrated waste account for at least six (6) months;

(2) Whether the customer has kept the water or integrated waste account current and has a good payment history; and

(3) That the weekend and construction site bin service shall not be used by the customer for cleaning up the property for the purpose of vacating said property.

(b) Any customer may request a waiver for deposit fees for residential integrated waste services if the customer resides in a newly annexed area of the City and integrated waste service to the customer was previously provided by a solid waste enterprise. Customer shall be required to provide proof of previous service in the form of a bill in order to obtain a waiver. The Administrator has the authority, in his or her sole discretion, to grant a waiver of any such deposits.

Sec. 6-3.404. Physically challenged/elderly discount.

Eligible customers may apply for and receive a physically challenged or elderly discount pursuant to § 6-8.50.

Sec. 6-3.405. Set-out/set-back service.

Physically challenged and/or elderly customers with infirmities, who do not have an able-bodied person assisting with their household or business activities, may receive set-out/set-back service for automated containers upon written request on the proper form to and approval by the Administrator. The request shall describe the infirmity and/or other factors, and the care they are receiving from a family member, a service provider or other assistant, for their infirmity, which require the applicant to receive such service. For those persons approved for the service there shall be no additional charge. The applicant may be requested to re-certify to the City upon notice. If the City deems it necessary, the applicant may be required to provide proof of the physical challenge or infirmity from a physician.

Sec. 6-3.406. Excess tonnage, weight violations.

All roll-offs and compactors are limited to a maximum of twelve (12) tons. It is the customer's responsibility to ensure that the containers are not overloaded, and the load contents are balanced for safe collection. If the contents are not balanced, or excess tonnage is apparent, the City may require excess tonnage to be off-loaded by the customer prior to City collection. In the event the City hauls excess tonnage, charges for violation of weight limitations in excess of twelve (12) tons of solid waste matter per commercial roll-off shall be imposed in addition to the existing disposal charges in effect at the time of disposal for actual weight over twelve (12) tons.

Sec. 6-3.408. Abatement collection charges.

All forms of solid waste not otherwise collected through normal integrated waste service may be collected by the City for such charges as the Administrator shall determine as reasonable.

Sec. 6-3.409. Collection fees, customers to be billed.

The fees established by the City Council shall be billed to and paid for by the property owner; provided, however, that the owner shall have the right to reimbursement from the respective occupants or proprietor for whose benefit the charge is paid. For residential users, such fees may be billed to and paid for by the owner, occupant, tenant or lessor. Fees may be established or amended by resolution.

Sec. 6-3.410. Collection and payment.

The City may use a unified billing system for City-furnished services. The charges for water, integrated waste, storm water abatement and wastewater services may be billed on the water bill and collected as one (1) item. Failure to pay the amount due in full will result in penalties listed in § 1-2.01.

Sec. 6-3.411. Collection, delinquent fees.

Any delinquent fees are subject to the provisions of § 1-2.07.

Article 5. Allowable Composting and Recycling

Sec. 6-3.501. Backyard residential composting.

(a) Notwithstanding any other provision of this chapter, residents are encouraged to compost green waste, including grass clippings, leaves, plant trimmings, wood ashes and vegetable kitchen scraps (but not including other household refuse or animal wastes). The following conditions regarding composting must be met:

- (1) Compost piles or containers are located in the rear or side yard, not visible from a public street, and no greater than five (5) feet in height;
- (2) The compost piles or containers are at least five (5) feet from the property line or separated from adjacent property by a solid wall;
- (3) Compost piles are maintained so that they do not generate an offensive odor or harbor rodents;
- (4) The maximum size of any pile or container is five (5) feet in height by five (5) feet in width by five (5) feet in length;
- (5) The compost is enclosed, screened or otherwise maintained to minimize insects or pests; and
- (6) The pile or container shall not permit surface run-off or leachate to another property.

(b) The Administrator may authorize, for educational purposes, the creation of a composting demonstration area visible to the public at a City park or other facility.

(c) No composting shall be permitted at any location that is determined to be a fire hazard by the City's Fire Department.

Sec. 6-3.502. Commercial collection of recyclables and organics.

