

CITY OF ONTARIO
CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR
AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY
AGENDA
FEBRUARY 2, 2016

Paul S. Leon
Mayor

Debra Dorst-Porada
Mayor pro Tem

Alan D. Wapner
Council Member

Jim W. Bowman
Council Member

Paul Vincent Avila
Council Member



Al C. Boling
City Manager

John E. Brown
City Attorney

Mary E. Wirtes, MMC
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/Housing Authority/Successor Agency to the Ontario Redevelopment Agency meeting begins with 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*)

6:30 p.m.

ROLL CALL

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

PLEDGE OF ALLEGIANCE

Council Member Bowman

INVOCATION

Associate Pastor Albert B. Peterson II, Seventh Day Adventist Church

PUBLIC COMMENTS

6:30 p.m.

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

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

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

CONSENT CALENDAR

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

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

1. APPROVAL OF MINUTES

Minutes for the regular meeting of the City Council and Housing Authority of January 5, 2016, approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills November 29, 2015 through December 12, 2015 and **Payroll** November 29, 2015 through December 12, 2015, when audited by the Finance Committee.

3. PROFESSIONAL SERVICES AGREEMENTS FOR SALES TAX CONSULTING SERVICES RELATED TO AN EXISTING OPERATING COVENANT AGREEMENT/ROBERT E. CENDEJAS AND ASSOCIATES, INC./BUSINESS LOCATION ADVISOR, INC./STRATEGIC BUSINESS LOCATIONS, INC.

That the City Council approve and authorize the City Manager to execute twenty-year agreements (on file with the Records Management Department) by and between the City of Ontario and Robert E. Cendejas and Associates, Inc.; Business Location Advisors, Inc.; and Strategic Business Locations, Inc., all of Diamond Bar, California, for sales tax consulting services in conjunction with an existing twenty-year Operating Covenant Agreement, with the option to exercise the unilateral right to extend the term of the Agreement for an additional twenty years, approved by the City Council on December 15, 2015, between the City of Ontario and Henry Schein, Inc. ("Henry Schein").

4. A CONSTRUCTION CONTRACT FOR THE SIXTH STREET STORM DRAIN PROJECT/MCC PIPELINE, INC.

That the City Council approve the plans and specifications, and award a construction contract (on file with the Records Management Department) to MCC Pipeline, Inc. for the Sixth Street Storm Drain Project (SM1002) for the bid amount of \$5,994,830 plus a fifteen percent (15%) contingency in the amount of \$899,225 for a total authorized amount of \$6,894,055; and authorize the City Manager to execute said contract and related documents and file a Notice of Completion at the conclusion of construction activities.

5. A PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION MATERIALS TESTING AND GEOTECHNICAL SERVICES FOR THE FRANCIS STREET STORM DRAIN PROJECT/GROUP DELTA CONSULTANTS, INC.

That the City Council approve a Professional Services Agreement (on file with the Records Management Department) with Group Delta Consultants, Inc., of Ontario, CA to provide Construction Materials Testing and Geotechnical Services for the Francis Street Storm Drain Project (SM9902) in the amount of \$117,370 plus a ten percent (10%) contingency in the amount of \$11,737 for a total authorized amount of \$129,107; and authorize the City Manager to execute said agreement.

6. AUTHORIZE THE PURCHASE OF REPLACEMENT FLEET VEHICLES/NATIONAL AUTO FLEET GROUP

That the City Council authorize the cooperative purchase and delivery of three 2016 Ford Focus sedans for the Code Enforcement Department in the amount of \$56,239; three 2016 Ford Super Duty F350 trucks for the Facilities Maintenance and Utilities Departments in the amount of \$80,208; four 2016 Chevrolet Silverado 1500 trucks for the Parks and Maintenance Department in the amount of \$94,768; and two Ford Escape SUVs for the Police Department in the amount of \$47,788 all from National Auto Fleet Group of Watsonville, California, consistent with the terms and conditions of the National Joint Powers Alliance (NJPA) Cooperative Contract 102811.

7. RESOLUTIONS OF THE CITY OF ONTARIO AND THE ONTARIO HOUSING AUTHORITY (AS SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY), APPROVING THE TRANSFER OF PROJECTS AND ASSISTANCE IN CONNECTION WITH THE REDEMPTION OF RELATED CITY OF ONTARIO MULTIFAMILY HOUSING REVENUE REFUNDING BONDS (CAMBRIDGE SQUARE APARTMENTS) 2004 SERIES D, ONTARIO REDEVELOPMENT AGENCY MULTIFAMILY HOUSING REVENUE REFUNDING BONDS (WATERFORD COURT APARTMENTS) 2005 SERIES A, AND ONTARIO REDEVELOPMENT AGENCY MULTIFAMILY HOUSING REVENUE REFUNDING BONDS (WAVERLY PLACE APARTMENTS) 2004 SERIES B

That the City Council and the Ontario Housing Authority Board, acting as the Successor Agency to the Ontario Redevelopment Agency, take the following actions:

- (A) Adopt resolutions approving the transfer of projects and assistance in connection with the redemption of related City of Ontario Multifamily Housing Revenue Refunding Bonds (Cambridge Square Apartments located at 1037 North Archibald Avenue) 2004 Series D; Ontario Redevelopment Agency Multifamily Housing Revenue Refunding Bonds (Waterford Court Apartments located at 1675 East "G" Street) 2005 Series A; and Ontario Redevelopment Agency Multifamily Housing Revenue Refunding Bonds (Waverly Place Apartments located at 1725 East "G" Street) 2004 Series B; and
- (B) Authorize the City Manager/Executive Director to execute documents necessary to implement the transfers of the projects and redemption of the bonds.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
ONTARIO, CALIFORNIA, APPROVING TRANSFER OF OWNERSHIP
OF CAMBRIDGE SQUARE APARTMENTS.

RESOLUTION NO. OHA-_____

A RESOLUTION OF THE ONTARIO HOUSING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING TRANSFER OF OWNERSHIP OF WAVERLY PLACE APARTMENTS AND WATERFORD COURT APARTMENTS.

8. AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 36 (EUCALYPTUS 190)

That the City Council consider and adopt an ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 36 (Eucalyptus 190).

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. 36 (EUCALYPTUS 190).

9. AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH SECURITAS SECURITY SERVICES USA, INC., FOR UNARMED SECURITY GUARD SERVICES

That the City Council authorize the City Manager to execute an amendment (on file with the Records Management Department) to the existing Professional Services Agreement with Securitas Security Services USA, Inc., of Ontario, California, extending the agreement for two years with the option of two one-year extensions, at an estimated annual cost of \$262,993; and authorize the City Manager to execute future amendments to modify service locations on an as-needed basis up to the Council approved budgeted amount.

10. APPLICATION FOR GRANT FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) FY2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT PROGRAM

That the City Council authorize the City Manager to execute all documents necessary to apply for and accept 12-month grants in the amount of \$887,450 from the California Office of Traffic Safety (OTS) for participation in the FY2017 Selective Traffic Enforcement Program (STEP) Grant Program.

11. ORDINANCES AMENDING CHAPTERS 3, 7 AND 8B OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO SOLID WASTE, SEWER AND WATER SERVICES AND FEES

That the City Council:

- (A) Consider and adopt ordinances amending Chapter 3, of Title 6 of the Ontario Municipal Code related to solid waste services and authorizing increases to the rates for solid waste service charges and fees; and
- (B) Consider and adopt ordinances 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

- (C) Consider and adopt ordinances amending Chapter 8B, of Title 6 of the Ontario Municipal Code relating to water services and authorizing increases to the rates for water service charges and fees.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SUBDIVISIONS (D) AND (E) OF SECTION 6-8.52, OF CHAPTER 8B, OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO WATER SERVICE CONNECTIONS; AND AMENDING SECTION 6-3.107 OF ARTICLE 1 OF CHAPTER 3, OF TITLE 6, ARTICLE 6 OF CHAPTER 3, OF TITLE 6, AND ADDING SECTIONS 6-3.604 AND 6-3.605 TO ARTICLE 6 OF CHAPTER 3, OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO SOLID WASTE MANAGEMENT.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING INCREASES TO THE RATES FOR ITS SOLID WASTE SERVICE CHARGES AND OTHER MISCELLANEOUS ONE-TIME SOLID WASTE FEES.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING INCREASES TO THE RATES FOR ITS SEWER SERVICE CHARGES.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING INCREASES TO THE RATES FOR ITS WATER SERVICE CHARGES, NEW METER CHARGES AND OTHER MISCELLANEOUS ONE-TIME WATER FEES.

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.

12. A PUBLIC HEARING REGARDING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT AND A THIRD AMENDMENT TO AGREEMENT FOR PURCHASE OF OPERATING COVENANT AND OPERATING COVENANT BETWEEN THE CITY OF ONTARIO AND MARK CHRISTOPHER CHEVROLET, INC. PURSUANT TO GOVERNMENT CODE SECTION 53083; CONSIDERATION OF RESOLUTIONS ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT, APPROVING THE OPERATING COVENANT AGREEMENT, AND MAKING RELATED FINDINGS

That the City Council take the following actions:

- (A) Hold the public hearing;
- (B) Adopt a resolution accepting the Economic Development Subsidy Report prepared pursuant to Government Code Section 53083 regarding a Third Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant (on file with the Records Management Department) by and between the City of Ontario and Mark Christopher Chevrolet, Inc. a Delaware Corporation ("Mark Christopher");
- (C) Adopt a resolution approving the Third Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant for no less than ten years, with the option to exercise the unilateral right to extend the term of the Agreement for an additional ten years, authorizing the City Manager to execute the Operating Covenant Agreement, and making related findings; and
- (D) Direct City staff to file a categorical exemption based upon the City Council's finding that the impacts for this existing facility is not a project and subject to environmental review and that there is no possibility that the activity in question may have a significant effect on the environment.

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, ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT PREPARED PURSUANT TO GOVERNMENT CODE SECTION 53083 REGARDING AN OPERATING COVENANT AGREEMENT BY AND BETWEEN THE CITY OF ONTARIO AND MARK CHRISTOPHER CHEVROLET, INC.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE OPERATING COVENANT AGREEMENT BETWEEN THE CITY OF ONTARIO AND MARK CHRISTOPHER CHEVROLET, INC. AND MAKING RELATED FINDINGS.

13. A PUBLIC HEARING TO CONSIDER RESOLUTIONS REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 37 (PARK & TURNER NE SERVICES) AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES

That the City Council:

- (A) Adopt a resolution establishing City of Ontario Community Facilities District No. 37 (Park & Turner NE 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. 37 (Park & Turner NE 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. 37 (Park & Turner NE 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. 37 (PARK & TURNER NE 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. 37 (PARK & TURNER NE 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. 37 (PARK & TURNER NE SERVICES).

14. A CITY INITIATED REQUEST TO [1] CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM BUSINESS PARK TO INDUSTRIAL (FILE NO. PGPA15-002); [2] MODIFY THE FUTURE BUILDOUT TABLE TO BE CONSISTENT WITH THE LAND USE DESIGNATION CHANGES (AMENDING EXHIBITS LU-01 AND LU-03); AND [3] CHANGE THE ZONING DESIGNATIONS (FILE NO. PZ15-003) FROM IL, LIGHT INDUSTRIAL WITH ES, EMERGENCY SHELTER OVERLAY TO IG, GENERAL INDUSTRIAL WITH ES, EMERGENCY SHELTER OVERLAY FOR SIXTEEN PARCELS LOCATED 260 TO 625 FEET NORTH OF MISSION BOULEVARD BETWEEN BENSON AND MAGNOLIA AVENUES (APNS: 1011-211-07, 1011-211-10, 1011-211-12 THRU 21, 1011-221-01 THRU 03 AND 1011-221-20)

That the City Council adopt a resolution approving an addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140), adopted by City Council on January 27, 2010; adopt a resolution approving General Plan Amendment File No. PGPA15-002 to change the land use designations of certain properties (Exhibit LU-01 and LU-03); and, introduce and waive further reading of an ordinance approving a Zone Change (File No. PZC15-003) to create consistency between the zoning and the General Plan land use designations of the subject properties.

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

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ADDENDUM TO THE ONTARIO PLAN (TOP) CERTIFIED ENVIRONMENTAL IMPACT REPORT (SCH NO. 2008101140) FOR FILE NO. PGPA15-002 AND PZC15-003 FOR WHICH AN INITIAL STUDY HAS BEEN PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 1011-211-07, 1011-211-10, 1011-211-12 THRU 21, 1011-221-01 THRU 03 AND 1011-221-20.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PGPA15-002, A CITY INITIATED REQUEST TO 1) CHANGE THE GENERAL PLAN LAND USE DESIGNATIONS OF SIXTEEN PARCELS FROM BUSINESS PARK TO INDUSTRIAL GENERALLY LOCATED 260 TO 625 FEET NORTH OF MISSION BOULEVARD BETWEEN BENSON AND MAGNOLIA AVENUES; AND 2) MODIFY THE FUTURE BUILDOUT TABLE TO BE CONSISTENT WITH THE LAND USE DESIGNATION CHANGES (AMENDING EXHIBITS LU-01 AND LU-03), AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 1011-211-07, 1011-211-10, 1011-211-12 THRU 21, 1011-221-01 THRU 03 AND 1011-221-20. (LAND USE CYCLE 3 FOR THE 2015 CALENDAR YEAR).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC15-003, A REQUEST TO CHANGE THE ZONING OF SIXTEEN PROPERTIES LOCATED 260 TO 625 FEET NORTH OF MISSION BOULEVARD BETWEEN BENSON AND MAGNOLIA AVENUES FROM IL (LIGHT INDUSTRIAL) WITH ES (EMERGENCY SHELTER) OVERLAY TO IG (GENERAL INDUSTRIAL) WITH ES (EMERGENCY SHELTER) OVERLAY IN ORDER TO MAKE THE ZONING CONSISTENT WITH THE ONTARIO PLAN LAND USE DESIGNATIONS OF THE PROPERTIES, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 1011-211-07, 1011-211-10, 1011-211-12 THRU 21, 1011-221-01 THRU 03 AND 1011-221-20.

STAFF MATTERS

City Manager Boling

COUNCIL MATTERS

CONSIDERATION AND ACTION ON CITY CLERK APPOINTMENT

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

ADJOURNMENT

CITY OF ONTARIO

Agenda Report
February 2, 2016

**SECTION:
CONSENT CALENDAR**

SUBJECT: PROFESSIONAL SERVICES AGREEMENTS FOR SALES TAX CONSULTING SERVICES RELATED TO AN EXISTING OPERATING COVENANT AGREEMENT

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute twenty-year agreements (on file with the Records Management Department) by and between the City of Ontario and Robert E. Cendejas and Associates, Inc.; Business Location Advisors, Inc.; and Strategic Business Locations, Inc., all of Diamond Bar, California, for sales tax consulting services in conjunction with an existing twenty-year Operating Covenant Agreement between the City of Ontario and Henry Schein, Inc. ("Henry Schein"), which includes the option to extend the term of the Agreement for an additional twenty years.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner

FISCAL IMPACT: The professional services agreements include a fee component calculated as 5% of the first \$5 million of annual local sales and use tax received should Henry Schein allocate such taxes to the City of Ontario. This fee covers reimbursement for specialized tax consulting services provided while assisting the City in negotiations and drafting of the Henry Schein Operating Covenant Agreement for their new regional sales office leased in the City of Ontario for a twenty year (plus option to extend for an additional twenty years) term. The fee also includes future consulting services for representation and all associated costs for administrative proceedings, State Board of Equalization meetings, conferences and appeals which may occur during the covenant agreement term. If approved, necessary appropriations adjustments will be included in future quarterly budget update reports to the City Council.

BACKGROUND: On December 15, 2015, the City Council approved a twenty year (plus option to extend for an additional twenty years) Operating Covenant Agreement with Henry Schein to establish a regional sales office within the City, expand its operations within the City as appropriate and remain in

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

Prepared by: Nicholas Gonzalez
Department: Economic Development

City Manager
Approval: 

Submitted to Council/O.H.A. 02/02/2016

Approved: _____

Continued to: _____

Denied: _____

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the City for not less than twenty years. By entering into the Operating Covenant Agreement, it is intended that substantial revenue for the City will be generated through additional local sales and use taxes that would not be available to the City without the location of Henry Schein. Henry Schein's physical presence in California, and particularly Ontario, adds diversity to and generates new opportunities for economic growth.

To help negotiate and draft the terms and conditions of the Operating Covenant Agreement with Henry Schein, the City worked with Robert E. Cendejas and Associates, Inc.; Business Location Advisors, Inc.; and Strategic Business locations, Inc. As payment for the work performed and in recognition of future efforts to ensure continued compliance with the Operating Covenant Agreement, a 5% fee has been negotiated to be applied to the first \$5 million of local sales and use tax received by the City each year for the length of the Henry Schein Operating Covenant Agreement. The fee will be split equally between the three consulting companies. The professional services agreements will run for the length of the Henry Schein Operating Covenant Agreement and be tied to that Agreement with the fee to be a portion of the local sales and use tax received by the City for the twenty year (plus option to extend for additional twenty years) term; and therefore it will not affect future Operating Budgets to be approved by the City Council. Should the BOE, during the term of this agreement, request repayment of any subject local sales and use tax, the City will receive a repayment of the proportionate fees paid to the consulting companies. The three consulting companies will also provide, at no additional cost to the City, representation and specialized tax consulting services pertaining to the Henry Schein Operating Covenant Agreement at administrative proceedings which may include BOE meetings, conferences and appeals before the BOE Board Members.

CITY OF ONTARIO

Agenda Report
February 2, 2016

SECTION:
CONSENT CALENDAR

SUBJECT: A CONSTRUCTION CONTRACT FOR THE SIXTH STREET STORM DRAIN PROJECT


RECOMMENDATION: That the City Council approve the plans and specifications, and award a construction contract (on file with the Records Management Department) to MCC Pipeline, Inc. for the Sixth Street Storm Drain Project (SM1002) for the bid amount of \$5,994,830 plus a fifteen percent (15%) contingency in the amount of \$899,225 for a total authorized amount of \$6,894,055; and authorize the City Manager to execute said contract and related documents and file a Notice of Completion at the conclusion of construction activities.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Adopted FY 2015-16 Budget includes appropriations for the construction of the Sixth Street Storm Drain Project from the Old Model Colony Storm Drain and Local Adjacent Storm Drain Development Impact Fees in the amount of \$7,173,199. A 15% contingency is recommended due to possible unforeseen conditions that may arise during construction of the project.

BACKGROUND: The Sixth Street Storm Drain Project is a Master Plan facility that drains 470 acres. The storm drain is located in Sixth Street, from the Cucamonga Creek Channel to Glenn Avenue, with laterals extending northerly on Vineyard Avenue and Baker Avenue. A project location map has been provided for reference as Exhibit "A". The storm drain project consists of installation of reinforced concrete pipes of various sizes ranging from 18-inch to 96-inch in diameter, construction of concrete channel connection and improvements, catch basins, and other drainage appurtenances for a total length of 8,300 lineal feet. The project also includes the construction of asphalt concrete pavement, Rubber Polymer Modified Type II Slurry Seal application (see Exhibit "B" for limits), and other various street improvements.

STAFF MEMBER PRESENTING: Louis Abi-Younes, P.E., City Engineer

Prepared by: Tricia Espinoza, P.E.
Department: Engineering
City Manager
Approval: 

Submitted to Council/O.H.A. 02/02/2016
Approved: _____
Continued to: _____
Denied: _____

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At the completion of the project, the flooding in Sixth Street during rain storms will be minimized; and driving conditions, pedestrian access and safety throughout the area will be improved.