Written authorization to collect recyclables or organics within the City is required. This written authorization shall be in the form of a Commercial Recycler Collection Permit. No vested right shall be given by issuance of permits provided for in this section. The City reserves the right to establish by Municipal Code or in Commercial Recycler Collection Permits, requirements on collection for recyclables and organics if deemed appropriate by the Administrator.

Sec. 6-3.503. Permit required.

Businesses seeking to conduct business as a commercial collection recycler to collect and haul recyclables and organics within the City shall obtain a Commercial Recycler Collection Permit.

Sec. 6-3.504. Permit application.

(a) Businesses seeking to obtain a Commercial Recycler Collection Permit shall complete and file with the City, prior to commencing collection efforts, an application on the forms prescribed by the City, and pay any applicable application fees. Any such business collecting recyclables or organics in the City shall have a business license pursuant to § 3-1.105 and be registered with any other applicable regulatory authorities.

(b) Applicants may also be required to submit information related to the applicant's anticipated destination of material and potential annual tonnages as may be requested by the City to properly evaluate the permit application.

(c) The permit application may be denied if the applicant fails to establish to the City's satisfaction that the business has failed to obtain a business license, has failed to comply with the health and sanitation regulations of the City, San Bernardino County and the State of California, or if the applicant has, in the past, demonstrated an inability or unwillingness to comply with state or federal solid waste law, or the requirements set forth in this article.

(d) After evaluation of the data, the Administrator may issue a Commercial Recycler Collection Permit, subject to terms and conditions set forth in this chapter and as otherwise determined by the Administrator to be appropriate to comply with applicable law.

Sec. 6-3.505. Permit conditions.

(a) All permits shall be expressly subject to all provisions of this chapter and all other regulations, charges for use, term and fees established by the City. Commercial Recycler Collection Permit conditions shall be enforced by the City in accordance with this chapter and all applicable county, state and federal regulations.

(b) Any such business collecting recyclables or organics in the City shall furnish, at a frequency established by the City, a report of the amount of recyclables, organics and contaminated materials collected from within the City. The report shall contain the weight and type of recyclables and organics collected, the names and addresses of businesses from which the recyclables or organics were collected, and the final destination of the recyclables and organics collected. The report shall be submitted in a format necessary to meet state criteria. The report shall be considered late if submitted thirty (30) days after the date due. Failure to provide the report within thirty (30) days from the due date is hereby declared an infraction and subject to penalties listed in § 1-2.01.

(c) All such businesses holding a Commercial Recycler Collection Permit shall keep recycling and organics containers in good condition and free from graffiti. Recycling or organics containers must be kept in a clean and sanitary condition and must be appropriately sanitized upon notification from the City.

(d) Such bins, roll-offs or other containers to collect recyclables or organics by businesses holding a Commercial Recycler Collection Permit must be placed according to the standards set by the City. Such containers shall not be placed in the public right-of-way. The containers shall be placed in enclosure(s) which meet City standards when applicable. Separate containers for recyclables and organics shall be provided if applicable. Bins, roll-offs or other containers utilized by the holder of a Commercial Recycler Collection Permit shall be clearly identified by the name of the permittee and other information the Administrator may require. The Administrator may regulate the colors and look of such containers as necessary to ensure such containers are distinguishable from those utilized by the Collector.

(e) Bins, roll-offs or other containers to collect recyclables or organics by businesses holding a Commercial Recycler Collection Permit must be used exclusively for the collection of recyclable materials or organics, as applicable. Residual material must not exceed five percent (5%) in any container, as determined at the discretion of the Administrator.

(f) Each violation of this section will be considered an infraction and subject to penalties listed in § 1-2.01, and will be considered by the City cause for revocation of the Commercial Recycler Collection Permit.

(g) Any future application for a permit by any user subject to an order of revocation will be considered by the Administrator after fully reviewing the records of the revoked permit. Such records may be the basis for denial of a new permit.

(h) The Administrator may issue a permit revocation order, whereby the user must comply with all directives, conditions and requirements therein within the time prescribed. The revocation order shall contain terms and conditions to ensure compliance with this chapter. The Administrator may revoke a permit when it is determined that a permittee:

(1) Fails to comply with the terms and conditions of the permit, any provision of this chapter, a City administrative order, or a City compliance agreement;

(2) Knowingly provides a false statement, representation, record, report, or document to the City;

(3) Refuses to provide records or other documents required by the City to determine compliance with the permit or this chapter.

(i) Notice of hearing. When the Administrator has reason to believe that grounds exist for permit revocation, he or she shall give written notice thereof by personal delivery or by certified mail to the permittee setting forth a statement of the facts and grounds deemed to exist, together with the time and place where the charges shall be heard by the Administrator's designee. The hearing date shall not be less than fifteen (15) calendar days or more than forty-five (45) calendar days after mailing of such notice.

(1) At the revocation hearing, the permittee shall have an opportunity to respond to the allegations set forth in the notice by presenting written or oral evidence.

(2) After the conclusion of the hearing, the Administrator's designee shall make his or her determination and submit a written report to the City Manager setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation. Upon receipt of the written report, the City Manager shall make his or her determination and should he or she find that grounds exist for permanent revocation of the permit, he or she shall issue his or her decision and order in writing within thirty (30) calendar days after the conclusion of the hearing by his or her designee. The written decision and order of the City Manager shall be sent by certified mail to the permittee or its legal counsel/representative at the permittee's business address.

(3) In the event the City Manager determines to not revoke the permit, he or she may order other enforcement actions, including, but not limited to, a temporary suspension of the permit, under terms and conditions that he or she deems appropriate.

Sec. 6-3.506. Appeal.

(a) Pursuant to § 1-4.01, any affected permittee may appeal in writing to the City Council by filing with the City Clerk a written notice of such appeal, setting forth grounds thereof. The appellant shall file such notice within fourteen (14) days after receipt of the notice of the administrative decision concerned.

(b) The order of the City Council shall be deemed final upon its adoption.

(c) If the permittee fails to appeal to the City Council, or the City Council fails to reverse or modify the administrative decision, the City Manager's administrative decision shall be deemed final.

Sec. 6-3.507. Public access to information and confidentiality.

(a) Any information in a permittee's file, which includes but is not limited to permits, permit applications, questionnaires or manifests, shall be available to other public or governmental agency without restriction.

(b) If the disclosure of the permittee's file or a portion thereof would divulge trade secrets or secret processes, the permittee shall have the right to request that such information be kept confidential. Any such claim must be made at the time of submittal of the information by marking the submittal "confidential business information" on each page containing such information.

(c) Information which is demonstrated to be confidential shall not be transmitted to anyone other than a governmental agency bound by appropriate confidentiality requirements for uses related to this chapter, and for use by the state or federal agency in judicial review or exercise of their valid regulatory authority.

Sec. 6-3.508. Commercial collection of recyclables, property owner responsibility.

For recyclables and organics collected by businesses other than the City, the property owner shall be responsible for contracting with the recycling broker(s) or commercial recycling collector(s) for regular pick-up and collection of the recyclable materials and organics. Recyclables and organics shall not be permitted to accumulate such that a visual or public health and safety nuisance is created. The City shall have the authority to abate any such nuisance and charge the property owner, recycling broker, or commercial recycling collector for the expense of abating the nuisance.

Sec. 6-3.509. Charitable organizations.

Charitable organizations conducting fund-raising events for a public purpose are exempt from § 6-3.502.

Sec. 6-3.510. Disposal of recyclables and organics.

No person, expressly including, but not limited to, anyone possessing a current, valid Commercial Recycler Collection Permit issued pursuant to this chapter, may charge a fee or receive any compensation for the collection, transport, disposal, processing or recycling of recyclable materials or organics, or any other materials including solid waste, or charge a rental fee for a container of any items to be collected within the city, and shall collect only those materials that are sold or donated by the generator thereof. Nothing in this chapter limits the right of any person to donate, sell, or otherwise dispose of his or her recyclable materials or organics.

Article 6. Business Recycling Requirements

Sec. 6-3.600. Purpose.

(a) The purpose of this article is to:

(1) Promote recycling and diversion of commercial solid waste by requiring certain specified businesses, non-residential properties, commercial buildings and construction and demolition projects to divert recyclable materials from the landfill.

(2) Comply with California Green Building Standards Code (CalGreen), requiring diversion of waste from specified construction and demolition projects.

(3) Comply with state commercial recycling laws, requiring recycling by certain specified businesses.

(4) Comply with state commercial organic waste recycling laws, requiring organic waste recycling for certain specified businesses.