The City solicited bids for this project; and on January 15, 2016, 15 bids were received as summarized below:

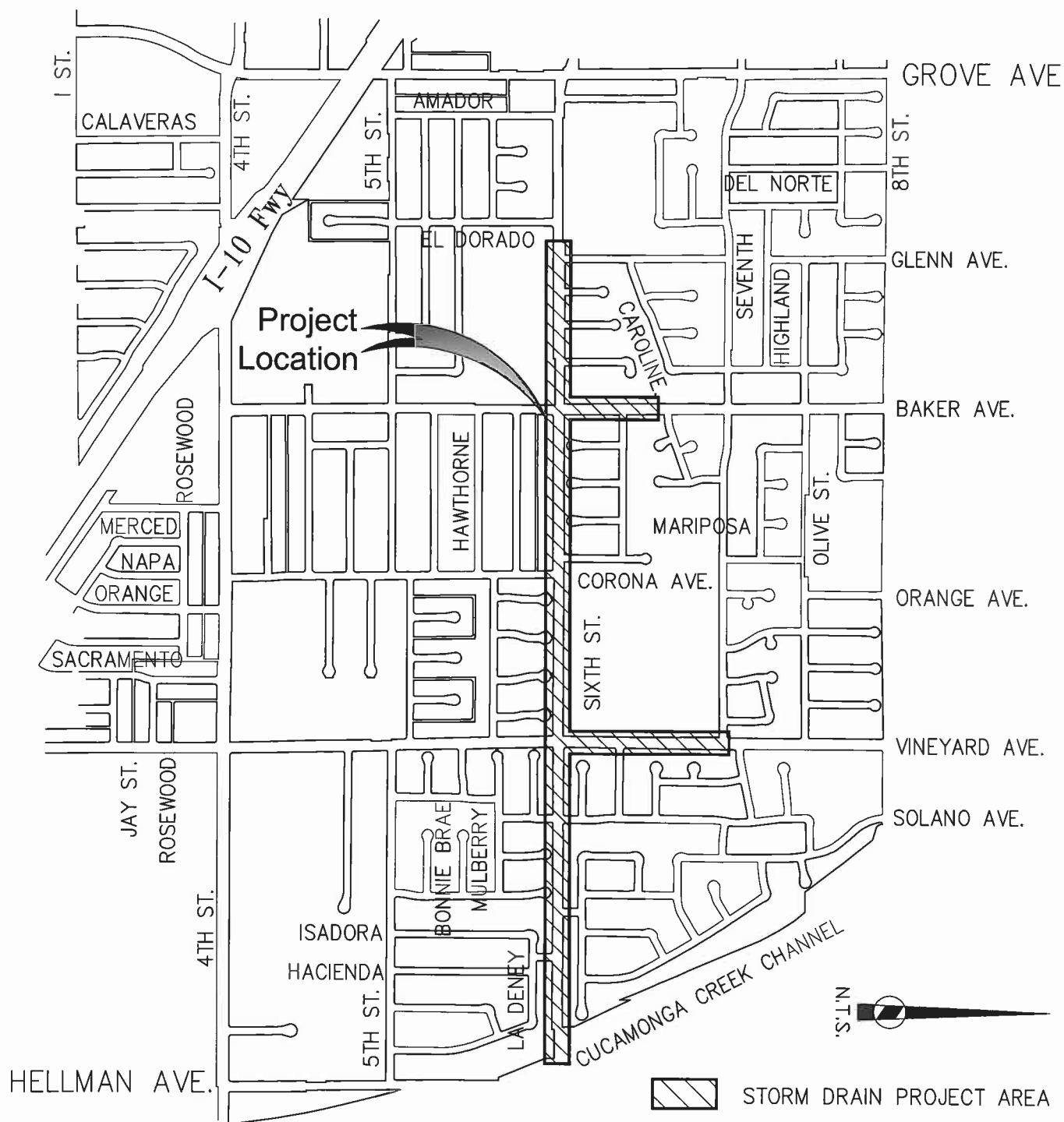
COMPANY	LOCATION	TOTAL BID AMOUNT
MCC Pipeline, Inc.	Yucaipa, CA	\$5,994,830
Downing Construction, Inc.	Redlands, CA	\$6,450,785
GRFCO, Inc.	Brea, CA	\$6,856,955
C.P. Construction	Ontario, CA	\$6,871,145
Mike Bubalo Construction Co.	Baldwin Park, CA	\$6,920,010
Apple Valley Construction	Apple Valley, CA	\$7,025,804
Weka, Inc.	Highland, CA	\$7,317,812
TBU, Inc.	Beaumont, CA	\$7,366,874
Sully-Miller Contracting Co.	Brea, CA	\$7,542,712
Gwinco, Inc.	Ontario, CA	\$7,851,158
Leatherwood Construction	Fountain Valley, CA	\$8,314,615
Christensen Brothers	Apple Valley, CA	\$8,701,754
Norstar Plumbing & Engineering	Alta Loma, CA	\$8,838,945
Mike Prlich & Sons, Inc.	Baldwin Park, CA	\$9,478,703
Utah Pacific Construction Co.	Murrieta, CA	\$9,555,469

MCC Pipeline, Inc. submitted the lowest responsive bid and has performed similar work in a satisfactory manner.

SIXTH STREET STORM DRAIN PROJECT

Project No. SM1002

GLENN AVENUE TO CUCAMONGA CREEK CHANNEL



CITY OF ONTARIO
SIXTH STREET STORM DRAIN SLURRY SEAL
PROJECT AREA

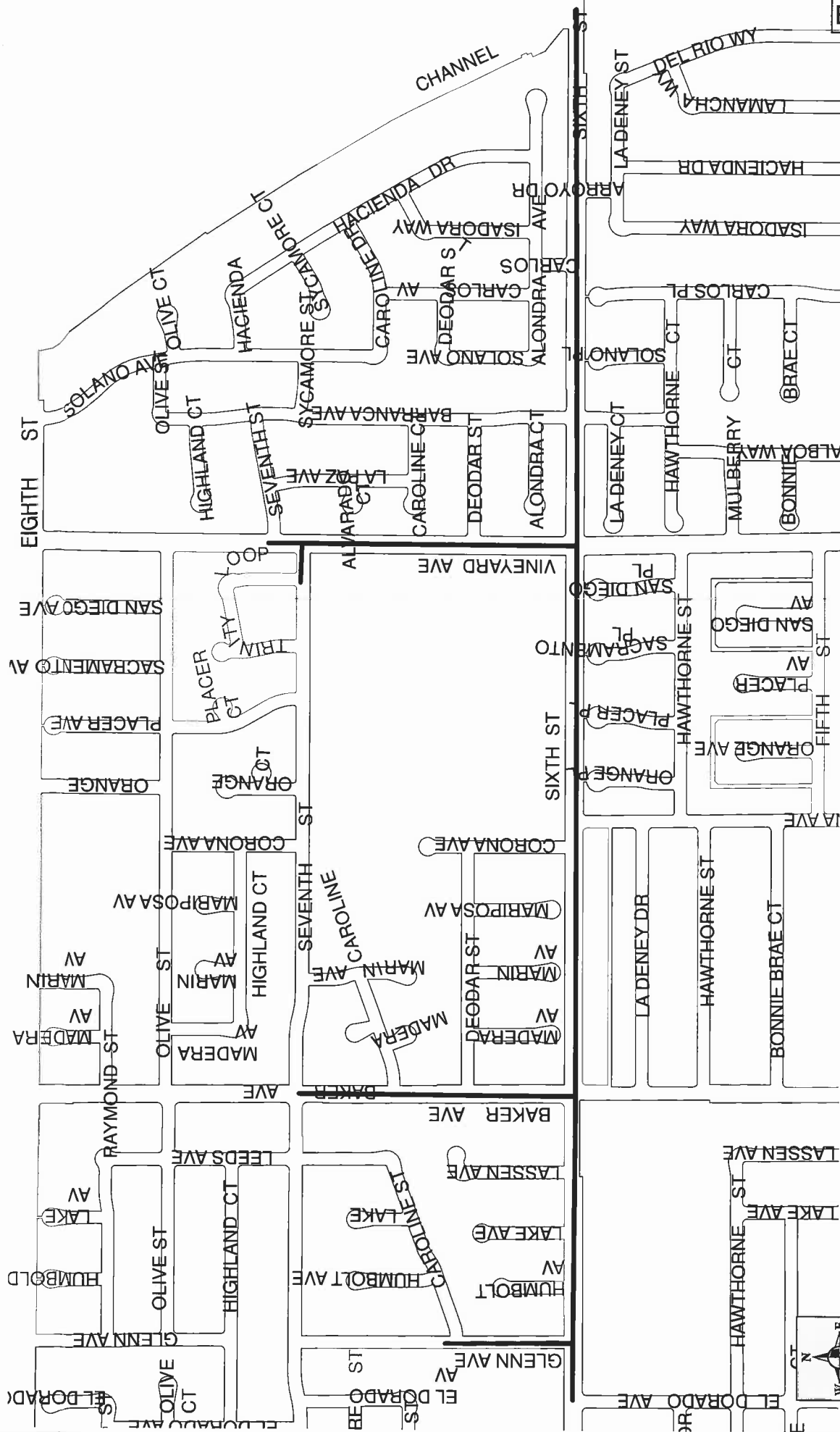


EXHIBIT "B"



Legend
— SIXTH STREET STORM DRAIN SLURRY SEAL

CITY OF ONTARIO

Agenda Report
February 2, 2016

SECTION:
CONSENT CALENDAR

SUBJECT: A PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION MATERIALS TESTING AND GEOTECHNICAL SERVICES FOR THE FRANCIS STREET STORM DRAIN PROJECT

RECOMMENDATION: That the City Council approve a Professional Services Agreement (on file with the Records Management Department) with Group Delta Consultants, Inc., of Ontario, California to provide Construction Materials Testing and Geotechnical Services for the Francis Street Storm Drain Project (SM9902) in the amount of \$117,370 plus a ten percent (10%) contingency in the amount of \$11,737 for a total authorized amount of \$129,107; and authorize the City Manager to execute said agreement.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The adopted FY 2015-16 Budget includes appropriations for the construction phase of the Francis Street Storm Drain Project in the amount of \$10,700,000. The construction contract for the Francis Street Storm Drain Project was awarded by the City Council on January 19, 2016. The City's share is 25% of the storm drain construction cost plus 100% of the street improvement construction costs, including costs for construction materials testing and geotechnical services associated with these activities. The City's share for geotechnical services, including contingency, is estimated at \$38,000 and will come from the Old Model Colony Storm Drain Development Impact Fees. The 10% contingency is recommended due to possible unforeseen conditions and additional materials testing that may be needed during the construction of the project.

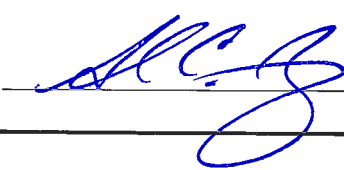
BACKGROUND: The Francis Street Storm Drain Project is a regional Master Plan facility that drains 670 acres. The storm drain is located in Francis Street, from the West Cucamonga Creek Channel to Bon View Avenue. Geotechnical services for this project will be needed for the installation of the storm drain, trench backfill and construction of asphalt and concrete pavement.

STAFF MEMBER PRESENTING: Louis Abi-Younes, P.E., City Engineer

Prepared by: Tricia Espinoza, P.E.

Department: Engineering

City Manager

Approval: 

Submitted to Council/O.H.A. 02/02/2016

Approved: _____

Continued to: _____

Denied: _____

5

On January 21, 2014, the City Council awarded on-call geotechnical contracts to Group Delta Consultants, Inc. and Kleinfelder, Inc. The City had received and reviewed at that time twenty-eight proposals, conducted interviews and selected the top two firms.

In December 2015, the City solicited proposals from both approved on-call consultants, and staff recommends Group Delta Consultant, Inc. to provide the Construction Materials Testing and Geotechnical Services for the Francis Street Storm Drain Project. Geotechnical and materials testing is essential on this project to ensure the Construction Contractor's compliance with the approved plans and specifications.

Group Delta Consultants, Inc. has been performing similar services for the City of Ontario in a satisfactory manner.

CITY OF ONTARIO

Agenda Report
February 2, 2016

SECTION:
CONSENT CALENDAR

SUBJECT: AUTHORIZE THE PURCHASE OF REPLACEMENT FLEET VEHICLES

RECOMMENDATION: That the City Council authorize the cooperative purchase and delivery of three 2016 Ford Focus sedans for the Code Enforcement Department in the amount of \$56,239; three 2016 Ford Super Duty F350 trucks for the Facilities Maintenance and Utilities Departments in the amount of \$80,208; four 2016 Chevrolet Silverado 1500 trucks for the Parks and Maintenance Department in the amount of \$94,768; and two Ford Escape SUVs for the Police Department in the amount of \$47,788 all from National Auto Fleet Group of Watsonville, California, consistent with the terms and conditions of the National Joint Powers Alliance (NJPA) Cooperative Contract 102811.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner

FISCAL IMPACT: The Fiscal Year 2015-16 Adopted Budget includes appropriations in the amount of \$300,000 from the Equipment Services Fund for the purchase of the replacement vehicles listed above. The total cost of the vehicles recommended for purchase is \$279,003.

BACKGROUND: The vehicles recommended for replacement in this action have outlived their useful lives, and it is no longer cost effective to maintain them. They are between 10 and 18 years old and are scheduled for replacement pursuant to ongoing efforts to reduce expenses, maximize useful life expectancy and extend replacement cycles of fleet equipment while ensuring safe and reliable operation.

Staff recommends the purchase of these vehicles from National Auto Fleet Group of Watsonville, California, consistent with the terms and conditions of the National Joint Powers Alliance (NJPA) Cooperative Contract 102811. This cooperative purchasing opportunity will allow the City to pool its procurement power with another public agency to obtain prices lower than would otherwise be possible. City of Ontario Municipal Code Section 2-6.11 (b) (3) allows for the purchase of supplies and equipment through cooperative purchasing when another governmental agency generally follows the provisions of Government Code Section 54201 through 54204.

STAFF MEMBER PRESENTING: Brent Schultz, Housing and Municipal Services Director

Prepared by: Craig Grabow
Department: Fleet Services

City Manager
Approval: 

Submitted to Council/O.H.A. 02/02/2016

Approved: _____

Continued to: _____

Denied: _____

CITY OF ONTARIO

Agenda Report
February 2, 2016

**SECTION:
CONSENT CALENDAR**

SUBJECT: RESOLUTIONS OF THE CITY OF ONTARIO AND THE ONTARIO HOUSING AUTHORITY (AS SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY), APPROVING THE TRANSFER OF PROJECTS AND ASSISTANCE IN CONNECTION WITH THE REDEMPTION OF RELATED CITY OF ONTARIO MULTIFAMILY HOUSING REVENUE REFUNDING BONDS (CAMBRIDGE SQUARE APARTMENTS) 2004 SERIES D, ONTARIO REDEVELOPMENT AGENCY MULTIFAMILY HOUSING REVENUE REFUNDING BONDS (WATERFORD COURT APARTMENTS) 2005 SERIES A, AND ONTARIO REDEVELOPMENT AGENCY MULTIFAMILY HOUSING REVENUE REFUNDING BONDS (WAVERLY PLACE APARTMENTS) 2004 SERIES B

RECOMMENDATION: That the City Council and the Ontario Housing Authority Board, acting as the Successor Agency to the Ontario Redevelopment Agency, take the following actions:

- (A) Adopt resolutions approving the transfer of projects and assistance in connection with the redemption of related City of Ontario Multifamily Housing Revenue Refunding Bonds (Cambridge Square Apartments located at 1037 North Archibald Avenue) 2004 Series D; Ontario Redevelopment Agency Multifamily Housing Revenue Refunding Bonds (Waterford Court Apartments located at 1675 East "G" Street) 2005 Series A; and Ontario Redevelopment Agency Multifamily Housing Revenue Refunding Bonds (Waverly Place Apartments located at 1725 East "G" Street) 2004 Series B; and
- (B) Authorize the City Manager/Executive Director to execute documents necessary to implement the transfers of the projects and redemption of the bonds.

**COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Operate in a Businesslike Manner**

Focus Resources in Ontario's Commercial and Residential Neighborhoods

STAFF MEMBER PRESENTING: Brent Schultz, Housing and Municipal Services Director

Prepared by: Katryna Gonzalez
Department: Housing/Municipal Services

City Manager
Approval: 

Submitted to Council/O.H.A. 02/02/2016

Approved: _____

Continued to: _____

Denied: _____

7

FISCAL IMPACT: All costs and expenses related to the transfer of the projects and redemption of the bonds will be paid by the current owner or new owners of the projects. A prepayment of the annual monitoring fees due under the three regulatory agreements, in the aggregate amount of \$120,608, will be paid to the City (\$42,251) and Authority (\$78,357) by the new owner. No City or Authority funds will be expended for this matter.

BACKGROUND: In 1996 and 1997, the City and the Ontario Redevelopment Agency (ORA) each issued bonds to refinance prior bond issuances, the proceeds of which were used to finance the Cambridge Square Apartments (formerly known as Daisy XIX Apartments), Waterford Court Apartments (formerly known as Raintree Apartments), and Waverly Place Apartments (formerly known as Daisy XX Apartments) along with other multifamily properties. In 2004, the then owner of the projects requested, and the City and ORA approved, the issuance of new bonds to refund the bonds existing on the projects.

Under the bond documents, the owner of the project has the right to transfer the properties subject to City and ORA approval which is to be granted upon receipt of various documents related to financial soundness and management experience.

The new purchaser of the projects will be Clear Capital LLC, a California limited liability company with offices located in Los Angeles. The principals of Clear Capital LLC are Greg Worchell, Dan Hardy, and Paul Pellizzon.

The property management firm of FPI Management will manage the projects upon closing. FPI Management oversees a portfolio of approximately 90,000 housing units nationwide, including 35,000 affordable housing units. FPI Management is headquartered in Folsom, California.

The seller of the projects, M.L. CASA III, L.P., a Delaware limited partnership, has indicated that it would like to effect a redemption of the outstanding bonds issued for the projects immediately prior to or concurrently with the transfer of the projects to the new owners, and that it will advance all funds necessary for such redemption. It is expected that the current owner of the bonds will tender them for payoff by the bond trustee on the date of transfer of the projects.

Based on a review of all required documents, the approval of the requested transfers by the City and the Ontario Housing Authority, as successor to the ORA, is appropriate. All existing affordability requirements will remain in place.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,
CALIFORNIA, APPROVING TRANSFER OF OWNERSHIP OF
CAMBRIDGE SQUARE APARTMENTS.

WHEREAS, on November 30, 2004, the City of Ontario (the "City") issued its \$6,087,000 initial principal amount of Multifamily Housing Revenue Refunding Bonds (Cambridge Square Apartments) 2004 Series D (the "2004 Bonds"), and the proceeds of the 2004 Bonds were used to refinance the Cambridge Square Apartments, located in the City (the "Project"); and

WHEREAS, ML CASA III, L.P., a Delaware limited partnership, the current owner of the Project (the "Current Owner") now desires to transfer the Project to Clear Cambridge, LLC and CP Cambridge, LLC (the "New Owners"), both of which are California limited liability companies which are affiliates of Clear Capital, LLC, a California limited liability company ("Clear Capital"), with title to the Project to be held by the New Owners as tenants in common; and

WHEREAS, the agreements related to the 2004 Bonds require the prior written consent of the City to such transfer after the submission of certain documents to the City specified in the 2004 Bond documents; and

WHEREAS, representatives of Clear Capital have provided information relative to the experience of Clear Capital in respect of the ownership and operation of rental housing facilities similar to the Project, and have submitted drafts of an Assignment and Assumption Agreement (the "Assignment Agreement") and an opinion of counsel to the New Owners (the "Opinion"), as required by the 2004 Bond documents; and

WHEREAS, City staff and consultants have reviewed information and documents provided on behalf of Clear Capital and the New Owners, and have confirmed that Clear Capital has experience in the ownership of rental housing facilities and that the Assignment Agreement and Opinion conform to the requirements of the applicable 2004 Bond documents; and

WHEREAS, the Current Owner has indicated its intent to cause a redemption of all of the outstanding 2004 Bonds immediately prior to or concurrently with the transfer of the Project to the New Owners, and has requested that the City provide assistance as may be required under the 2004 Bond documents to cause such redemption to occur; and

WHEREAS, Clear Capital has agreed to pay costs of the City in connection with the City's approval of the transfer of ownership of the Project; and

WHEREAS, the City Council now desires to approve the transfer of the ownership of the Project to the New Owners and to authorize the execution of documents related to such transfer, and otherwise to authorize City Staff to assist with the redemption of the 2004 Bonds.

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

1. The City hereby approves the transfer of the Project from the Current Owner to the New Owners, subject to the receipt by the City Manager of an Assignment Agreement executed by the parties thereto, and an executed Opinion and an opinion of Bond Counsel as referenced in Section 10(v) of the Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants, dated as of November 1, 2004 (the "Regulatory Agreement"), among the City, the trustee for the 2004 Bonds (the "Trustee") and the Current Owner. The City Manager is hereby authorized and directed to execute and deliver a Consent of Issuer in the form attached to the Assignment Agreement, and the execution and delivery by the City Manager of the Consent of Issuer shall be conclusive evidence of the approval by the City of the transfer of the Project to the New Owners.

2. The City Council hereby authorizes the City Manager to execute and deliver instructions to the Trustee prepared by Bond Counsel in connection with the redemption of the 2004 Bonds; provided that such instructions impose no cost or obligation on the City in respect of such redemption.

3. Quint & Thimmig LLP is hereby approved as Bond Counsel to the City with respect to the transfer of ownership of the Project and the redemption of the 2004 Bonds; provided that the fees and expenses of Bond Counsel shall be paid by the Current Owner, Clear Capital or the New Owners.

4. All actions heretofore taken by the officers and agents of the City with respect to the transfer of the Project and the proposed redemption of the 2004 Bonds described in this Resolution are hereby approved, confirmed and ratified, and the proper officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable in order to consummate the transfer of the Project to the New Owners and the redemption of the 2004 Bonds.

5. The City Manager is hereby delegated the authority to approve, for and on behalf of the City, subsequent transfers of the Project, so long as the requirements of Section 10(v) of the Regulatory Agreement are, to his satisfaction, satisfied in connection with any such subsequent transfer, and the 2004 Bonds have theretofore been paid in full.

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

PASSED, APPROVED, and ADOPTED this 2nd day of February, 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2016- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 2, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2016- duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016.

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

RESOLUTION NO. OHA-_____

A RESOLUTION OF THE ONTARIO HOUSING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING TRANSFER OF OWNERSHIP OF WAVERLY PLACE APARTMENTS AND WATERFORD COURT APARTMENTS.

WHEREAS, on November 30, 2004, the former Ontario Redevelopment Agency (the "Former Agency") issued its \$7,047,000 initial principal amount of Multifamily Housing Revenue Refunding Bonds (Waverly Place Apartments) 2004 Series B (the "2004 Bonds"), and the proceeds of the 2004 Bonds were used to refinance the Waverly Place Apartments, located in the City of Ontario (the "Waverly Place Apartments"); and

WHEREAS, on May 31, 2005, the Former Agency issued its \$6,165,000 initial principal amount of Multifamily Housing Revenue Refunding Bonds (Waterford Court Apartments) 2005 Series A (the "2005 Bonds" and, together with the 2004 Bonds, the "Bonds"), and the proceeds of the 2005 Bonds were used to refinance the Waterford Court Apartments, also located in the City of Ontario (the "Waterford Court Apartments" and, together with the Waverly Place Apartments, the "Housing Facilities"); and

WHEREAS, ML CASA III, L.P., a Delaware limited partnership, the current owner of the Housing Facilities (the "Current Owner") now desires to transfer Waverly Place Apartments to Clear Waverly, LLC and CP Waverly, LLC (to be owned by such entities as tenants in common) and the Waterford Court Apartments to Clear Waterford, LLC and CP Waterford, LLC (to be owned by such entities as tenants in common), each of which entities is a California limited liability company and an affiliate of Clear Capital, LLC, a California limited liability company ("Clear Capital"), and all of such entities being referred to collectively as the "New Owners"; and

WHEREAS, the documents related to the 2004 Bonds (with respect to the Waverly Place Apartments) and the 2005 Bonds (with respect to the Waterford Court Apartments) require the prior written consent of the Former Agency to the respective transfers after the submission of certain documents to the Former Agency specified in the 2004 Bond documents and the 2005 Bond documents, respectively; and

WHEREAS, the Ontario Housing Authority (the "Authority"), by a series of actions including, without limitation (a) adoption by the City Council of the City of Ontario, acting as the Successor Agency to the Former Agency, of Resolution No. 2012-022 on May 15, 2012, and (b) adoption by the Authority of Resolution No. OHA-069 on May 15, 2012, has succeeded to certain rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Former Agency, including, without limitation, those under the agreements with respect to the Bonds; and

WHEREAS, representatives of Clear Capital have provided information relative to the experience of Clear Capital in respect of the ownership and operation of rental housing facilities similar to the Housing Facilities, and have submitted drafts of two Assignment and Assumption Agreements, one with respect to each of the Housing

Facilities (each an "Assignment Agreement" and collectively the "Assignment Agreements") and opinions of counsel to the New Owners (each an "Opinion" and collectively the "Opinions"), as required by the Bond documents; and

WHEREAS, City staff and consultants have reviewed information and documents provided on behalf of Clear Capital and the New Owners, and have confirmed that Clear Capital has experience in the ownership of rental housing facilities and that the Assignment Agreements and Opinions conform to the requirements of the applicable Bond documents; and

WHEREAS, the Current Owner has indicated its intent to cause a redemption of all of the outstanding Bonds immediately prior to or concurrently with the transfers of the Housing Facilities to the New Owners, and has requested that the Authority provide assistance as may be required under the Bond documents to cause such redemptions to occur; and

WHEREAS, Clear Capital has agreed to pay costs of the Authority in connection with its approval of the transfers of ownership of the Housing Facilities; and

WHEREAS, the Authority now desires to approve the transfers of the Housing Facilities to the respective New Owners and to authorize the execution of documents related to such transfer, and otherwise to authorize Authority Staff to assist with the redemption of the Bonds.

NOW, THEREFORE, BE IT RESOLVED by the Ontario Housing Authority as follows:

1. The Authority hereby approves the transfers of the Housing Facilities from the Current Owner to the respective New Owners, subject to, with respect to each of the two Housing Facilities, the receipt by the Executive Director of an Assignment Agreement executed by the parties thereto, and an executed Opinion and an opinion of Bond Counsel as referenced in Section 10(v) of the Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants, among the Authority, as successor to the Former Agency, the trustee for the applicable Bonds and the Current Owner. The Executive Director is hereby authorized and directed to execute and deliver a Consent of Issuer in the forms attached to each of the Assignment Agreements, and the execution and delivery by the Executive Director of a Consent of Issuer shall be conclusive evidence of the approval by the Authority of the transfer of the respective Housing Facility referenced therein to the applicable New Owners.

2. The Authority hereby authorizes the Executive Director to execute and deliver instructions to the trustee for each series of the Bonds prepared by Bond Counsel in connection with the redemption of each series of the Bonds; provided that such instructions impose no cost or obligation on the Authority in respect of such redemption.

3. Quint & Thimmig LLP is hereby approved as Bond Counsel to the Authority with respect to the transfers of ownership of the Housing Facilities and the redemption of the Bonds; provided that the fees and expenses of Bond Counsel shall be paid by the Current Owner, Clear Capital or the New Owners.

4. All actions heretofore taken by the officers and agents of the Authority with respect to the transfers of the Housing Facilities and the proposed redemption of the Bonds described in this Resolution are hereby approved, confirmed and ratified, and the proper officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable in order to consummate the transfers of the Housing Facilities to the New Owners and the redemption of the Bonds.

5. The Executive Director is hereby delegated the authority to approve, for and on behalf of the Authority, subsequent transfers of the either of Housing Facilities, so long as the requirements of Section 10(v) of the applicable Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants are, to his satisfaction, satisfied in connection with any such subsequent transfer, and the applicable Bonds have theretofore been paid in full.

6. The Secretary of the Ontario Housing Authority shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 2nd day of February, 2016

PAUL S. LEON, CHAIRMAN

ATTEST:

VICKI KASAD, ASSISTANT AUTHORITY SECRETARY

APPROVED AS TO FORM:

AUTHORITY COUNSEL

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

I, VICKI KASAD, Assistant Secretary of the Ontario Housing Authority, DO HEREBY CERTIFY that the foregoing Resolution No. OHA- was duly passed and adopted by the Board Members of the Ontario Housing Authority at their regular meeting held February 2, 2016, by the following roll call vote, to wit:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

VICKI KASAD, ASSISTANT AUTHORITY SECRETARY

(SEAL)

The foregoing is the original of Resolution No. OHA duly passed and adopted by the Ontario Housing Authority at their regular meeting held February 2, 2016.

VICKI KASAD, ASSISTANT AUTHORITY SECRETARY

(SEAL)

CITY OF ONTARIO

Agenda Report
February 2, 2016

SECTION:
CONSENT CALENDAR

**SUBJECT: AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 36 (EUCALYPTUS 190)**

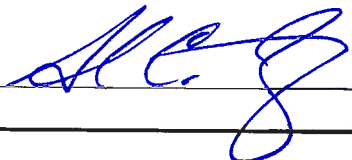
RECOMMENDATION: That the City Council consider and adopt an ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 36 (Eucalyptus 190).

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

FISCAL IMPACT: The use of Mello-Roos financing for facilities in the residential development of the Eucalyptus 190 project is estimated to generate approximately \$6 million, which will be used to help fund a portion of the public infrastructure improvements that will serve the project, and approximately \$275,000 per year, at build out, to fund City services. 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 finance various kinds of public infrastructure facilities and government services. On December 1, 2015, the City Council, in accordance with the Mello-Roos Act, took the initial steps in the formation of Community Facilities District No. 36 (Eucalyptus 190) with the adoption of Resolution No. 2015-131, declaring the City's intention to establish the district and to authorize the levying of special taxes in the district. The Resolution of Intention set the public hearing on the establishment of the community facilities district for the regularly scheduled City Council meeting of January 19, 2016 to consider formation matters. On January 19, 2016, the City Council conducted the public hearing, adopted the resolution of formation for the District, and introduced and waived further reading of the ordinance authorizing the levy of special taxes within

STAFF MEMBER PRESENTING: Grant D. Yee, Administrative Services/Finance Director

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

Submitted to Council/O.H.A. 02/02/2016
Approved: _____
Continued to: _____
Denied: _____

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City of Ontario Community Facilities District No. 36 (Eucalyptus 190). Adoption of the ordinance will conclude the formation process for the District.

The Eucalyptus 190 project addresses the residential development of approximately 40 gross acres located generally east of Archibald Avenue, west of Park Place Avenue, south of Eucalyptus Avenue and north of Parkview Street. At build out, the development is projected to include 190 detached units.

Included, as part of the resolution of intention and the formation, is the proposed Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 36 (Eucalyptus 190). The term and structure 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, and are 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 provision of the Mello-Roos Act, to ensure that home buyers are making an informed decision, all residential builders in the Ontario Ranch community facilities districts will be required to disclose the maximum annual special tax amount to each homeowner before entering into a sales contract.

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. 36 (EUCALYPTUS 190).

WHEREAS, on December 1, 2015, 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. 36 (Eucalyptus 190), and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 36 (Eucalyptus 190) (the "Community Facilities District") and to finance certain public facilities (the "Facilities") and services (the "Services"); and

WHEREAS, on January 19, 2016, 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. 36 (Eucalyptus 190), 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. 36 (Eucalyptus 190)" and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 36 (Eucalyptus 190)", 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 January 19, 2016, 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 2016-17 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 amount 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 Assistant 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 Assistant 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 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3038 was duly introduced at a regular meeting of the City Council of the City of Ontario held January 19, 2016 and adopted at the regular meeting held February 2, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3038 duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016 and that Summaries of the Ordinance were published on January 26, 2016 and February 9, 2016, in the Inland Valley Daily Bulletin newspaper.

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report

February 2, 2016

SECTION: CONSENT CALENDAR

SUBJECT: AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH SECURITAS SECURITY SERVICES USA, INC., FOR UNARMED SECURITY GUARD SERVICES

RECOMMENDATION: That the City Council authorize the City Manager to execute an amendment (on file with the Records Management Department) to the existing Professional Services Agreement with Securitas Security Services USA, Inc., of Ontario, California, extending the agreement for two years with the option of two one-year extensions, at an estimated annual cost of \$262,993; and authorize the City Manager to execute future amendments to modify service locations on an as-needed basis up to the Council approved budgeted amount.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Maintain The Current High Level of Public Safety
Operate in a Businesslike Manner

FISCAL IMPACT: The estimated annual cost for citywide security services is \$262,993. The proposed Professional Services Agreement Amendment incorporates negotiated hourly billing rates in response to the 11% minimum wage increase for the State of California effective January 2016. The billing rates are fixed for two years, and an escalation of CPI is permitted in the option years. Appropriations are included in the Police Department's FY 2015-16 current operating budget to cover these services; however, based on the new annual cost, additional appropriations of \$60,400 are necessary. If approved, the additional appropriations of \$60,400 will be included in the Mid-Year Budget Report to the City Council. Funding for the subsequent year will be included in the proposed operating budgets of the respective fiscal years subject to City Council approval.

BACKGROUND: In December, 2006, the City Council approved a Professional Services Agreement with Securitas Security Services USA, Inc. for unarmed security guard services as a result of a competitive proposal process. The general locations patrolled by Securitas include the Civic Center area (City Hall, Senior Center and Library interior and exterior), the Museum, Ontario Town Square, and the East Ontario Metrolink Station.

STAFF MEMBER PRESENTING: Brad Kaylor, Chief of Police

Prepared by: Scott Melendrez
Department: Police Department

City Manager
Approval: 

Submitted to Council/O.H.A. 02/02/2016

Approved: _____

Continued to: _____

Denied: _____

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The current agreement term was through January 2016. Staff recommends amending the current agreement for an additional two years based on Securitas Security Services' satisfactory performance; and authorize the option to extend for up to two additional years.

CITY OF ONTARIO

Agenda Report
February 2, 2016

**SECTION:
CONSENT CALENDAR**

SUBJECT: APPLICATION FOR GRANT FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) FY2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT PROGRAM

RECOMMENDATION: That the City Council authorize the City Manager to execute all documents necessary to apply for and accept 12-month grants in the amount of \$887,450 from the California Office of Traffic Safety (OTS) for participation in the FY2017 Selective Traffic Enforcement Program (STEP) Grant Program.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Maintain the Current High Level of Public Safety
Pursue City's Goals and Objectives by Working with Other Governmental Agencies.

FISCAL IMPACT: Grant awards will be announced in July 2016 and the grant period is October 1, 2016 – September 30, 2017. These grants are reimbursable on a quarterly basis, funding police overtime, education, equipment, supplies, and training to conduct DUI saturation patrols, special traffic enforcements, field enforcements and education, and sobriety checkpoints. The approximate grant funding reimbursement is \$887,450. The STEP grant may be comprised of, but not limited to, overtime enforcements, field education, equipment, materials, and travel expenses. The City is not required to provide matching funds for the grants. If awarded, the revenue and associated expenditure adjustments will be included in the Fiscal Year 2016-17 First Quarter Budget Report.

BACKGROUND: The California Office of Traffic Safety (OTS), through the National Highway Traffic Safety Administration (NHTSA), offers local law enforcement agencies overtime grants to migrate traffic safety program deficiencies, expand ongoing activities, develop new programs, and conduct sobriety checkpoints. The grant period includes two "National Impaired Driving Campaign" mobilization periods: Winter holiday period is from December 14, 2016 through January 1, 2017; and Labor Day period is from August 11, 2017 through September 4, 2017. Sobriety checkpoints, DUI saturation patrols and special traffic enforcements will be scheduled during each of the highly publicized mobilization periods, and additional operations will continue to be conducted outside the mobilization

STAFF MEMBER PRESENTING: Brad Kaylor, Chief of Police

Prepared by: Donna Bailey

Department: Police

City Manager

Approval:

Submitted to Council/O.H.A.

Approved:

Continued to:

Denied:

02/02/2016

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periods. Each overtime enforcement and checkpoint will be conducted accordingly to each operation which may include supervisors, officers, technicians, and/or clerical/other staff members.

The goals of the grant program include: (1) reducing the number of people killed in alcohol-involved crashes through combined efforts of local law enforcement agencies; (2) California Highway Patrol, and OTS; reducing the total number of traffic collisions that occur in the city; informing drivers about increased enforcement periods and warn drivers that the only way to “Avoid” arrest and/or injury or death is to drive sober; and network law enforcement agencies regionally and conduct multiple joint operations to decrease alcohol related issues such as DUI’s and underage drinking.

CITY OF ONTARIO

Agenda Report
February 2, 2016

**SECTION:
CONSENT CALENDAR**

SUBJECT: ORDINANCES AMENDING CHAPTERS 3, 7 AND 8B OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO SOLID WASTE, SEWER AND WATER SERVICES AND FEES

RECOMMENDATION: That the City Council:

- (A) Consider and adopt ordinances amending Chapter 3, of Title 6 of the Ontario Municipal Code related to solid waste services and authorizing increases to the rates for solid waste service charges and fees; and
- (B) Consider and adopt ordinances 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
- (C) Consider and adopt ordinances amending Chapter 8B, of Title 6 of the Ontario Municipal Code relating to water services and authorizing increases to the rates for water service charges and fees.

**COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Operate in a Businesslike Manner**

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

FISCAL IMPACT: A review of the service charges for the Utilities Enterprise Funds (Solid Waste, Sewer and Water) has been prepared covering Fiscal Year 2015-16 and Fiscal Year 2016-17. This review is provided as Exhibit "A" to the ordinances and is incorporated by reference as part of the administrative record. Current service charges for solid waste, sewer and water will not provide adequate revenues to meet operational needs through FY 2016-17; therefore, rate increases are recommended for each of these services on March 4, 2016 and January 1, 2017. The current average residential combined utility bill (solid waste, sewer and water) for City charges is \$106.52 per month. These recommendations will result in an average monthly increase of \$1.88, or 1.8%, in the first year and \$1.88, or 1.7%, in the second year.

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Michael Sigsbee
Department: MU/Administration

City Manager
Approval: 

Submitted to Council/O.H.A. 02/02/2016

Approved: _____

Continued to: _____

Denied: _____

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BACKGROUND: On January 19, 2016, the City Council held a public hearing to consider all written protests against the proposed increase to solid waste, sewer and water service charges and fees in accordance with California Constitution, Article XIII D, Section 6(a). At conclusion of the hearing, it was determined that the three written protests out of 40,661 parcels did not constitute a majority protest. The public hearing was closed and City Council introduced ordinances amending Chapters 3, 7 and 8B of Title 6 of the Ontario Municipal Code and amending solid waste, sewer and water service charges and fees.

Pursuant to Proposition 218 (California Constitution, Article XIII D, Section 6), the City is required to comply with the following procedures prior to increasing solid waste, sewer and water 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 December 4, 2015 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) 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 January 19, 2016 (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 Rates & Ordinance Changes

Utility services for solid 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 fees and charges (rates) and the budgets are set annually. Rates and services are reviewed periodically (see Exhibit “A” Rate

Report to the ordinances, incorporated by reference as part of the administrative record) 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 basis and reasons for the proposed increases are to enable the City to recover operating expenses, and to maintain the operational and financial stability of the utilities, while maintaining our commitment to provide the highest quality services at the lowest possible rates for our customers. The proposed rates are based on multi-year financial plans. The multi-year financial plans assess the City's revenue requirements for both operations and capital facilities for solid waste, sewer and water including information from the most recent master plans. The proposed rate increases will occur on March 4, 2016 and January 1, 2017.

The current and proposed rates as well as other minor changes to reflect current operating practices and legislative mandates are set forth in the attached ordinances amending Chapters 3, 7 and 8B of Title 6, of the Ontario Municipal Code relating to services and fees for solid waste, sewer and water services.

Solid Waste

Solid Waste Utility Fund expenses consist of landfill disposal costs including handling, transfer, and recycling services; operation and maintenance (O&M) expenses including collection and hauling, household hazardous waste, general overhead costs related to supervision, utility billing and customer service, cost allocations to the General Fund for City provided services; street sweeping and illegal dumping clean up services; and a capital improvement program.

The Solid Waste Utility Fund faces many challenges in the coming years that continue to increase the cost of providing solid waste services. Some of these challenges are:

- Increasing handling, transfer and landfill disposal costs; and
- Legislative mandates related to expanded diversion and recycling in order to help reduce greenhouse gas emissions, such as commercial and industrial recycling, food waste recycling, and tire, mattress, and electronic waste handling and recycling.

To offset some of the cost increases associated with handling and disposal and regulatory requirements, the following cost avoidance and cost cutting measures have been implemented which will limit the proposed rate increase to a minimum:

- Extending the useful life of solid waste vehicles to reduce capital replacement cost;
- Increasing operational efficiency to reduce labor cost; and
- Special collection events.

However, the City's current solid waste rates will not generate adequate revenue to cover the City's projected expenditures for solid waste services. The recommended solid waste rate increases will increase the average residential solid waste bill by \$0.27 per month or 1% from the current rate of \$27.14 to the

rate of \$27.41 effective on bills sent on or after March 4, 2016, and by \$0.27 per month or 1% to the rate of \$27.68 effective on bills sent on or after January 1, 2017.

Sewer

The Sewer Utility Fund faces many challenges in the coming years that continue to increase the cost of providing sewer services. Some of these challenges are:

- Increased sewer treatment cost (IEUA Pass-Through);
- Aging sewer system, which requires more frequent maintenance, repairs and replacement; and
- Legislative mandates to ensure adequate sewer capacity and maintenance.

To offset some of the cost increases associated with increasing regulatory requirements and the maintenance and replacement of aging infrastructure, the following cost avoidance and cost cutting measures have been implemented which will limit the proposed rate increase to a minimum:

- Extending the useful life of vehicles and equipment to reduce capital replacement cost; and
- Increasing operational efficiency to reduce labor cost.

The City maintains the sewer collection system to provide a high level of customer service and comply with Federal, State and local laws and regulations, particularly Waste Discharge Requirement (WDR) and Sanitary Sewer Overflow (SSO) regulations. These regulations require that the collection system be properly managed, operated, and maintained at all times and that adequate capacity to convey base flows and peak flows for all parts of the collection system is provided. The SSO regulations require video inspecting of all sewer lines and taking all feasible steps to stop and mitigate the impact of sanitary sewer overflows.

The City contracts with the Inland Empire Utilities Agency (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 recommended increases in the City monthly sewer service charge are needed to fund capital construction replacement projects to correct system deficiencies and improve system reliability, meet operational needs, and comply with mandated SSO regulations.