(b) Each violation of this article will be considered an infraction and subject to penalties listed in § 1-2.01.

Sec. 6-3.601. Business recycling plan.

(a) A business recycling plan shall be submitted by customers using commercial collection service and proposing to conduct the following business activity:

(1) Addition of a new development for which a site plan for development review has been submitted as prescribed by Title 9, Development Code;

(2) Addition of thirty percent (30%) or more to the existing floor area of any existing development; or

(3) Addition of one thousand (1,000) square feet or more to any existing development projects.

(b) Submitted plans shall include but not be limited to the following information:

(1) A written description of the projected annual waste generation rates;

(2) The estimated type of generated waste by volume;

(3) The measures to be taken to reduce waste;

(4) The methods to be used to separate recyclable material from the waste stream and temporarily store them inside the building prior to transport to the outside storage area for collection by an authorized recycler; and

(5) Identification of the proposed business used to collect or receive recycled material.

(c) All customers subject to the provisions of this section shall submit a business recycling plan to the Administrator within thirty (30) days of receipt of written notice. Business recycling plans shall be considered complete once final approval is made by the Administrator.

(d) All customers subject to the provisions of this section and regardless of permit status, shall implement, at a minimum, the measures identified in the business recycling plan for reduction of waste.

(e) Business recycling plans shall be updated at a frequency as determined by the City.

Sec. 6-3.602. Construction and demolition recycling plan.

Wastes going to landfill from construction and demolition activities must be minimized to the greatest extent possible by recycling, deconstruction for reuse, or by use of "green building" practices. Material targeted for recycling shall include concrete, asphalt, clean wood (unpainted or untreated), brick, metal, cardboard and sheetrock. The City Manager may modify the targeted materials based on available markets.

(a) A construction and demolition recycling plan shall be submitted for conducting the following types of development activities:

(1) The construction of any structure;

(2) Additions or alterations of non-residential structures;

(3) Additions or alterations of residential structures that increase the structure's conditioned area, volume or size.

(b) In preparing the construction and demolition recycling plan, customers for building or demolition permits involving the removal of all or part of an existing structure shall consider deconstruction to the maximum extent feasible.

(c) Plans may be required to be submitted on City-approved forms. Plans shall ensure the diversion of at least sixty-five percent (65%) of the total construction and demolition debris generated by the project for reuse or recycling, and shall include, but not be limited to, the following information:

(1) The estimated volume or weight of the project construction and demolition debris to be generated, by materials type, the estimated volume or weight of construction and demolition debris that can feasibly be diverted for reuse or recycling and the estimated volume or weight of construction and demolition debris that will be hauled as refuse. In estimating the volume or weight of materials identified in the construction and demolition recycling plan, the customer shall use the standardized conversion rates approved by the City for this purpose;

(2) A drawing that identifies an area for the loading and collection of recyclable materials with appropriate access for collection vehicles;

(3) A description of how the materials will be separated at the source and/or recycled by utilizing the services of a processor;

(4) Identification of the recycled materials to be used in the construction or remodeling of the facility;

(5) Identification of the proposed vendor or facility proposed to collect or receive recycled material; and

(6) A description of green building practices in use, if any.

(d) All customers with projects subject to the provisions of this chapter shall implement, at a minimum, the measures identified in the construction and demolition recycling plan and shall demonstrate compliance with the following construction site requirements:

(1) Construction waste and demolition debris shall be removed from the construction site on a regular basis and shall not be stored on site and in the open for a period in excess of four (4) weeks, provided that such waste is not hazardous or noxious and does not constitute a nuisance, in which case it must be appropriately secured and regularly removed from the construction site;

(2) Reasonable efforts shall be demonstrated to provide for segregation of recyclable construction materials and demolition debris for diversion from landfills; and

(3) Construction waste and demolition debris that may become windblown shall be containerized to prevent litter.

(e) No demolition permit or building permit shall be issued for any development activity subject to this chapter unless the construction and demolition recycling plan has been approved by the City.