The City sewer monthly rate is recommended to increase by \$0.13 per EDU or 1% from the current \$13.37 per EDU to \$13.50 per EDU effective on bills sent on or after March 4, 2016 and by \$.013 or 1% to \$13.63 per EUD effective on bills sent on or after January 1, 2017.

Water

The water industry throughout California faces many challenges in the coming years, including the current drought conditions throughout the state. Many of these challenges continue to increase the cost of providing water services. Some of these challenges are:

- The impact of the historic drought on imported water availability, which constitutes approximately one third of the City's water supply;
- The cost of acquiring additional groundwater production rights needed to supplement the City production rights;
- Increased costs to replace and reconstruct aging water facilities and to construct new facilities to correct existing system deficiencies; and
- Legislative mandates related to more stringent Drinking Water Standards and the presence of various plumes of groundwater contaminants, such as nitrates, volatile organics and perchlorate, which reduce the useful life of some of the existing wells, limit the areas where new wells can be drilled, or require expensive water treatment.

To offset some of the cost increases to meet increasing regulatory requirements, pay for more expensive imported water and replace and maintain aging infrastructure, the following cost avoidance and cost cutting measures have been implemented which will limit the proposed rate increase to a minimum:

- Expanding the use of recycled water as an alternative to more expensive imported water supply options;
- Reducing energy cost by controlling time of pumping and use of more efficient motors; and
- Increasing operational efficiency to reduce labor cost.

The recommended water rate will increase the average residential water bill by \$1.48 per month or 2% from the current \$66.01 per month to \$67.49 per month effective on bills sent on or after March 4, 2016, and by \$1.48 per month or 2% to \$68.97 per month effective on bills sent on or after January 1, 2017. The recommended increase in water charges is needed to fund increased imported water costs, capital construction and replacement projects and the increased cost of operations and water treatment.

While an important part of Ontario's water supply, there is rapid escalation in the cost to purchase recycled water from IEUA. As a result, the cost to provide recycled water to Ontario customers has increased. The recommended recycled water rate will increase by \$0.07 (5%) from the current rate of \$1.56 per hundred cubic feet (hcf) to \$1.63 per hcf on March 4, 2016, and by \$0.08 (5%) to \$1.71 on January 1, 2017. The recommended increase in recycled water charges is needed to fund the increased cost to purchase recycled water and capital construction projects.

As a result of the Governor's Executive Order and the subsequent Emergency Drought Conservation Regulations, including a mandatory 24% water use reduction, Ontario's water customers have responded throughout 2015 by conserving and reducing water consumption. Of course, less water being sold impacts the Water Utility's sales revenue as well as expenses like the cost to purchase imported water. The City has considered the drought a temporary condition and will continue to closely monitor consumption in order to allow any permanent changes in water use to stabilize over time. For purposes of this rate update, staff has made significant efforts to minimize the potential impact on rates.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SUBDIVISIONS (D) AND (E) OF SECTION 6-8.52, OF CHAPTER 8B, OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO WATER SERVICE CONNECTIONS; AND AMENDING SECTION 6-3.107 OF ARTICLE 1 OF CHAPTER 3, OF TITLE 6, ARTICLE 6 OF CHAPTER 3, OF TITLE 6, AND ADDING SECTIONS 6-3.604 AND 6-3.605 TO ARTICLE 6 OF CHAPTER 3, OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO SOLID WASTE MANAGEMENT.

WHEREAS, the City has established certain requirements that a consumer must comply with before making a new water service connection; and

WHEREAS, the City has determined to amend the Ontario Municipal Code to revise certain of the requirements related to such new service connections; and

WHEREAS, the City has adopted regulations governing solid waste management to comply with state law; and

WHEREAS, because of changes in state law, the City has determined that it is appropriate to amend the Ontario Municipal Code to reflect such changes in the state law governing solid 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. Subdivisions (d) and (e) of Section 6-8.52 of Chapter 8B, of Title 6 of the Ontario Municipal Code are hereby amended to read as follows:

Sec. 6-8.52. Water Service Connections.

(d) Service laterals. The City, at its option, may install a service lateral two (2) inches and smaller. The City reserves the right to make a service lateral installation on the basis of actual cost. Services to properties with service laterals larger than two (2) inches shall be installed by the developer of such property.

(e) Installation of water meters. The City shall install all water meters at the developer's or consumer's cost. The City reserves the right to make an installation on the basis of actual cost.

SECTION 3. Section 6-3.107 of Article 1, of Chapter 3 of Title 6 of the Ontario Municipal Code is hereby amended to read as follows:

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) "Administrative Services Director." The Administrative Services Director of the City of Ontario.

(b) "Applicant." Any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City or to provide recycling collection services within the City.

(c) "Authorized recycling agent." A person with whom the City authorizes by contract or permit to collect its recyclable waste material. An authorized recycling agent may be a municipal collection service, private refuse hauler, private recycling enterprise, or private nonprofit corporation or association.

(d) "Bulky item." Any item unable to be collected through normal collection method, such as appliance, furniture or bundled brush.

(e) "Business." A commercial or public entity, including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity, or a multifamily residential dwelling.

(f) "Business recycling plan." A completed business recycling plan form, approved by the City for the purpose of compliance with this article, submitted by the applicant for any large project.

(g) "C & D" or "construction and demolition materials." 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.

(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 garbage, solid waste and refuse 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 duly licensed, franchised, granted a permit to, or contracted with, to collect, carry, transport, compost, and/or recycle garbage, refuse and solid waste within the City.

(l) "Combustible solid waste matter." Matter which includes all magazines, newspapers, hats, minor trimmings from lawns, trees, shrubs, and flower gardens, pasteboard boxes, rags, paper, straw, sawdust, manure, packing material, shavings, boxes, and other solid waste matter that may incinerate through contact with flames of ordinary temperature.

(m) "Commingled." Mixed in one mass; blended.

(n) "Commercial." Any apartment house with four (4) or more units, business, industry, commercial establishment, or construction site, but shall not include residential dwellings.

(o) "Commercial recycler." A business that the City shall have duly licensed, granted a permit to, or contracted with, to collect, carry, transport, compost, and/or recycle commodities within the City.

(p) "Compost." The product resulting from the controlled biological decomposition of organic wastes that are source separated from the municipal solid waste stream or which are separated at a centralized facility. "Compost" includes organic material such as sludge, vegetable, yard, green, or wood wastes, that is not hazardous waste.

(q) "Construction." The building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.

(r) "Construction and demolition debris." Used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure.

(s) "Container." The City-provided ninety-six (96)-gallon, sixty-four (64)-gallon, or thirty-two (32)-gallon receptacle, collected by automated side-loading residential collection vehicle.

(t) "Conversion rate." The rate set forth in the standardized Conversion Rate Table approved by the City pursuant to this chapter for use in estimating the volume or weight of materials identified in a Waste Management Plan.

(u) "Customer." The owner and/or occupant of any property within the City that is required to participate in the City's solid waste, including green waste, other organics and recyclables, collection program.

(v) "Deconstruction." The careful dismantling of buildings and structures in order to salvage as much as possible.

(w) "Demolition." The decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

(x) "Designated recycling collection location." The place where an authorized recycling agent has contracted with either the City or other public agency, or a private entity to pick up recyclable material segregated from other waste material. "Designated recycling collection location" includes, but is not limited to, the curbside or service alley of a residential neighborhood or the service alley or designated area of a commercial enterprise.

(y) "Diversion requirement." The diversion of at least fifty percent (50%) of the total construction and demolition debris generated by a project via reuse or recycling, unless the applicant has been granted an infeasibility exemption pursuant to § 6-3.603, in which case the diversion requirement shall be the maximum feasible diversion rate possible for the circumstances.

(z) "Divert." To use material for any purpose other than disposal in a landfill or transformation facility.

(aa) "Dwelling, multiple." A residential building designed for occupancy by more than one (1) family, consisting of more than one (1) living unit, even where there is no more than one (1) water meter on such premises, but excluding hotels, motels and lodges.

(bb) "Dwelling, single-family." A detached building designed for occupancy by one (1) family and consisting of a solitary living unit.

(cc) "Fire Department." The Fire Department of the City of Ontario.

(dd) "Garbage." Material which includes, but is not restricted to, every accumulation of animal, vegetable, or other material:

(1) Resulting from the preparation and consumption of edible foodstuffs;

(2) Resulting from decay, dealing, or storage of meats, fish, fowl, fruits or vegetables, including the cans, containers, or wrappers wasted along with such materials;

(3) Such industrial, domestic and organic refuses or residue of animals sold for meat;

(4) Fruit, vegetable and animal matter from kitchens, dining rooms, markets, food establishments or any other place using, dealing in or handling meats, fish, fowl, fruits, vegetables, grains, or other foodstuffs; or

(5) Offal, animal excrement or the carcasses of animals, fish or fowl.

(ee) "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.

(ff) "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 refuse 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.

(gg) "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.

(hh) "Large project." Shall have the meaning set forth in § 6-3.602(a).

(ii) "Municipal Code." The City of Ontario Municipal Code.

(jj) "Ontario Municipal Utilities Company." The Ontario Municipal Utilities Company of the City of Ontario.

(kk) "Noncombustible solid waste matter." Matter which includes crockery, bottles, metal vessels, glass, broken brick, tin cans, ashes, and other solid waste matter that shall not incinerate through contact with flames of ordinary temperature.

(ll) "Occupant." One who has certain legal rights to or control over the premises occupied; a tenant or owner.

(mm) "Organics", "organic waste" and "organic material." Material of, related to, or derived from living organisms.

(nn) "Person." An individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(oo) "Post-consumer recycled materials." A finished material or product that has served its intended use and would normally be disposed of as solid waste. Examples of post-consumer recycled materials include, but are not limited to old newspaper, office paper, yard waste, steel, glass, aluminum cans, plastic bottles, oil, asphalt, concrete, and tires.

(pp) "Pre-consumer." Materials or by-products generated after manufacturing of a product is completed, but before the product reaches the end-use consumer.

(qq) "Project." Any activity which requires an application for a building or demolition permit, or any similar permit from the City.

(rr) "Property owner." The record owner of a property and includes the homeowner/business owner association of a residential/business condominium project.

(ss) "Receptacle." A container that holds items or matter.

(tt) "Recyclable materials" or "recyclables." Reusable waste materials, including but not limited to, metal, glass, plastic and paper, and green waste, that are to be collected, separated or processed and used as raw materials. "Recyclable material" does not include refuse, hazardous waste or hazardous waste materials.

(uu) "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.

(vv) "Recycled material" or "recycled product." Waste material and by-products that have been recovered or diverted from the solid waste stream and that can be utilized in place of raw or virgin material in the production of a product. "Recycled materials" may consist of material derived from post-consumer waste, manufacturing waste, industrial scrap, agricultural waste, and other items, all of which can be used in the manufacture of new products.

(ww) "Refuse." The designated all- inclusive term for all putrescible and non-putrescible solid and semi-solid waste including, but limited to: garbage, solid waste matter, trash, ashes, industrial wastes, construction and demolition wastes, bulky item waste, manure, vegetable or animal solid and semisolid wastes, combustible and non-combustible wastes. "Refuse" does not include hazardous or household hazardous waste, medical waste, low-level radioactive waste or recyclable materials and green waste.

(xx) "Renovation." Any change, addition, or modification in an existing structure.

(yy) "Residential." Any residential or single-family dwelling or apartment house not utilizing commercial bins.

(zz) "Reuse." Further or repeated use of construction or demolition debris.

(aaa) "Roll-off, temporary service." Placement of roll-off bin or drop body on the public right-of-way, not on private property.

(bbb) "Salvage." The controlled removal of construction or demolition debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

(ccc) "Scavenging." The removal of any recyclable and/or waste material without authorization of the property owner and/or the City.

(ddd) "Small project" shall have the meaning set forth in § 3-3.602(b).

(eee) "Solid waste matter." Solid waste matter which is "combustible" and "non-combustible" as defined in this section. "Solid waste matter" shall not include dirt, rocks, building materials, and tree trunks or limbs (as differentiated from minor trimmings), which shall be considered as rubbish or refuse.

(fff) "Street." All streets, highways, avenues, lanes, alleys, courts, places, squares or other public ways in the City which have been or may hereafter be dedicated or open to public use, or such other public property so designated in any law of this state.

(ggg) "Utilities General Manager." The General Manager of the Ontario Municipal Utilities Company, or his or her authorized representative.

SECTION 4. Section 6-3.407 of Article 4, of Chapter 3 of Title 6 of the Ontario Municipal Code is hereby deleted.

SECTION 5. Article 6 of Chapter 3, of Title 6 of the Ontario Municipal Code is hereby amended to read as follows:

Article 6. Business Recycling Requirements

(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) Sections 301.1.1, 301.3, 4.408 and 5.408, requiring diversion of waste from specified construction and demolition projects.
 - (3) Comply with state commercial recycling laws AB 341, requiring recycling by certain specified businesses.
 - (4) Comply with state commercial organic waste recycling laws AB 1826, 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.

SECTION 6. Chapter 3, of Title 6 of the Ontario Municipal Code is hereby amended by adding Sections 6-3.604 and 6-3.605 read as follows:

Sec. 6-3.604. Mandatory Business Recycling

(a) The following businesses shall recycle and divert from the landfill recyclable materials generated by the business in accordance with this Sec. 6-3.604:

- (1) a commercial business that generates 4 cubic yards or more of solid waste per week;
- (2) a multi-family dwelling of 5 units or more.

(b) Businesses subject to this Sec.6-3.604 shall arrange for recycling services, consistent with state or local laws, rules, regulations or requirements, including a local ordinance or agreement, applicable to the collection, handling, or recycling of solid waste, to the extent that these services are offered and reasonably available from a local service provider. A business subject to this Sec. 6-3.604 shall take at least one of the following actions:

- (1) Source separate recyclable materials from refuse 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 business meeting the conditions of Sec. 6-3.604(a) may request an exemption from the requirements of Sec. 6-3.604(b) by submitting an application on a form prescribed by the Utilities General Manager. After reviewing the exemption request, the Utilities General Manager or his designee 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 business;
- (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 Recycling

(a) A business meeting the conditions of Sec. 6-3.604(a)(1) shall recycle and divert from the landfill organic materials generated by the business, in accordance with the following conditions:

- (1) On and after April 1, 2016, a business that generates eight cubic yards or more of organic waste per week shall arrange for recycling services specifically for organic waste.
- (2) On and after January 1, 2017, a business that generates four cubic yards or more of organic waste per week shall arrange for recycling services specifically for organic waste.
- (3) On and after January 1, 2019, a business that generates four cubic yards or more of commercial solid waste per week shall arrange for recycling services specifically for organic waste.

(b) A business meeting the conditions of Sec. 6-3.604(a)(1) shall arrange for organics recycling services, consistent with state or local laws, rules, regulations or requirements, including a local ordinance or agreement, applicable to the collection, handling, or recycling of recyclable material, to the extent that these services are offered and reasonably available from a local service provider. A business meeting the conditions of Sec. 6-3.604(a)(1) shall take at least one of the following actions:

- (1) Source separate organic waste from other refuse and subscribe to a basic level of organic waste recycling service that includes collection and recycling of organic waste.
- (2) Recycle its organic waste onsite or self-haul its own organic waste for recycling,
- (3) Subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste.

(c) A business meeting the conditions of Sec. 6-3.604(a)(1) may request an exemption from the requirements of Sec. 6-3.605(b) by submitting an application on a form prescribed by the Utilities General Manager. After reviewing the exemption request, the Utilities General Manager or his designee shall either approve or disapprove the exemption request. To be eligible for an exemption from the requirements of Sec. 6-3.605(b), the business must demonstrate that:

- (1) there is less than one half of a cubic yard per week of organic waste being generated by any activities of the business;
- (2) there is inadequate storage space for the storage of organic waste,
- (3) there is no viable market for the organic waste or organic waste recycling facility available.

SECTION 7. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

SECTION 8. If any provisions of this Ordinance are in conflict with each other, other provisions of the City of Ontario Municipal Code, any other resolution, ordinance, regulation, or policy of the City, the more restrictive provisions shall apply.

SECTION 9. A full reading of this Ordinance is hereby waived. This Ordinance was introduced at a regular meeting of the City Council of the City of Ontario, California, on January 19, 2016, and thereafter adopted at a regular meeting of the City Council held on the 2nd day of February 2016.

SECTION 10. This Ordinance shall become effective thirty (30) calendar days after its adoption by the City Council.

SECTION 11. 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 12. The Mayor shall sign this Ordinance and the Assistant 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 Assistant 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 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3039 was duly introduced at a regular meeting of the City Council of the City of Ontario held January 19, 2016 and adopted at the regular meeting held February 2, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3039 duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016 and that Summaries of the Ordinance were published on January 26, 2016 and February 9, 2016, in the Inland Valley Daily Bulletin newspaper.

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING INCREASES TO THE RATES FOR ITS SOLID WASTE SERVICE CHARGES AND OTHER MISCELLANEOUS ONE-TIME SOLID WASTE FEES.

WHEREAS, it is the policy of the City of Ontario (the "City") that the accumulation, collection, removal, disposal, composting, and recycling of refuse 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; and

WHEREAS, 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 refuse from all premises in the City is essential and benefits all residents of the City; and

WHEREAS, the City currently has in place uniform requirements and regulations for direct and indirect users of the refuse and recycling collection services of the City which allow the City to comply with all applicable state and federal laws, including, but not limited to, The Integrated Waste Management Act of 1989, Public Resources Code §§ 49520-49524, California Code Title 14 Division 7 and any subsequent amendments to each; and

WHEREAS, the City determined to undertake a rate study to analyze the revenue requirements, and the rate structure necessary to proportionately allocate the costs of providing solid waste services (including recyclable material) to its solid waste customers; and

WHEREAS, the rate study demonstrates that existing solid waste revenues are and will be insufficient to cover current and projected operations and maintenance and equipment replacement costs of the City's Solid Waste Services (the "Services"); and

WHEREAS, a report of the results of the rate study (the "Rate Report"), attached hereto as Exhibit A and by this reference incorporated herein, has been prepared which includes the proposed rates for the solid waste service charges and documents the estimated and reasonable costs of providing the Services in the City; and

WHEREAS, the findings and determinations contained herein are based upon the Rate Report documenting the estimated reasonable costs of providing the Services to customers in the City; and

WHEREAS, the rates for solid waste service charges are comprised of two customer classes – (1) customers who use automated containers for refuse, green waste and recyclable materials ("recycling"); and (2) customers who use bins, roll off containers, or compactor bins; and

WHEREAS, for customers with automated refuse containers, the rates are determined on the basis of the size (in gallons) of the containers collected and the number of pickups per week. This includes a set of 3 containers for each property – one container for trash, one for recycled waste, and one for green waste. Any additional containers are subject to an additional charge. For customers with bins, the rates are determined on the basis of: the size of the bin (in cubic yards); the number of pickups per week; and the type of waste collected; and

WHEREAS, there are two service areas within the City for solid waste services – the Old Model Colony and the Ontario Ranch (formerly New Model Colony) service areas; and

WHEREAS, the City has determined to adopt a two-year schedule of rate increases for the solid waste service charges; and

WHEREAS, the schedule of proposed rates for the solid waste service charges is attached hereto as Exhibit B and by this reference incorporated herein and by this reference made an operative part hereof; and

WHEREAS, the City made available to the public the Rate Report documenting the estimated costs required to provide the Services for which the solid waste service charges are proposed to be increased and the revenue sources anticipated to provide such Services; and

WHEREAS, the City Council hereby finds and determines the following with regard to the proposed solid waste service charges:

1. The revenues derived from the proposed solid waste (including recyclable material) service charges will not exceed the funds required to provide the Services and shall be used exclusively for providing these Services;
2. The amount of the proposed solid waste service charges will not exceed the proportional cost of the Services attributable to each parcel;
3. The proposed solid waste service charges are imposed for Services which are immediately available to the customer;
4. The proposed solid waste charges will not be used for any other purpose than that for which they are imposed;
5. The proposed solid waste charges are not levied for general governmental services; and
6. The proposed solid waste service charges represent increases in the charges needed to provide the Services and to operate the City's solid waste system and 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 solid waste service charges are proposed to be imposed, and calculated the amount of the charges proposed to be imposed;

2. On December 4, 2015, the City mailed written Notice to the record owners of the parcels upon which the solid waste service charges are proposed to be imposed and any tenants directly liable for the payment of solid waste 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 January 19, 2016 (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 solid waste service charges; and

4. At the conclusion of the public hearing, written protests against the proposed increases to the solid waste service charges were not presented by a majority of customers subject to the proposed charges; and

WHEREAS, the City has also determined to increase the rates for other miscellaneous one-time solid waste fees that are imposed as a request by a customer for a specific service or product; and

WHEREAS, the Rate Report also includes the proposed rates for the new miscellaneous one-time solid waste fees and documents the estimated and reasonable costs of providing the services or products related thereto; and

WHEREAS, the City hereby finds and determines that in accordance with the provisions of California Constitution article XIII C, section 1(e)(2), the new miscellaneous one-time solid waste fees that are imposed as a request for a service or product are imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and do not exceed the reasonable costs to the City of providing the service or product; and

WHEREAS, in accordance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, the City Staff has determined that the increases in solid waste service charges and miscellaneous one-time solid waste fees are exempt from CEQA pursuant to Section 15378 and Section 15273 of the CEQA Guidelines because: (a) the increased fees and charges are for the purpose of meeting operational and maintenance expenses of the aforementioned services; and (b) the fees and 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.

NOW, THEREFORE, IT IS HEREBY RESOLVED 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. The current rates for solid waste service charges as set forth in Exhibit B shall remain in full force and effect in accordance with the schedule set forth in Exhibit B. Commencing March 4, 2016 and January 1, 2017, respectively, the City Council hereby authorizes and establishes the rates for solid waste service charges as more fully set forth in Exhibit B.

SECTION 3. The current rates for the miscellaneous one-time solid waste fees as set forth in Exhibit B shall remain in full force and effect in accordance with the schedule set forth in Exhibit B. Commencing March 4, 2016, and January 1, 2017, respectively, the City Council hereby authorizes and establishes the rates for the miscellaneous one-time solid waste fees as more fully set forth in Exhibit B.

SECTION 4. 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 5. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

SECTION 6. A full reading of this Ordinance is hereby waived. This Ordinance was introduced at a regular meeting of the City Council of the City of Ontario, California, on January 19, 2016, and thereafter adopted at a regular meeting of the City Council held on the 2nd day of February 2016.

SECTION 7. This Ordinance shall become effective thirty (30) calendar days after its adoption by the City Council.

SECTION 8. The Mayor shall sign this Ordinance and the Assistant 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 Assistant 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.

SECTION 9. City staff is directed to file a Notice of Exemption within five (5) days of the adoption of this Ordinance.

PASSED, APPROVED, AND ADOPTED this 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3040 was duly introduced at a regular meeting of the City Council of the City of Ontario held January 19, 2016 and adopted at the regular meeting held February 2, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3040 duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016 and that Summaries of the Ordinance were published on January 26, 2016 and February 9, 2016, in the Inland Valley Daily Bulletin newspaper.

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

City of Ontario



Solid Waste, Sewer, & Water Rate Report

EXECUTIVE SUMMARY

The City recently evaluated the service and infrastructure needs, programs, operation and maintenance costs of the City's solid waste, sewer and water enterprises. The City has determined that solid waste, sewer and water service charges are and will be insufficient to cover (i) current and projected operations and maintenance costs for providing solid waste, sewer and water services and (ii) the cost of capital infrastructure improvements needed to cover anticipated costs repair and update the City's water and sewer systems. Accordingly, the City has determined that rate increases are necessary to address the need for infrastructure and sewer and water quality improvements, and to avoid operational deficits and depletion of reserves.

The following table illustrates the combined effect of the proposed rate increases on the monthly utility bill for City charges for "Typical Residential" and "Typical Commercial – Industrial" customers over the next two years.

Combined Utility Rate

Typical Residential

Service	Current	March 2016	January 2017
Solid Waste	\$ 27.14	\$ 27.41	\$ 27.68
Sewer	\$ 13.37	\$ 13.50	\$ 13.63
Water	\$ 66.01	\$ 67.49	\$ 68.97
Combined	\$106.52	\$108.40	\$110.28

Typical Commercial - Industrial

Service	Current	March 2016	January 2017
Solid Waste	\$ 288	\$ 291	\$ 294
Sewer	\$ 233	\$ 235	\$ 237
Water	\$ 986	\$1,010	\$1,035
Combined	\$1,507	\$1,536	\$1,566

SOLID WASTE ENTERPRISE

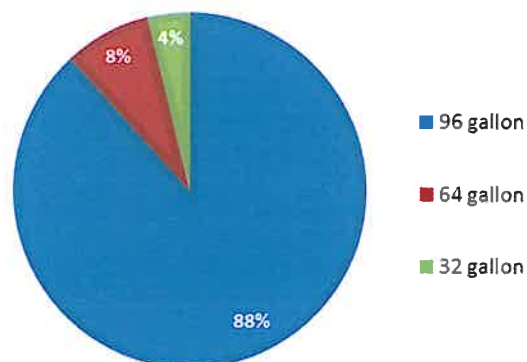
A review of the solid waste service charges indicates that current and projected revenue estimates based on the current rates are not sufficient to cover the anticipated cost of providing solid waste services. Therefore, staff recommends changes to the solid waste rates that the City should charge its customers in calendar years 2016 and 2017. Increases in the cost of handling, transfer and landfill disposal of the materials the City collects and the increased cost of service to meet legislative mandates related to expanded diversion and recycling in order to help reduce greenhouse gas emissions, such as commercial and industrial recycling, food waste recycling, and special material (e.g., tires, mattresses, and electronic waste) handling and recycling programs are primary drivers of the recommended rate increases.

To offset some of the cost increases associated with handling and disposal and regulatory requirements, the City has implemented cost avoidance and cost cutting measures, including extending the useful life of solid waste vehicles to reduce capital replacement cost, and increasing operational efficiency to reduce labor costs, in order limit the proposed rate increase to a minimum.

The City provides the following three types of collection service to its customers:

Automated curbside: The City offers three sizes of containers to automated service customers, 32-gallon, 64-gallon and 96-gallon. The charges are based on the size of containers. In FY 2014-15, the City served approximately 31,250 automated service customers, about eighty-eight percent (88%) of automated service customers used the 96-gallon containers, about eight percent (8%) used the 64-gallon containers and about four percent (4%) used the 32-gallon containers.

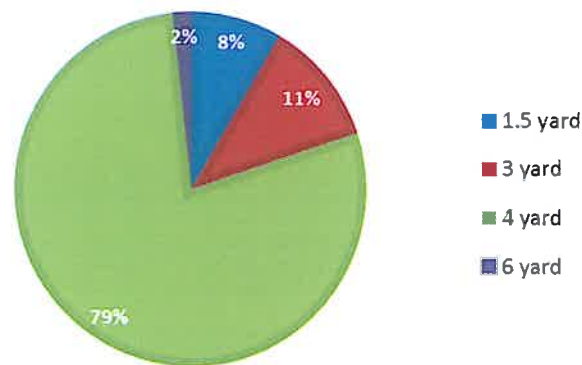
Figure 1
FY 2014-15 Residential Curbside Service



For residential automated service customers, the rates for service are different in the “Old Model Colony” (OMC) and the “Ontario Ranch” based on a differential cost of service. The difference in the cost of service is primarily driven by 1) greater collection times servicing stops; and 2) greater transportation distances. It takes approximately 20% longer to service a typical residential route in Ontario Ranch than it does in the OMC due to the increased housing densities as well as access. Also, the average distance of travel per day for the collection vehicles is approximately 30% greater than in the OMC. Together, these factors result in a higher cost of service (e.g., more collection vehicles, more personnel, fuel costs, etc.) for the Ontario Ranch when compared to the OMC.

Commercial bins: Commercial bin service includes collection of 1.5 cubic-yard, 3.0 cubic-yard, 4.0 cubic-yard, and 6.0 cubic-yard standard and compactor bins for refuse, organics, greenwaste, and co-mingled recycling. In FY 2014-15, the City serviced approximately 5,655 commercial bin customers and about seventy-nine percent (79%) of these were 4.0 cubic-yard bins.

Figure 2
FY 2014-15 Commercial Bin Service

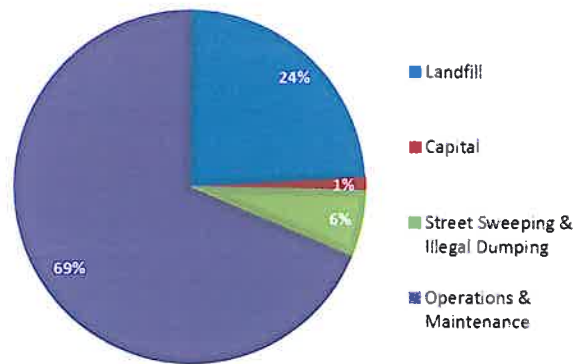


Roll-off bins: Roll-off service includes open-top and compactor service for refuse, single-commodity recycling, greenwaste, and inert material. In FY 2014-15, the City serviced approximately 12,795 roll-off loads.

The City continues to exceed the State mandated diversion rate for recyclable materials. To further encourage recycling, the City offers specific services and rates for co-mingled recycling and greenwaste collection services for automated service customers, organics, greenwaste and co-mingled recycling collection services for commercial bin customers, and single-commodity recycling, greenwaste, and inert collection services for roll-off customers.

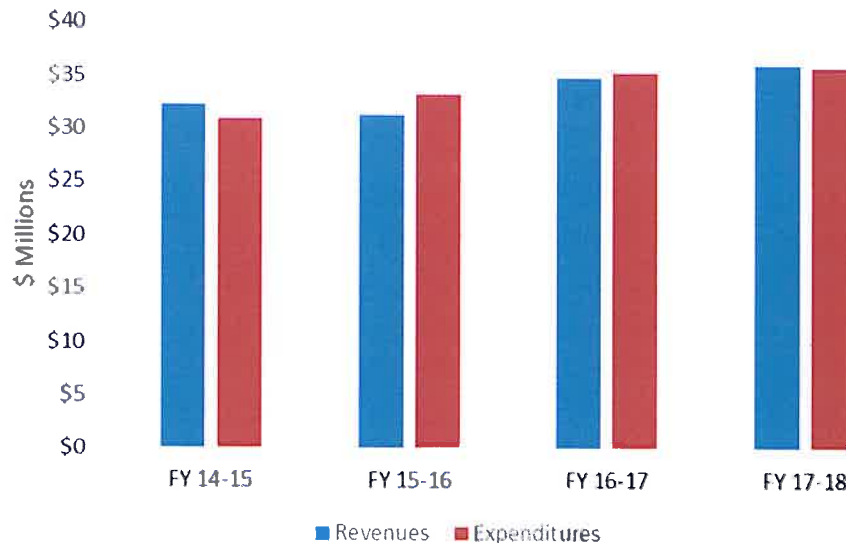
Solid waste expenses consist of landfill disposal costs including handling, transfer, and recycling services; operation and maintenance (O&M) expenses including general overhead costs related to supervision, utility billing and customer service, and cost allocations to the General Fund for City provided services; street sweeping and illegal dumping clean up services; and a capital improvement program, as illustrated by Figure 3.

Figure 3
FY 2014-15 Expenses - \$31 million



The City's current solid waste rates will not generate adequate revenue to cover the City's projected expenditures, as illustrated by Figure 4.

Figure 4



Since revenues generated by the existing solid waste service charges included in Table 1 are not adequate to cover the anticipated expenditures to provide solid waste services, staff recommends the following solid waste rates that the City should charge its customers in March 2016 and January 2017. Staff will continue to periodically review the financial plan to ensure continued financial stability.

Table 1
Proposed Solid Waste Rate Schedule

Automated Refuse Container Collection Rates									
Old Model Colony	Gallons	First Refuse Container Set			Additional Refuse Containers				
		Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017		
	96	\$27.14	\$27.41	\$27.68	\$24.78	\$25.03	\$25.28		
	64	\$23.60	\$23.83	\$24.06	\$21.24	\$21.45	\$21.66		
	32	\$20.07	\$20.27	\$20.47	\$17.70	\$17.89	\$18.08		
Ontario Ranch	Gallons	First Refuse Container Set			Additional Refuse Containers				
		Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017		
	96	\$30.67	\$30.97	\$31.27	\$28.00	\$28.28	\$28.56		
	64	\$26.67	\$26.93	\$27.19	\$24.00	\$24.24	\$24.48		
	32	\$22.67	\$22.89	\$23.11	\$20.00	\$20.20	\$20.40		
Bin Monthly Rates (Refuse/Organics)									
Bin Size (Cubic Yards)	One Pickup/Week			Each Extra Pickup/Week			Saturday Service		
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
1.5	\$104.00	\$105.00	\$106.00	\$94.68	\$96.00	\$97.00	\$113.62	\$115.00	\$116.00
3	\$123.81	\$125.00	\$126.00	\$110.24	\$112.00	\$113.00	\$131.09	\$132.00	\$133.00
4	\$152.94	\$155.00	\$157.00	\$135.25	\$137.00	\$138.00	\$162.30	\$164.00	\$166.00
6	\$215.36	\$218.00	\$220.00	\$195.60	\$198.00	\$200.00	\$234.72	\$237.00	\$240.00
Bin Monthly Rates (Recycling/Green)									
Bin Size (Cubic Yards)	One Pickup/Week			Each Extra Pickup/Week			Saturday Service		
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
1.5	\$35.00	\$35.35	\$35.70	\$35.00	\$35.35	\$35.70	\$42.00	\$42.50	\$43.00
3	\$50.00	\$50.50	\$51.00	\$50.00	\$50.50	\$51.00	\$60.00	\$60.60	\$61.20
4	\$59.00	\$59.60	\$60.20	\$59.00	\$59.60	\$60.20	\$70.80	\$71.50	\$72.25
6	\$78.00	\$78.80	\$79.60	\$78.00	\$78.80	\$79.60	\$93.60	\$94.50	\$95.50
Roll Off Container Service Rates									
			Current	3/4/2016	1/1/2017				
Refuse (Open Top or Compactor) Includes Disposal up to 5 tons			\$499.00	\$505.00	\$510.00				
Recycling (Open Top or Compactor) Actual Disposal Costs Additional			\$154.00	\$156.00	\$158.00				
Inert/Green/Wood (Open Top or Compactor) Actual Disposal Costs Additional			\$194.00	\$196.00	\$198.00				
Compactor Bin Monthly Rates									
Bin Size (Cubic Yards)	One Pickup/Week			Each Extra Pickup/Week			Saturday Service		
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
1.5	\$175.83	\$177.00	\$179.00	\$175.83	\$177.00	\$179.00	\$211.00	\$213.00	\$215.00
2	\$198.72	\$201.00	\$203.00	\$198.72	\$201.00	\$203.00	\$238.47	\$241.00	\$244.00
3	\$244.49	\$247.00	\$249.00	\$244.49	\$247.00	\$249.00	\$293.39	\$296.00	\$299.00
4	\$291.31	\$294.00	\$297.00	\$291.31	\$294.00	\$297.00	\$349.58	\$353.00	\$357.00
6	\$383.91	\$388.00	\$392.00	\$383.91	\$388.00	\$392.00	\$460.70	\$466.00	\$471.00

SEWER ENTERPRISE

A review of the sewer service charges indicates that current and projected revenue estimates based on the current rates are not sufficient to cover the anticipated cost of providing sewer services. Therefore, staff recommends changes to sewer rates that the City should charge its customers in calendar years 2016 and 2017.

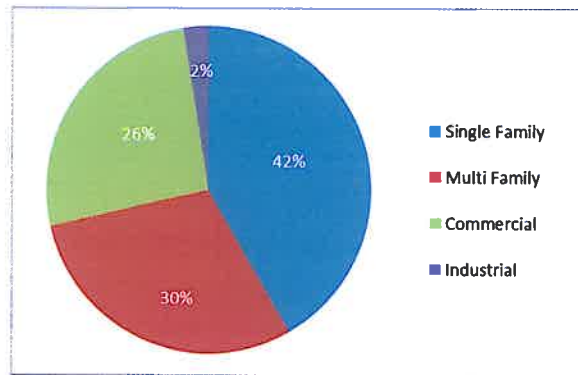
Sewer service charges are billed on a monthly basis. The rate structure for sewer service charges has three customer classifications – (1) single-family residential customers; (2) multi-family residential customers; and (2) non-residential, which includes commercial and industrial customers. The rate structure 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) (“IEUA Charge”) that is passed through by the City to its sewer customers. The rates are calculated to proportionately allocate capital replacement, operations, maintenance, and treatment costs to each customer class.

For single-family and multi-family residential customers, the rates for the City Charge are determined on the basis of the number of residential units on the property. For non-residential customers, the rates for the City Charge have two components: (1) a variable equivalent dwelling unit (EDU) charge; and (2) a fixed unit charge. The EDU charge is determined on the basis of the amount of metered water delivered to the property and assumptions of the amount of water returned to the sewer (i.e., “flow”) based on the customer’s classification, and is designed to recover a portion of the utility’s costs of providing sewer service such as capital replacement, operations and maintenance, billing and customer service. The fixed unit charge is determined on the basis of the type of commercial activity where the service is provided and is designed to recover a portion of the utility’s cost of providing sewer service such as permitting, inspection and environmental regulatory costs.

The IEUA Charge for residential and non-residential is based on the number of EDUs. For residential customers, this charge is fixed at one (1) EDU of a single family residence, and seven tenths of one (0.7) EDU for a multi-family unit. For non-residential customers, the charge varies from month to month based on the number of EDUs as determined by sewer flow and water consumption.

As shown in Figure 5, together, single-family and multi-family customers are approximately 72 percent of the EDUs.

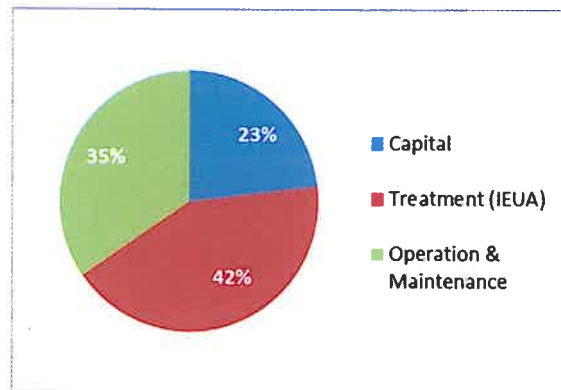
Figure 5
FY 2014-15 EDUs by Customer Class



The City sewer expenses consist of the cost of operation and maintenance (O&M) including sewer line cleaning, video inspection, repairs, and environmental programs. In accordance with the City's Sewer System Management Plan (SSMP), approximately 1.2 million linear feet of sewer collection pipelines are inspected and cleaned in order to prevent the buildup of debris, such as sand, silt, grease, roots and rocks that can significantly reduce the capacity of the pipes causing blockages and overflows. Environmental program responsibilities include issuance of industrial discharge permits, monitoring sewer discharge data, conducting compliance inspections of commercial grease interceptors as part of the City's "FOG" (Fats, Oils & Grease) program and inspections of permitted industrial facilities, as well as monitoring and reporting on sanitary sewer overflows (SSO). Other costs covered by the City charges for sewer services include general overhead costs related to supervision, utility billing and customer service, cost allocations to the General Fund for City provided services, and a capital improvement program, as shown in Figure 6.

The City's sewer system consists of more than 393 miles of sewer pipes along with 7,800 manholes and cleanouts, and the average age of pipelines throughout Ontario is about 45 years, with some sections still in use today that date back to the 1890's. The sewer master plan estimates the cost to replace the entire system today at more than \$325 million. Additionally, the master plan identifies more than \$100 million in capital improvement projects that are needed to correct existing system deficiencies where peak sewer flows are greater than the capacity of the pipelines. The overall age and condition of the sewer system creates a significant liability for the sewer fund. The capital improvement program is developed in order to prioritize projects within available funding, currently averaging about \$5 million per year, in order to address this liability on an annual basis.

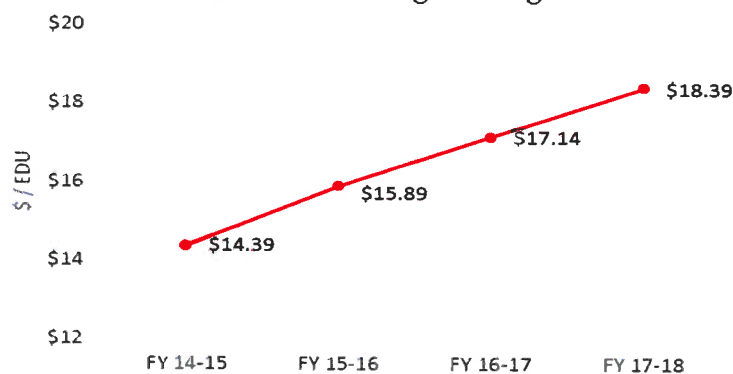
Figure 6
FY 2014-15 Expenses - \$21 million



The graph includes the cost of treatment provided by IEUA. The City pays IEUA to treat its sewer and these costs are passed on to City sewer customers through the IEUA Charge.