(f) The issuance of the certificate of occupancy will be conditional on submittal of a report that documents the construction and demolition debris recycled. The report shall be submitted to the Administrator and shall contain the following information:

(1) The estimated and actual quantities of all construction waste and demolition debris listed in the construction and demolition recycling plan;

(2) Copies of recycling receipts or other pertinent documentation that demonstrates waste diversion and recycling in conformance with the approved construction and demolition recycling plan. Customers shall make reasonable efforts to ensure that all construction and demolition debris diverted for recycling or hauled to landfill are measured and recorded using the most accurate method of measurement available. To the extent practical, all construction and demolition debris shall be weighed by measurement on scales in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, customers shall use the standardized conversion rates approved by the City for this purpose; and

(3) Any additional information the customer believes is relevant to determining its efforts to comply in good faith with this section.

Sec. 6-3.603. Alternative compliance.

As an alternative to the sixty-five percent diversion requirement, a customer may meet the diversion requirements by ensuring that the combined weight of new construction disposal does not exceed 3.4 pounds per square foot of the building area for low-rise residential structures and two pounds per square foot of building area for other structures.

Sec. 6-3.604. Mandatory business recycling.

(a) The following commercial customers shall recycle and divert from the landfill recyclable materials generated by the customer in accordance with this § 6-3.604:

(1) A commercial business that generates four (4) cubic yards or more of solid waste per week;

(2) A multi-family dwelling of five (5) units or more.

(b) Businesses subject to this § 6-3.604 shall arrange for recycling services, from the Collector or anyone holding a valid Commercial Recycler Collection Permit. A customer subject to this § 6-3.604 shall take at least one of the following actions:

(1) Source separate recyclable materials from other solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements for the pickup of the recyclable materials.

(2) Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation.

(c) A customer meeting the conditions of § 6-3.604(a) may request an exemption from the requirements of § 6-3.604(b) by submitting an application on a form prescribed by the Administrator. After reviewing the exemption request, the Administrator shall either approve or disapprove the exemption request. To be eligible for an exemption from requirements of this section, the business must demonstrate that:

(1) There are no recyclable materials being generated by any activities of the customer;

(2) There is inadequate storage space for the storage of recyclable materials;

(3) There is no viable market for the recycling materials or recycling facility available.

Sec. 6-3.605. Mandatory commercial business organics service.

(a) A customer meeting the conditions of § 6-3.604(a)(1) that generates four (4) cubic yards of solid waste per week shall recycle and divert from the landfill organics generated by the customer.

(b) A customer subject to this section shall arrange for organics service from the Collector or anyone holding a valid Commercial Recycler Collection Permit. A customer subject to this section shall take at least one (1) of the following actions:

(1) Source separate organic waste from other solid waste and subscribe to a basic level of organics recycling service that includes collection and recycling of organics.

(2) Recycle its organics onsite or self-haul its own organics for recycling.

(3) Subscribe to an organics service that may include mixed waste processing that specifically recycles organics.

(c) A customer subject to this section may request an exemption from the requirements of § 6-3.605(b) by submitting an application on a form prescribed by the Administrator. After reviewing the exemption request, the Administrator shall either approve or disapprove the exemption request. To be eligible for an exemption from the requirements of § 6-3.605(b), the customer must demonstrate that:

(1) There is less than one half (1/2) of a cubic yard per week of organics being generated by any activities of the customer;

(2) There is inadequate storage space for the storage of organics;

(3) There is no viable market for the organics or organic recycling facility available.

Article 7. Reduction and Reuse Provisions

Sec. 6-3.701 City recycled goods policy.

(a) In procurement of goods for the City, a preference shall be given to purchase recycled goods. Special emphasis shall be placed on the purchase of products manufactured with post-consumer recycled materials. Fitness and quality being equal, the City shall purchase recycled products instead of non-recycled products whenever available at no more than the total cost of non-recycled products. Recycled goods are defined and provided for in such state legislations as the State Agency Buy Recycled Campaign (commencing with Cal. Pub. Con. Code § 12153) and the California Integrated Waste Management Act of 1989 (commencing with Cal. Pub. Res. Code § 40000).

(b) All City departments may, at their option and with purchasing concurrence, require procurement of designated recycled products or recycled products as specified in § 6-3.701(a).

(c) The City shall require its contractors and consultants to use and specify recycled products in fulfilling contractual obligations whenever practicable.

(d) The City shall promote the use of recycled products publicizing its procurement policy whenever practicable.