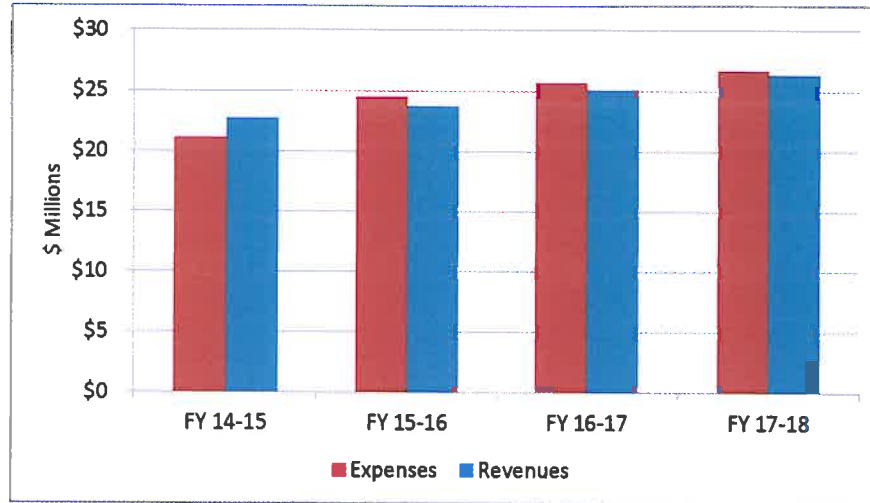
Based on IEUA projections, the current IEUA charge will not generate adequate revenues to cover the treatment cost. The IEUA Board has adopted increases to the IEUA Charge, from the current charge of \$15.89 per EDU to \$17.14 per EDU in 2016 and \$18.39 per EDU in 2017 (see Figure 7). If approved by the City Council, the proposed IEUA Charges may be imposed for the periods commencing on July 1, 2016 and July 1, 2017, respectively. Prior to implementing any IEUA Pass Through Adjustment that the IEUA Board may consider and adopt, the City will provide written notice of the rate increase not less than 30 days prior to its effective date.

Figure 7
IEUA Pass Through Charge



The City's current sewer rates will not provide adequate revenue to cover the City's costs for O&M and the capital improvement program, as illustrated by Figure 8.

Figure 8



As a result of the anticipated increases in the costs of providing sewer service, the City is proposing to increase the City Charges for sewer services in March 2016 and January 2017 and to pass through future IEUA Charges for treatment over the two-year period. The proposed rates for the sewer service charges are set forth below for the different customer classes are summarized in Table 2.

Table 2

Proposed Rates for Sewer Services

CURRENT AND PROPOSED MONTHLY RATES FOR CITY SEWER SERVICE CHARGES

EDU Rates				Unit Rates			
Customer Class	Current	3/4/2016	1/1/2017	**Rates for Per Building Unit or Room Sewer Service Charges for Non-Residential Customers	Current	3/4/2016	1/1/2017
Single Family Residential (\$/Unit)	\$13.37	\$13.50	\$13.63	Hotel/Motel (\$/ Room)	\$8.38	\$8.45	\$8.55
Multiple Family Residential (\$/Unit)	\$12.84	\$12.97	\$13.10	Professional Offices (\$/ Building Unit)	\$13.16	\$13.30	\$13.45
Non-Residential per EDU * (\$/EDU)	\$13.37	\$13.50	\$13.63	Other Commercial (\$/Building Unit)	\$32.25	\$32.60	\$32.90
(*) EDU (Equivalent Dwelling Unit) is a term used to compare the flows from non-residential units in terms of flows generated by a single family residential unit. (**) Non-residential customers also pay a “per building unit” charge as shown in the table at right.				Categorical/Significant Industry (\$/ Permitted Unit (SIU))	\$120.62	\$121.80	\$123.00
				Class II Industry (\$/Permitted Unit)	\$120.62	\$121.80	\$123.00
				Other Industries (\$/Permitted Unit)	\$60.37	\$61.00	\$61.60

Based on the charges adopted and imposed on the City by IEUA, the current and proposed rates for IEUA Charges are set forth below:

CURRENT AND PROPOSED MONTHLY RATES FOR IEUA CHARGES

Monthly Rates	IEUA Pass Through Rates		
	Current	7/1/2016	7/1/2017
Volumetric Rate per EDU*	\$15.89	\$17.14	\$18.39
(*) EDU (Equivalent Dwelling Unit) is a term used to compare the flows from non-residential units in terms of flows generated by a single family residential unit. Multi-family is 0.7 EDU.			

WATER ENTERPRISE

A review of the water service charges indicates that current and projected revenue estimates based on the current rates are not sufficient to cover the anticipated cost of providing water services. Therefore, staff recommends changes to water rates that the City should charge its customers in calendar years 2016 and 2017.

Water service charges are billed on a monthly basis. The proposed water rate structure for water service charges has two customer classes – (1) residential, which includes single-family and multi-family customers; and (2) non-residential, which includes, commercial and industrial customers. The rate structure is comprised of two components: (1) a fixed monthly service charge (the “Readiness to Serve Charge”); and (2) a variable monthly water usage charge (the “Commodity Charge”). The Readiness to Serve Charge is a fixed charge established on the basis of the meter size of the property receiving water service from the City and is calculated to recover the City’s fixed costs of water facilities repairs and replacements as well as the cost of meter reading, billing and customer service. The Commodity Charge is calculated on the basis of the cost of providing water, including purchasing water, managing the City’s water resources, and deterring water waste and encouraging water use efficiency, and a portion of the utility’s fixed costs, and consists of two tiers which will impose higher rates per unit of water (one unit equals one hundred cubic feet or 748 gallons) as the level of consumption increases. The first tier cut-off is 15 hundred cubic feet (hcf) per month. Together, the two components are structured in such a way as to proportionately allocate capital replacement, operations and maintenance costs to each customer class, while managing the City’s water resources.

In addition to the general water service charge imposed on property owners, the City also imposes a monthly private fire service fee on certain properties. The private fire service fee is imposed only as a condition of extending or initiating water service by (i) the installation of a private fire hydrant, or (ii) upon the request of the consumer or property owner for the delivery of water to the property for the purpose of private fire service protection.

The City serves approximately 33,570 individual water customer accounts. Single family accounts make up the largest customer group with approximately 79 percent of the total accounts (see Figure 9). The average water usage for a single family residence is approximately 18 hcf per month (450 gallons per day), and single family residents accounted for about 35 percent of the total water consumed in the City (see Figure 10).

Figure 9
FY 2014-15 Meters by Customer Class

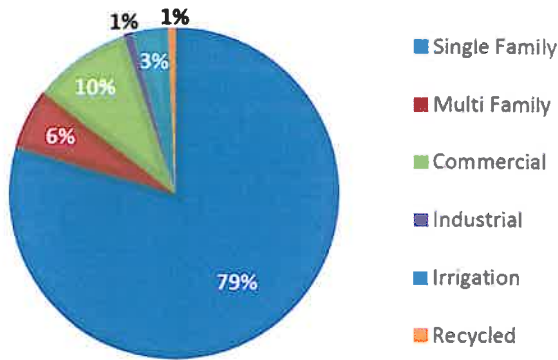
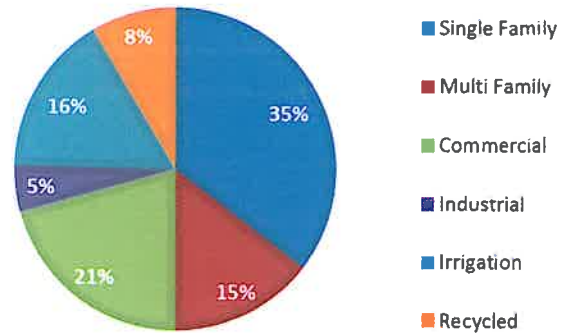
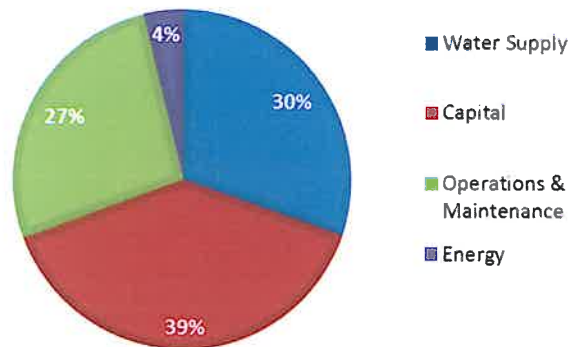


Figure 10
FY 2014-15 Usage by Customer Class



Water expenses consist of water supply costs including the cost to purchase imported water and supplemental water production rights, cost of energy for water production; other operation and maintenance (O&M) expenses including cost of system maintenance, general overhead costs related to supervision, utility billing and customer service, and cost allocations to the General Fund for City provided services; and a capital improvement program, as illustrated by Figure 11.

Figure 11
FY 2014-15 Expenses - \$59 million



The City's potable water supply includes imported water from Metropolitan Water District (MWD), groundwater pumped from its wells in the Chino Basin, and desalted water from the Chino Basin Desalter Authority (CDA) (see Figure 12). The Desalter expansion that is currently underway is anticipated to provide 3,533 acre feet (AF) of additional potable water per year. In addition to these potable water sources, the City uses recycled water for groundwater replenishment and for direct use in landscape irrigation and some industrial applications.

While an important part of Ontario's water supply, there is rapid escalation in the cost to purchase recycled water from IEUA, as illustrated by Figure 13. As a result, the cost to provide recycled water to Ontario's customers has increased.

Figure 12
FY 2014-15 Water Supply by Source

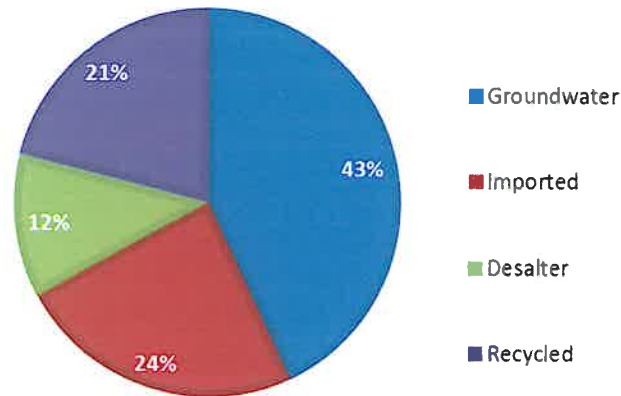
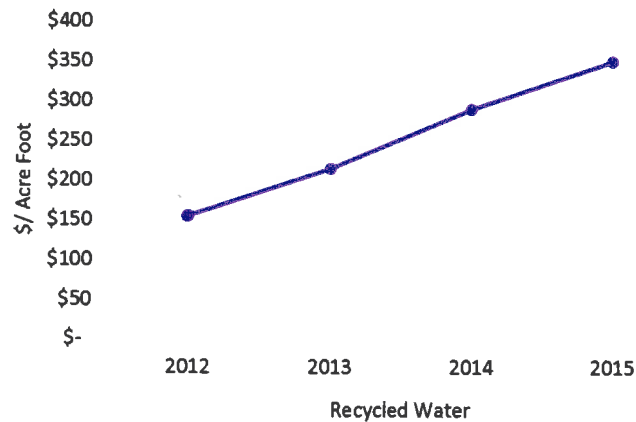


Figure 13
Recycled Water Cost (\$/AF)

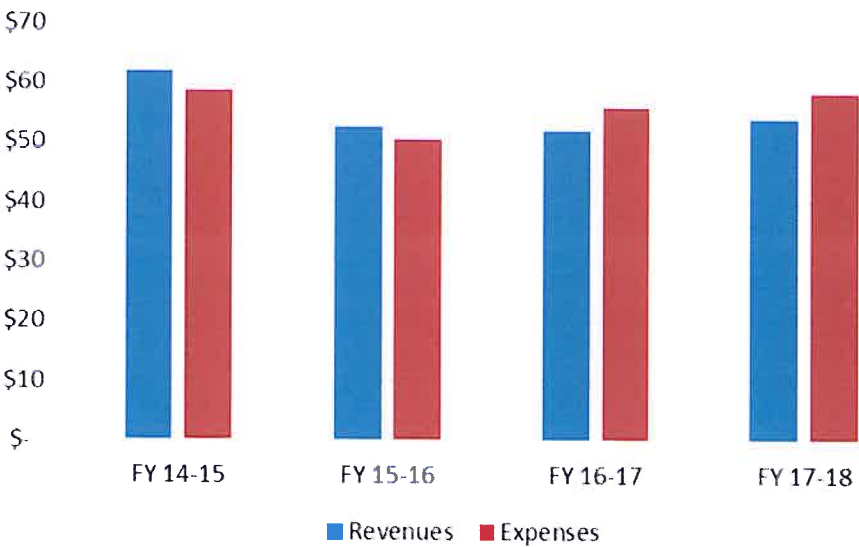


The water and recycled water master plans establish the basis and cost for new and replacement capital infrastructure required to maintain reliable water service for existing users and to expand the water systems for future users. The City maintains about 605 miles of main water pipelines, and the average age of the pipelines throughout Ontario is about 35 years, with about 115 miles (21%) of these being 50 years and older. The water system also consists of 24 active groundwater wells, 12 water reservoirs that store 75 million gallons of water, pressure reducing stations, booster stations, and water treatment facilities. The water master plan estimates the cost to replace the entire system today at more than \$700 million. Additionally, the master plans identify more than \$150 million in capital improvements that are needed to correct existing deficiencies primarily related to meeting fire flow requirements. Planned infrastructure improvements include ongoing meter replacement, additional water storage capacity, replacement of aging water production wells (five out of the City's twenty-four active wells are more than 40 years old), additional water treatment, and projects

that will provide site security and system reliability such as seismic retrofits for existing water facilities.

The City’s projected expenditures will exceed the available resources under the existing rates, as illustrated by Figure 14.

Figure 14



The City has experienced and anticipates future increases in the costs to operate and maintain the water system and to provide ongoing water system repairs, replacements, and upgrades. As a result of the anticipated increases in the costs of providing water service, the City is proposing to increase the City Charges for water services over the two-year period, commencing March 2016 and January 2017. Included in the proposed rates are the cost of imported water from wholesale agencies and fees imposed by regulatory agencies. The proposed rates for water service charges for the different customer classes are summarized in Table 3 below:

Table 3
Commodity Rates/HCF/Month

Monthly Water Use (Potable)	Commodity Charge Rates \$/HCF (Hundred Cubic Feet = 748 gallons)		
	Current	3/4/2016	1/1/2017
0-15 HCF	\$2.34	\$2.39	\$2.44
More than 15 HCF	\$2.72	\$2.78	\$2.84

Monthly Water Use (Recycled)	Commodity Charge Rates \$/HCF (Hundred Cubic Feet = 748 gallons)		
	Current	3/4/2016	1/1/2017
Per HCF	\$1.56	\$1.63	\$1.71

Fire Service Charge Rates \$/Month				Readiness-to-Serve Charge Rates \$/Month						
				Potable Water Rates				Recycled Water Rates		
Pipe Size	Current	3/4/2016	1/1/2017	Meter Size	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
2"	\$12.10	\$12.40	\$12.70	5/8"	\$22.75	\$23.30	\$23.85	\$12.60	\$13.25	\$13.90
4"	\$24.65	\$25.25	\$25.85	3/4"	\$30.70	\$31.45	\$32.20	\$17.10	\$17.95	\$18.85
6"	\$49.05	\$50.25	\$51.45	1"	\$40.40	\$41.35	\$42.35	\$22.45	\$23.60	\$24.80
8"	\$69.35	\$71.00	\$72.70	1.5"	\$89.65	\$91.80	\$94.00	\$49.75	\$52.25	\$54.85
10"	\$94.05	\$96.30	\$98.60	2"	\$129.25	\$132.00	\$135.00	\$71.75	\$75.30	\$79.00
12"	\$183.60	\$188.00	\$193.00	3"	\$252.05	\$258.00	\$264.00	\$139.95	\$147.00	\$154.00
16"	\$365.55	\$374.00	\$383.00	4"	\$399.60	\$409.00	\$419.00	\$221.85	\$233.00	\$245.00
				6"	\$826.05	\$846.00	\$866.00	\$458.65	\$482.00	\$506.00
				8"	\$1,225.85	\$1,255.00	\$1,285.00	\$680.70	\$715.00	\$750.00
				10"	\$1,891.20	\$1,937.00	\$1,983.00	\$1,050.10	\$1,100.00	\$1,155.00

EXHIBIT B

(a) Residential. "Each residential unit" shall mean each dwelling used for residential purposes for a single family. The rates for the residential monthly solid waste service charges and other miscellaneous one-time solid waste fees are as follows:

1. Automated Container Solid Waste Service Charges – Residential solid waste service includes a set of three containers, one each for refuse, green waste and recycling. The monthly rates for each residential unit are as follows:

Service Area	Monthly Rates (\$/Container Set)			
	Gallons	Current	3/4/2016	1/1/2017
Old Model Colony	96	27.14	27.41	27.68
	64	23.60	23.83	24.06
	32	20.07	20.27	20.47
Ontario Ranch	96	30.67	30.97	31.27
	64	26.67	26.93	27.19
	32	22.67	22.89	23.11

2. Automated Container Solid Waste Service Charges – Extra residential containers for refuse, green waste, and/or recycling are provided at the following additional monthly charges:

Service Area	Monthly Rates (\$/Container)			
	Gallons	Current	3/4/2016	1/1/2017
Old Model Colony	96	24.78	25.03	25.28
	64	21.24	21.45	21.66
	32	17.70	17.89	18.08
Ontario Ranch	96	28.00	28.28	28.56
	64	24.00	24.24	24.48
	32	20.00	20.20	20.40

3. Automated Collection – Other miscellaneous one-time solid waste services and products are provided to residential customers at the following rates:

Service or Product	Current	3/4/2016	1/1/2017
Special collection – Late set-out per trip	24.00	24.24	24.48
Cancellation Charge for additional cans if removed in < six months	10.40	10.50	10.60
Elective auto can replacement per can	10.40	10.50	10.60
Restore service after bin removal for non-payment	46.00	46.50	47.00
Extra Bulky item (4 Free pickups per year are included in the rate)	56.00	56.50	57.00
Temporary 4-yard bin (7-day rental)	91.00	93.00	95.00
Charge for each additional empty during 7-day rental	68.00	68.50	69.00
Temporary Greenwaste/Recycle (7-day rental)	59.00	59.50	61.00
Charge for each additional empty during 7-day rental	29.50	30.00	30.50
Compost bin (purchased through Backyard Compost Workshop)	52.00	52.50	53.00

(b) Commercial. The rates for the commercial monthly solid waste service charges for the collection of refuse, organic, recycling and green materials and other miscellaneous one-time solid waste fees are as follows:

1. Commercial bins (Special Empty is half the rate listed below for each bin size).

Bin Monthly Rates (Refuse/Organics) (\$/Pickup and Bin Size in Cubic Yards)									
Bin Size (Cubic Yards)	One Pickup/Week			Each Extra Pickup/Week			Saturday Service		
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
1.5	104.00	105.00	106.00	94.68	96.00	97.00	113.62	115.00	116.00
3	123.81	125.00	126.00	110.24	112.00	113.00	131.09	132.00	133.00
4	152.94	155.00	157.00	135.25	137.00	138.00	162.30	164.00	166.00
6	215.36	218.00	220.00	195.60	198.00	200.00	234.72	237.00	240.00

Bin Monthly Rates (Recycling/Green) (\$/Pickup and Bin Size in Cubic Yards)									
Bin Size (Cubic Yards)	One Pickup/Week			Each Extra Pickup/Week			Saturday Service		
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
1.5	35.00	35.35	35.70	35.00	35.35	35.70	42.00	42.50	43.00
3	50.00	50.50	51.00	50.00	50.50	51.00	60.00	60.60	61.20
4	59.00	59.60	60.20	59.00	59.60	60.20	70.80	71.50	72.25
6	78.00	78.80	79.60	78.00	78.80	79.60	93.60	94.50	95.50

2. Compactors (Special Empty is half the rate listed below for each Compactor size):

Compactors Monthly Rates (\$/Pickup and Bin Size in Cubic Yards)							
Cubic Yards	For Each Pickup/Week			Saturday Service			
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	
1.5	175.83	177.00	179.00	211.00	213.00	215.00	
2	198.72	201.00	203.00	238.47	241.00	244.00	
3	244.49	247.00	249.00	293.39	296.00	299.00	
4	291.31	294.00	297.00	349.58	353.00	357.00	
6	383.91	388.00	392.00	460.70	466.00	471.00	

3. Roll Off (Compactor/Open Top) service rates per load, with a minimum charge for one pick up per week, are as follows:

Service	Current	3/4/2016	1/1/2017
Refuse per load up to 5 tons	499.00	505.00	510.00
Charge per ton over 5 tons	50.20	50.70	51.20
Excess Weight Charge per ton over 12 tons	113.00	114.00	115.00
Recycle per load-single commodity. Actual disposal costs additional (a,b)	154.00	156.00	158.00

Recycle per load-inert, co-mingled recycling or green waste. Actual disposal costs additional ^(b)	194.00	196.00	198.00
Dead Run Charge	98.00	99.00	100.00
Copies of Weight Slips (ea)	14.50	14.60	14.70
(a) Maximum 5% contamination			
(b) Actual disposal costs are billed in addition to the per load charge.			

4. Other one-time miscellaneous solid waste services and products are provided to commercial customers at the following rates:

Other Services	Current	3/4/2016	1/1/2017
96 Gallon - Refuse (Commercial/Weekly pickup)	27.14	27.41	27.68
96 Gallon – Co-mingled Recyclables/Green Waste (Commercial/Weekly pickup)	17.70	17.89	18.08
Elective Commercial Bin Replacement	41.00	41.50	42.00
Re-delivery Charge (per bin)	41.00	41.50	42.00
Restore service after commercial bin removal for non-payment	104.00	105.00	106.00
Bin Scouting Service (for pickup with no direct access to the bin) per bin/pickup	9.30	9.40	9.50
Locked Access per lock per month/weekly pickup	10.40	10.50	10.60
Bulky Item Pickup Charge for Additional/Commercial pickups	56.00	56.50	57.00
Tilt Hopper per Month	44.70	45.20	45.70

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING INCREASES TO THE RATES FOR ITS SEWER SERVICE CHARGES.

WHEREAS, the City pays the Inland Empire Utilities Agency ("IEUA") to treat wastewater discharged and collected within the City; and

WHEREAS, the City determined to undertake a rate study to analyze the revenue requirements, and the rate structure necessary to proportionately allocate the costs of providing sewer services to its sewer customers, including the cost of the treatment of City sewer services by the IEUA; and

WHEREAS, the rate study demonstrates that existing sewer system revenues are and will be insufficient 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, a report of the results of the rate study (the "Rate Report"), attached hereto as Exhibit "A" and by this reference incorporated herein, has been prepared which includes the proposed rates for the sewer service charges and documents the estimated and reasonable costs of providing sewer services in the City; and

WHEREAS, the findings and determinations contained herein are based upon the Rate Report documenting the estimated reasonable costs of providing sewer services to customers in 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 City has determined to: (i) adopt a two-year schedule of rate increases to the City Charge and (ii) authorize a two-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 (each such rate increase by the IEUA is referred to herein as a "Pass Through"); and

WHEREAS, the schedule of proposed rates for the sewer service charges is attached hereto as Exhibit B and by this reference incorporated herein and by this reference made an operative part hereof; and

WHEREAS, to ensure that there are sufficient revenues to provide sewer services to our customers, the City has also determined to annually pass through to sewer customers: (1) any increases in the rates for wholesale wastewater treatment and any other charges that IEUA may impose on the City that are greater than those set forth in Exhibit B (each an "IEUA Pass Through Adjustment"). The City may annually implement any IEUA Pass Through Adjustments for two years, commencing July 1, 2016. Provided, however, that: (1) any increase in the rates set forth in Exhibit B as a result of any IEUA Pass Through Adjustment shall not exceed 5% 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 service. Any IEUA Pass Through Adjustment will only impact the rates for the IEUA Charge set forth in Exhibit B; and

WHEREAS, the City made available to the public the Rate Report documenting the estimated costs required to provide the sewer services for which the fees are proposed to be increased and the revenue sources anticipated to provide such services; 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 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 December 4, 2015, the City mailed written Notice to the records 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 January 19, 2016 (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.

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. The current rates for the City sewer service charges as set forth in Exhibit B shall remain in full force and effect in accordance with the schedule set forth in Exhibit B. Commencing March 4, 2016, and January 1, 2017, respectively, the City Council hereby authorizes and establishes the rates for the City Charge component of the sewer service charges at the rates and in the amounts as set forth in Exhibit B.

SECTION 3. Except as otherwise authorized and provided in this Section 3, the current rate for the IEAU Charge as set forth in Exhibit "B" shall remain in full force and effect. Commencing July 1, 2016 and July 1, 2017, respectively, the City Council hereby authorizes 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 to 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 set forth in Exhibit B. To ensure that there are sufficient revenues to provide sewer services to our customers, the City Council hereby authorizes annually

passing through to customers any IEUA Pass Through Adjustment. Any IEUA Pass Through Adjustment may be implemented for two years, commencing July 1, 2016. Provided, however, that: (1) any increase in the rates set forth in Exhibit B as a result of any IEUA Pass Through Adjustment shall not exceed 5% 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 service. Any IEUA Pass Through Adjustment will only impact the rates for the IEUA Charge set forth in Exhibit B. 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.

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. 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 6. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

SECTION 7. A full reading of this Ordinance is hereby waived. This Ordinance was introduced at a regular meeting of the City Council of the City of Ontario, California, on January 19, 2016, and thereafter adopted at a regular meeting of the City Council held on the 2nd day of February 2016.

SECTION 8. This Ordinance shall become effective thirty (30) calendar days after its adoption by the City Council.

SECTION 9. The Mayor shall sign this Ordinance and the Assistant 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 Assistant 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.

SECTION 10. City staff is directed to file a Notice of Exemption within five (5) days of the adoption of this Ordinance.

PASSED, APPROVED, AND ADOPTED this 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3041 was duly introduced at a regular meeting of the City Council of the City of Ontario held January 19, 2016 and adopted at the regular meeting held February 2, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3041 duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016 and that Summaries of the Ordinance were published on January 26, 2016 and February 9, 2016, in the Inland Valley Daily Bulletin newspaper.

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

City of Ontario



Solid Waste, Sewer, & Water Rate Report

EXECUTIVE SUMMARY

The City recently evaluated the service and infrastructure needs, programs, operation and maintenance costs of the City's solid waste, sewer and water enterprises. The City has determined that solid waste, sewer and water service charges are and will be insufficient to cover (i) current and projected operations and maintenance costs for providing solid waste, sewer and water services and (ii) the cost of capital infrastructure improvements needed to cover anticipated costs repair and update the City's water and sewer systems. Accordingly, the City has determined that rate increases are necessary to address the need for infrastructure and sewer and water quality improvements, and to avoid operational deficits and depletion of reserves.

The following table illustrates the combined effect of the proposed rate increases on the monthly utility bill for City charges for "Typical Residential" and "Typical Commercial – Industrial" customers over the next two years.

Combined Utility Rate

Typical Residential

Service	Current	March 2016	January 2017
Solid Waste	\$ 27.14	\$ 27.41	\$ 27.68
Sewer	\$ 13.37	\$ 13.50	\$ 13.63
Water	\$ 66.01	\$ 67.49	\$ 68.97
Combined	\$106.52	\$108.40	\$110.28

Typical Commercial - Industrial

Service	Current	March 2016	January 2017
Solid Waste	\$ 288	\$ 291	\$ 294
Sewer	\$ 233	\$ 235	\$ 237
Water	\$ 986	\$1,010	\$1,035
Combined	\$1,507	\$1,536	\$1,566

SOLID WASTE ENTERPRISE

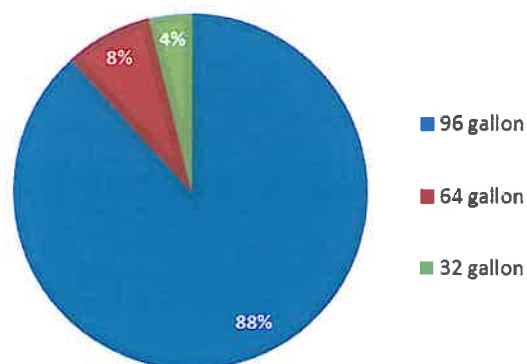
A review of the solid waste service charges indicates that current and projected revenue estimates based on the current rates are not sufficient to cover the anticipated cost of providing solid waste services. Therefore, staff recommends changes to the solid waste rates that the City should charge its customers in calendar years 2016 and 2017. Increases in the cost of handling, transfer and landfill disposal of the materials the City collects and the increased cost of service to meet legislative mandates related to expanded diversion and recycling in order to help reduce greenhouse gas emissions, such as commercial and industrial recycling, food waste recycling, and special material (e.g., tires, mattresses, and electronic waste) handling and recycling programs are primary drivers of the recommended rate increases.

To offset some of the cost increases associated with handling and disposal and regulatory requirements, the City has implemented cost avoidance and cost cutting measures, including extending the useful life of solid waste vehicles to reduce capital replacement cost, and increasing operational efficiency to reduce labor costs, in order limit the proposed rate increase to a minimum.

The City provides the following three types of collection service to its customers:

Automated curbside: The City offers three sizes of containers to automated service customers, 32-gallon, 64-gallon and 96-gallon. The charges are based on the size of containers. In FY 2014-15, the City served approximately 31,250 automated service customers, about eighty-eight percent (88%) of automated service customers used the 96-gallon containers, about eight percent (8%) used the 64-gallon containers and about four percent (4%) used the 32-gallon containers.

Figure 1
FY 2014-15 Residential Curbside Service

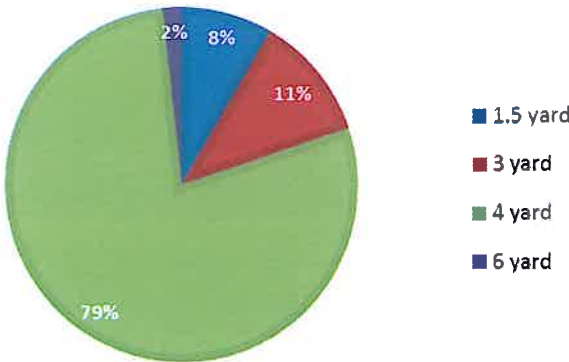


For residential automated service customers, the rates for service are different in the “Old Model Colony” (OMC) and the “Ontario Ranch” based on a differential cost of service. The difference in the cost of service is primarily driven by 1) greater collection times servicing stops; and 2) greater transportation

distances. It takes approximately 20% longer to service a typical residential route in Ontario Ranch than it does in the OMC due to the increased housing densities as well as access. Also, the average distance of travel per day for the collection vehicles is approximately 30% greater than in the OMC. Together, these factors result in a higher cost of service (e.g., more collection vehicles, more personnel, fuel costs, etc.) for the Ontario Ranch when compared to the OMC.

Commercial bins: Commercial bin service includes collection of 1.5 cubic-yard, 3.0 cubic-yard, 4.0 cubic-yard, and 6.0 cubic-yard standard and compactor bins for refuse, organics, greenwaste, and co-mingled recycling. In FY 2014-15, the City serviced approximately 5,655 commercial bin customers and about seventy-nine percent (79%) of these were 4.0 cubic-yard bins.

Figure 2
FY 2014-15 Commercial Bin Service



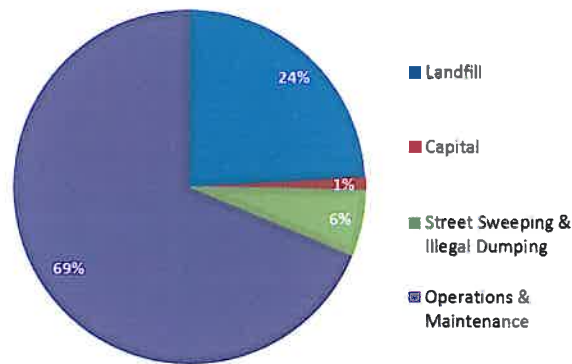
Roll-off bins: Roll-off service includes open-top and compactor service for refuse, single-commodity recycling, greenwaste, and inert material. In FY 2014-15, the City serviced approximately 12,795 roll-off loads.

The City continues to exceed the State mandated diversion rate for recyclable materials. To further encourage recycling, the City offers specific services and rates for co-mingled recycling and greenwaste collection services for automated service customers, organics, greenwaste and co-mingled recycling collection services for commercial bin customers, and single-commodity recycling, greenwaste, and inert collection services for roll-off customers.

Solid waste expenses consist of landfill disposal costs including handling, transfer, and recycling services; operation and maintenance (O&M) expenses including general overhead costs related to supervision,

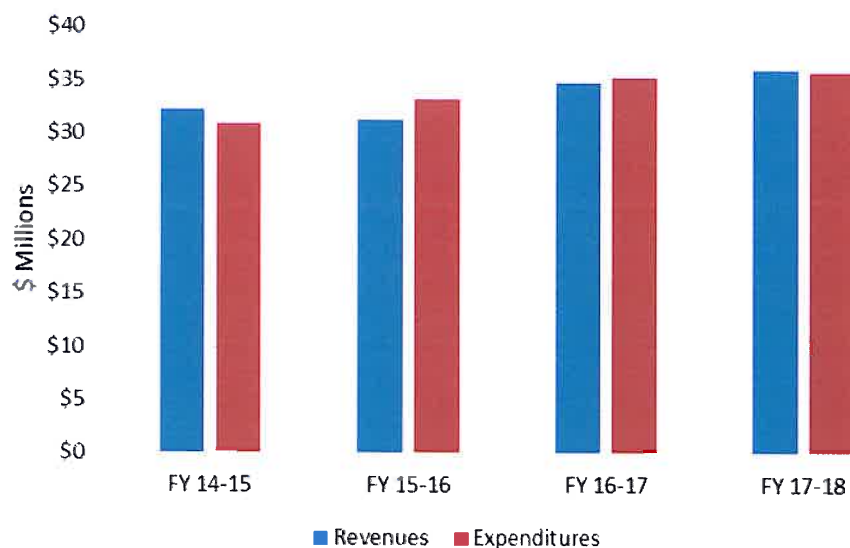
utility billing and customer service, and cost allocations to the General Fund for City provided services; street sweeping and illegal dumping clean up services; and a capital improvement program, as illustrated by Figure 3.

Figure 3
FY 2014-15 Expenses - \$31 million



The City's current solid waste rates will not generate adequate revenue to cover the City's projected expenditures, as illustrated by Figure 4.

Figure 4



Since revenues generated by the existing solid waste service charges included in Table 1 are not adequate to cover the anticipated expenditures to provide solid waste services, staff recommends the following solid waste rates that the City should charge its customers in March 2016 and January 2017. Staff will continue to periodically review the financial plan to ensure continued financial stability.

Table 1
Current and Proposed Solid Waste Rates

Automated Refuse Container Collection Rates									
Old Model Colony	Gallons	First Refuse Container Set			Additional Refuse Containers				
		Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017		
	96	\$27.14	\$27.41	\$27.68	\$24.78	\$25.03	\$25.28		
	64	\$23.60	\$23.83	\$24.06	\$21.24	\$21.45	\$21.66		
	32	\$20.07	\$20.27	\$20.47	\$17.70	\$17.89	\$18.08		
Ontario Ranch	Gallons	First Refuse Container Set			Additional Refuse Containers				
		Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017		
	96	\$30.67	\$30.97	\$31.27	\$28.00	\$28.28	\$28.56		
	64	\$26.67	\$26.93	\$27.19	\$24.00	\$24.24	\$24.48		
	32	\$22.67	\$22.89	\$23.11	\$20.00	\$20.20	\$20.40		
Bin Monthly Rates (Refuse/Organics)									
Bin Size (Cubic Yards)	One Pickup/Week			Each Extra Pickup/Week			Saturday Service		
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
1.5	\$104.00	\$105.00	\$106.00	\$94.68	\$96.00	\$97.00	\$113.62	\$115.00	\$116.00
3	\$123.81	\$125.00	\$126.00	\$110.24	\$112.00	\$113.00	\$131.09	\$132.00	\$133.00
4	\$152.94	\$155.00	\$157.00	\$135.25	\$137.00	\$138.00	\$162.30	\$164.00	\$166.00
6	\$215.36	\$218.00	\$220.00	\$195.60	\$198.00	\$200.00	\$234.72	\$237.00	\$240.00
Bin Monthly Rates (Recycling/Green)									
Bin Size (Cubic Yards)	One Pickup/Week			Each Extra Pickup/Week			Saturday Service		
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
1.5	\$35.00	\$35.35	\$35.70	\$35.00	\$35.35	\$35.70	\$42.00	\$42.50	\$43.00
3	\$50.00	\$50.50	\$51.00	\$50.00	\$50.50	\$51.00	\$60.00	\$60.60	\$61.20
4	\$59.00	\$59.60	\$60.20	\$59.00	\$59.60	\$60.20	\$70.80	\$71.50	\$72.25
6	\$78.00	\$78.80	\$79.60	\$78.00	\$78.80	\$79.60	\$93.60	\$94.50	\$95.50
Roll Off Container Service Rates									
			Current	3/4/2016	1/1/2017				
Refuse (Open Top or Compactor) Includes Disposal up to 5 tons			\$499.00	\$505.00	\$510.00				
Recycling (Open Top or Compactor) Actual Disposal Costs Additional			\$154.00	\$156.00	\$158.00				
Inert/Green/Wood (Open Top or Compactor) Actual Disposal Costs Additional			\$194.00	\$196.00	\$198.00				
Compactor Bin Monthly Rates									
Bin Size (Cubic Yards)	One Pickup/Week			Each Extra Pickup/Week			Saturday Service		
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
1.5	\$175.83	\$177.00	\$179.00	\$175.83	\$177.00	\$179.00	\$211.00	\$213.00	\$215.00
2	\$198.72	\$201.00	\$203.00	\$198.72	\$201.00	\$203.00	\$238.47	\$241.00	\$244.00
3	\$244.49	\$247.00	\$249.00	\$244.49	\$247.00	\$249.00	\$293.39	\$296.00	\$299.00
4	\$291.31	\$294.00	\$297.00	\$291.31	\$294.00	\$297.00	\$349.58	\$353.00	\$357.00
6	\$383.91	\$388.00	\$392.00	\$383.91	\$388.00	\$392.00	\$460.70	\$466.00	\$471.00

SEWER ENTERPRISE

A review of the sewer service charges indicates that current and projected revenue estimates based on the current rates are not sufficient to cover the anticipated cost of providing sewer services. Therefore, staff recommends changes to sewer rates that the City should charge its customers in calendar years 2016 and 2017.

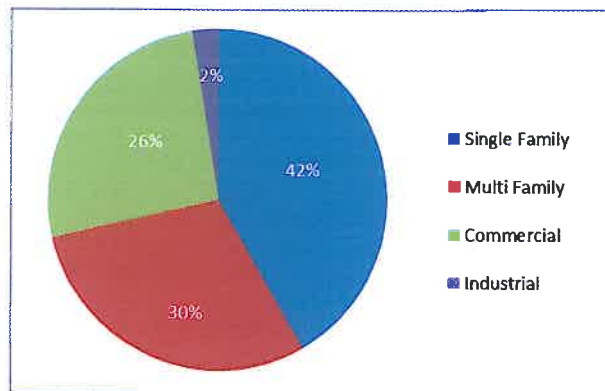
Sewer service charges are billed on a monthly basis. The rate structure for sewer service charges has three customer classifications – (1) single-family residential customers; (2) multi-family residential customers; and (2) non-residential, which includes commercial and industrial customers. The rate structure 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) (“IEUA Charge”) that is passed through by the City to its sewer customers. The rates are calculated to proportionately allocate capital replacement, operations, maintenance, and treatment costs to each customer class.

For single-family and multi-family residential customers, the rates for the City Charge are determined on the basis of the number of residential units on the property. For non-residential customers, the rates for the City Charge have two components: (1) a variable equivalent dwelling unit (EDU) charge; and (2) a fixed unit charge. The EDU charge is determined on the basis of the amount of metered water delivered to the property and assumptions of the amount of water returned to the sewer (i.e., “flow”) based on the customer’s classification, and is designed to recover a portion of the utility’s costs of providing sewer service such as capital replacement, operations and maintenance, billing and customer service. The fixed unit charge is determined on the basis of the type of commercial activity where the service is provided and is designed to recover a portion of the utility’s cost of providing sewer service such as permitting, inspection and environmental regulatory costs.

The IEUA Charge for residential and non-residential is based on the number of EDUs. For residential customers, this charge is fixed at one (1) EDU of a single family residence, and seven tenths of one (0.7) EDU for a multi-family unit. For non-residential customers, the charge varies from month to month based on the number of EDUs as determined by sewer flow and water consumption.

As shown in Figure 5, together, single-family and multi-family customers are approximately 72 percent of the EDUs.

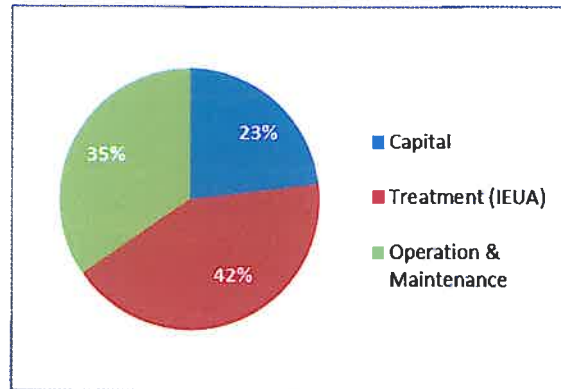
Figure 5
FY 2014-15 EDUs by Customer Class



The City sewer expenses consist of the cost of operation and maintenance (O&M) including sewer line cleaning, video inspection, repairs, and environmental programs. In accordance with the City's Sewer System Management Plan (SSMP), approximately 1.2 million linear feet of sewer collection pipelines are inspected and cleaned in order to prevent the buildup of debris, such as sand, silt, grease, roots and rocks that can significantly reduce the capacity of the pipes causing blockages and overflows. Environmental program responsibilities include issuance of industrial discharge permits, monitoring sewer discharge data, conducting compliance inspections of commercial grease interceptors as part of the City's "FOG" (Fats, Oils & Grease) program and inspections of permitted industrial facilities, as well as monitoring and reporting on sanitary sewer overflows (SSO). Other costs covered by the City charges for sewer services include general overhead costs related to supervision, utility billing and customer service, cost allocations to the General Fund for City provided services, and a capital improvement program, as shown in Figure 6.

The City's sewer system consists of more than 393 miles of sewer pipes along with 7,800 manholes and cleanouts, and the average age of pipelines throughout Ontario is about 45 years, with some sections still in use today that date back to the 1890's. The sewer master plan estimates the cost to replace the entire system today at more than \$325 million. Additionally, the master plan identifies more than \$100 million in capital improvement projects that are needed to correct existing system deficiencies where peak sewer flows are greater than the capacity of the pipelines. The overall age and condition of the sewer system creates a significant liability for the sewer fund. The capital improvement program is developed in order to prioritize projects within available funding, currently averaging about \$5 million per year, in order to address this liability on an annual basis.

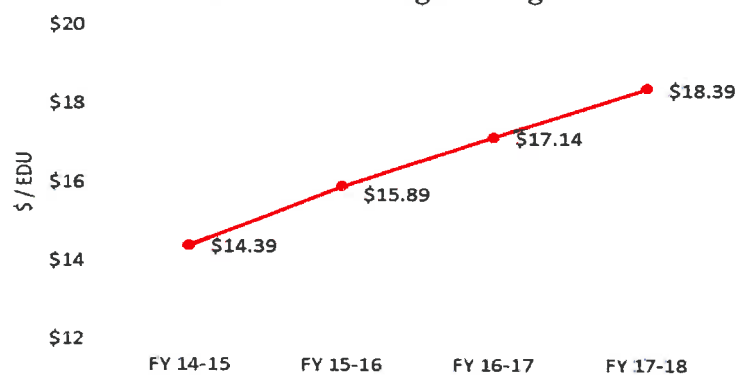
Figure 6
FY 2014-15 Expenses - \$21 million



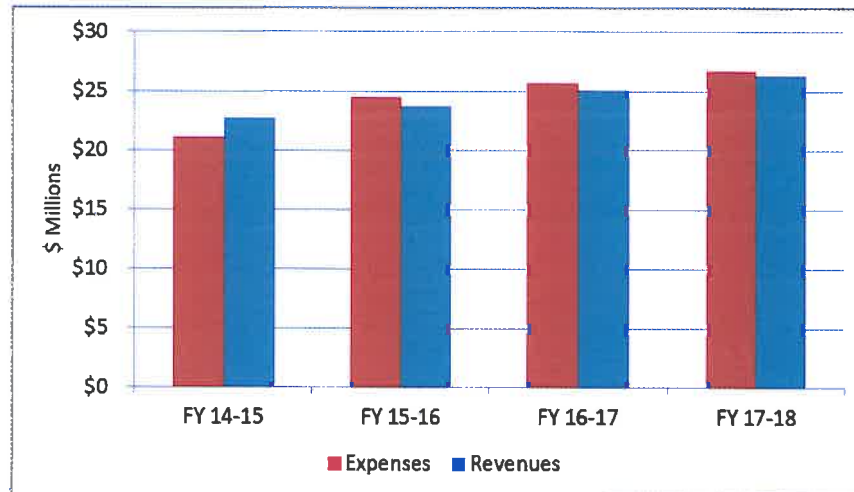
The graph includes the cost of treatment provided by IEUA. The City pays IEUA to treat its sewer and these costs are passed on to City sewer customers through the IEUA Charge.

Based on IEUA projections, the current IEUA charge will not generate adequate revenues to cover the treatment cost. The IEUA Board has adopted increases to the IEUA Charge, from the current charge of \$15.89 per EDU to \$17.14 per EDU in 2016 and \$18.39 per EDU in 2017 (see Figure 7). If approved by the City Council, the proposed IEUA Charges may be imposed for the periods commencing on July 1, 2016 and July 1, 2017, respectively. Prior to implementing any IEUA Pass Through Adjustment that the IEUA Board may consider and adopt, the City will provide written notice of the rate increase not less than 30 days prior to its effective date.

Figure 7
IEUA Pass Through Charge



The City's current sewer rates will not provide adequate revenue to cover the City's costs for O&M and the capital improvement program, as illustrated by Figure 8.

Figure 8

As a result of the anticipated increases in the costs of providing sewer service, the City is proposing to increase the City Charges for sewer services in March 2016 and January 2017 and to pass through future IEUA Charges for treatment over the two-year period. The proposed rates for the sewer service charges are set forth below for the different customer classes are summarized in Table 2.

Table 2
Current and Proposed Sewer Rates

EDU Rates				Unit Rates			
Customer Class	Current	3/4/2016	1/1/2017	**Rates for Per Building Unit or Room Sewer Service Charges for Non-Residential Customers	Current	3/4/2016	1/1/2017
Single Family Residential (\$/Unit)	\$13.37	\$13.50	\$13.63	Hotel/Motel (\$/ Room)	\$8.38	\$8.45	\$8.55
Multiple Family Residential (\$/Unit)	\$12.84	\$12.97	\$13.10	Professional Offices (\$/ Building Unit)	\$13.16	\$13.30	\$13.45
Non-Residential per EDU * (\$/EDU)	\$13.37	\$13.50	\$13.63	Other Commercial (\$/Building Unit)	\$32.25	\$32.60	\$32.90
(*) EDU (Equivalent Dwelling Unit) is a term used to compare the flows from non-residential units in terms of flows generated by a single family residential unit. (**) Non-residential customers also pay a "per building unit" charge as shown in the table at right.				Categorical/Significant Industry (\$/ Permitted Unit (SIU))	\$120.62	\$121.80	\$123.00
				Class II Industry (\$/Permitted Unit)	\$120.62	\$121.80	\$123.00
				Other Industries (\$/Permitted Unit)	\$60.37	\$61.00	\$61.60

Based on the charges adopted and imposed on the City by IEUA, the current and proposed rates for IEUA Charges are set forth below:

CURRENT AND PROPOSED MONTHLY RATES FOR IEUA CHARGES

Monthly Rates	IEUA Pass Through Rates		
	Current	7/1/2016	7/1/2017
Volumetric Rate per EDU*	\$15.89	\$17.14	\$18.39
(*) EDU (Equivalent Dwelling Unit) is a term used to compare the flows from non-residential units in terms of flows generated by a single family residential unit. Multi-family is 0.7 EDU.			

WATER ENTERPRISE

A review of the water service charges indicates that current and projected revenue estimates based on the current rates are not sufficient to cover the anticipated cost of providing water services. Therefore, staff recommends changes to water rates that the City should charge its customers in calendar years 2016 and 2017.

Water service charges are billed on a monthly basis. The proposed water rate structure for water service charges has two customer classes – (1) residential, which includes single-family and multi-family customers; and (2) non-residential, which includes, commercial and industrial customers. The rate structure is comprised of two components: (1) a fixed monthly service charge (the “Readiness to Serve Charge”); and (2) a variable monthly water usage charge (the “Commodity Charge”). The Readiness to Serve Charge is a fixed charge established on the basis of the meter size of the property receiving water service from the City and is calculated to recover the City’s fixed costs of water facilities repairs and replacements as well as the cost of meter reading, billing and customer service. The Commodity Charge is calculated on the basis of the cost of providing water, including purchasing water, managing the City’s water resources, and deterring water waste and encouraging water use efficiency, and a portion of the utility’s fixed costs, and consists of two tiers which will impose higher rates per unit of water (one unit equals one hundred cubic feet or 748 gallons) as the level of consumption increases. The first tier cut-off is 15 hundred cubic feet (hcf) per month. Together, the two components are structured in such a way as to proportionately allocate capital replacement, operations and maintenance costs to each customer class, while managing the City’s water resources.

In addition to the general water service charge imposed on property owners, the City also imposes a monthly private fire service fee on certain properties. The private fire service fee is imposed only as a condition of extending or initiating water service by (i) the installation of a private fire hydrant, or (ii) upon the request of the consumer or property owner for the delivery of water to the property for the purpose of private fire service protection.

The City serves approximately 33,570 individual water customer accounts. Single family accounts make up the largest customer group with approximately 79 percent of the total accounts (see Figure 9). The average water usage for a single family residence is approximately 18 hcf per month (450 gallons per day), and single family residents accounted for about 35 percent of the total water consumed in the City (see Figure 10).

Figure 9

FY 2014-15 Meters by Customer Class

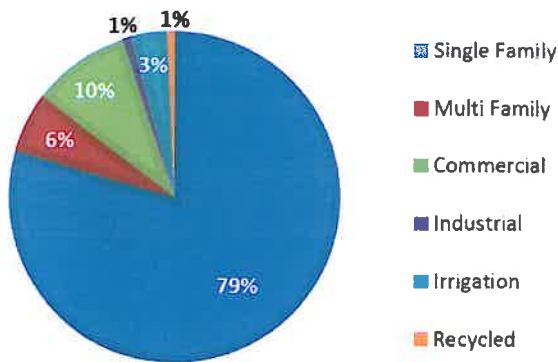
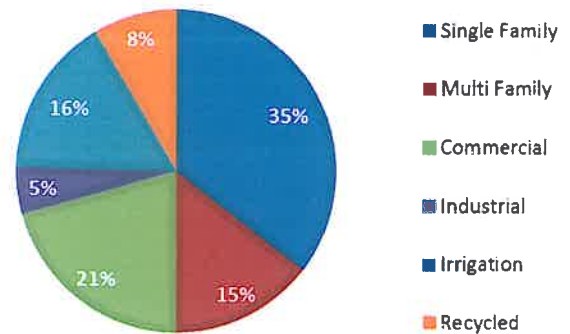


Figure 10

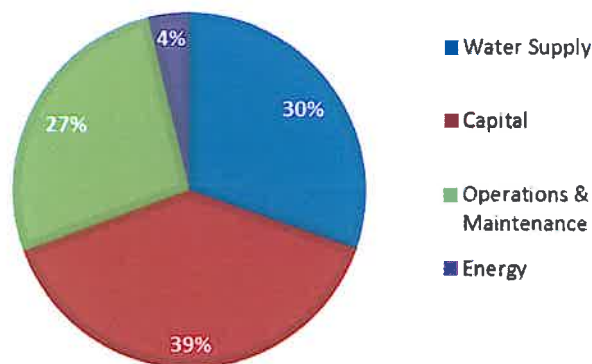
FY 2014-15 Usage by Customer Class



Water expenses consist of water supply costs including the cost to purchase imported water and supplemental water production rights, cost of energy for water production; other operation and maintenance (O&M) expenses including cost of system maintenance, general overhead costs related to supervision, utility billing and customer service, and cost allocations to the General Fund for City provided services; and a capital improvement program, as illustrated by Figure 11.

Figure 11

FY 2014-15 Expenses - \$59 million



The City's potable water supply includes imported water from Metropolitan Water District (MWD), groundwater pumped from its wells in the Chino Basin, and desalted water from the Chino Basin Desalter Authority (CDA) (see Figure 12). The Desalter expansion that is currently underway is anticipated to provide 3,533 acre feet (AF) of additional potable water per year. In addition to these potable water sources, the City uses recycled water for groundwater replenishment and for direct use in landscape irrigation and some industrial applications.

While an important part of Ontario's water supply, there is rapid escalation in the cost to purchase recycled water from IEUA, as illustrated by Figure 13. As a result, the cost to provide recycled water to Ontario's customers has increased.

Figure 12
FY 2014-15 Water Supply by Source

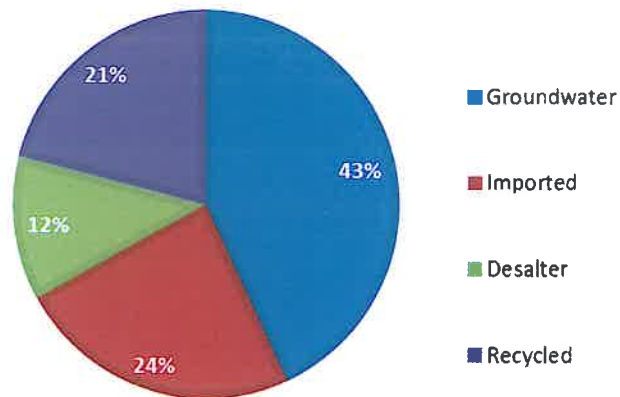
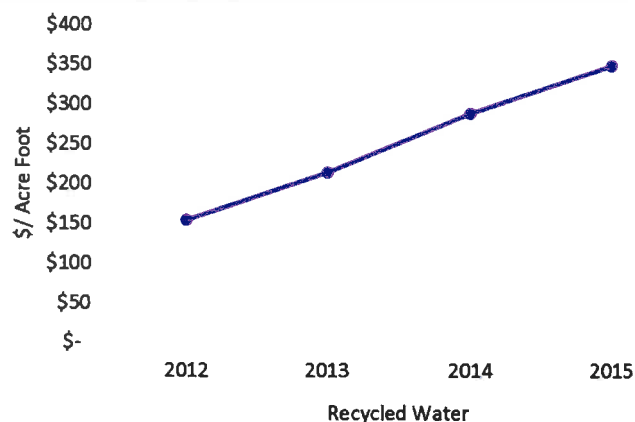


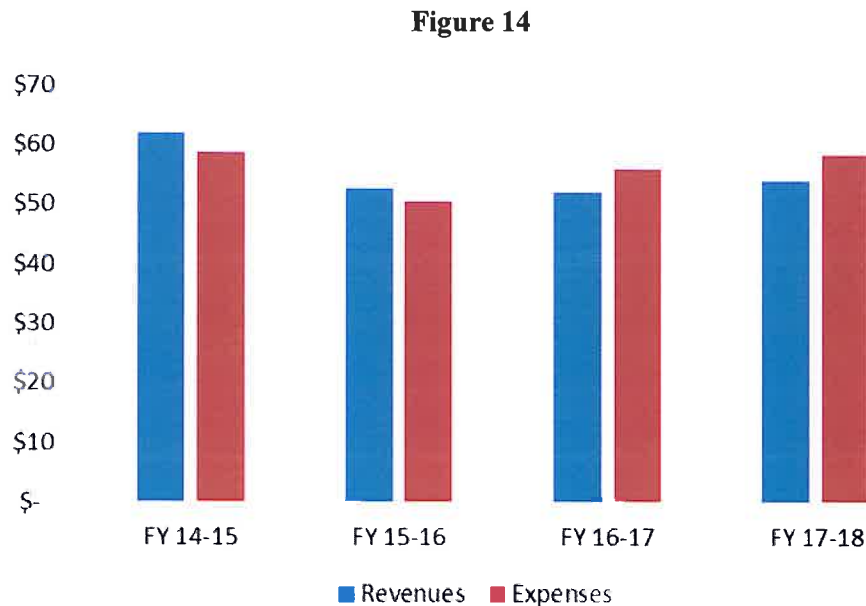
Figure 13
Recycled Water Cost (\$/AF)



The water and recycled water master plans establish the basis and cost for new and replacement capital infrastructure required to maintain reliable water service for existing users and to expand the water systems for future users. The City maintains about 605 miles of main water pipelines, and the average age of the pipelines throughout Ontario is about 35 years, with about 115 miles (21%) of these being 50 years and older. The water system also consists of 24 active groundwater wells, 12 water reservoirs that store 75 million gallons of water, pressure reducing stations, booster stations, and water treatment facilities. The water master plan estimates the cost to replace the entire system today at more than \$700 million. Additionally, the master plans identify more than \$150 million in capital improvements that are needed to correct existing deficiencies primarily related to meeting fire flow requirements. Planned infrastructure improvements include ongoing meter replacement, additional water storage capacity, replacement of aging water production wells (five out of the City's twenty-four active wells are more than 40 years old),

additional water treatment, and projects that will provide site security and system reliability such as seismic retrofits for existing water facilities.

The City's projected expenditures will exceed the available resources under the existing rates, as illustrated by Figure 14.



The City has experienced and anticipates future increases in the costs to operate and maintain the water system and to provide ongoing water system repairs, replacements, and upgrades. As a result of the anticipated increases in the costs of providing water service, the City is proposing to increase the City Charges for water services over the two-year period, commencing March 2016 and January 2017. Included in the proposed rates are the cost of imported water from wholesale agencies and fees imposed by regulatory agencies. The proposed rates for water service charges for the different customer classes are summarized in Table 3 below:

Table 3
Current and Proposed Water Rates

Monthly Water Use (Potable)	Commodity Charge Rates \$/HCF (Hundred Cubic Feet = 748 gallons)		
	Current	3/4/2016	1/1/2017
0-15 HCF	\$2.34	\$2.39	\$2.44
More than 15 HCF	\$2.72	\$2.78	\$2.84

Monthly Water Use (Recycled)	Commodity Charge Rates \$/HCF (Hundred Cubic Feet = 748 gallons)		
	Current	3/4/2016	1/1/2017
Per HCF	\$1.56	\$1.63	\$1.71

Fire Service Charge Rates \$/Month				Readiness-to-Serve Charge Rates \$/Month						
				Meter Size	Potable Water Rates			Recycled Water Rates		
Pipe Size	Current	3/4/2016	1/1/2017		Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
2"	\$12.10	\$12.40	\$12.70	5/8"	\$22.75	\$23.30	\$23.85	\$12.60	\$13.25	\$13.90
4"	\$24.65	\$25.25	\$25.85	3/4"	\$30.70	\$31.45	\$32.20	\$17.10	\$17.95	\$18.85
6"	\$49.05	\$50.25	\$51.45	1"	\$40.40	\$41.35	\$42.35	\$22.45	\$23.60	\$24.80
8"	\$69.35	\$71.00	\$72.70	1.5"	\$89.65	\$91.80	\$94.00	\$49.75	\$52.25	\$54.85
10"	\$94.05	\$96.30	\$98.60	2"	\$129.25	\$132.00	\$135.00	\$71.75	\$75.30	\$79.00
12"	\$183.60	\$188.00	\$193.00	3"	\$252.05	\$258.00	\$264.00	\$139.95	\$147.00	\$154.00
16"	\$365.55	\$374.00	\$383.00	4"	\$399.60	\$409.00	\$419.00	\$221.85	\$233.00	\$245.00
				6"	\$826.05	\$846.00	\$866.00	\$458.65	\$482.00	\$506.00
				8"	\$1,225.85	\$1,255.00	\$1,285.00	\$680.70	\$715.00	\$750.00
				10"	\$1,891.20	\$1,937.00	\$1,983.00	\$1,050.10	\$1,100.00	\$1,155.00

EXHIBIT B

(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 rates for the IEUA Charge per equivalent dwelling unit ("EDU") is \$15.89, and the adopted rates for the IEUA Charge per EDU effective July 1, 2016 and July 1, 2017 are \$17.14 and \$18.39, respectively. 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 an EDU basis, where an EDU is determined on the basis of the amount of metered water delivered to the property and assumptions of the amount of water returned to the sewer (i.e., "flow") based on the customer's classification. The rates for these customers shall be as follows:

Customer Classification	City Charge Rates (\$/EDU or Unit)		
	Current Rates	Rates Effective 3/4/2016	Rates Effective 1/1/2017
Single Family Residential per Month per Unit	13.37	13.50	13.63
Multiple Family Residential per Month per Unit	12.84	12.97	13.10
Non-Residential per Month per EDU	13.37	13.50	13.63

(e) The monthly rates for the City Charge for certain non-residential customers shall be the sum of the per building unit charges listed below and the number of EDUs, where an EDU is determined on the basis of the amount of metered water delivered to the property and assumptions of the amount of water returned to the sewer (i.e., "flow") based on the customer's classification, multiplied by the EDU rate listed under subsection (d) above. With the exception of hotels and motels, one (1) unit equals one (1) building unit. For hotels and motels, one (1) unit equals one (1) room.

Per Unit Sewer Service Collection Charges for Non-Residential Customers	Current Rates (\$)	Rates (\$) Effective 3/4/2016	Rates (\$) Effective 1/1/2017
Hotel/Motel per room charge	8.38	8.45	8.55
Professional Offices per building unit charge	13.16	13.30	13.45
Other Commercial per building unit charge	32.25	32.60	32.90
Categorical/Significant Industry per permitted unit	120.62	121.80	123.00
Class II Industry per permitted unit	120.62	121.80	123.00
Other Industries per permitted unit	60.37	61.00	61.60

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING INCREASES TO THE RATES FOR ITS WATER SERVICE CHARGES, NEW METER CHARGES AND OTHER MISCELLANEOUS ONE-TIME WATER FEES.

WHEREAS, approximately one third of the City's potable water supply is imported from Northern California via the California Aqueduct and is purchased indirectly from the Metropolitan Water District of Southern California ("MWD") through the Inland Empire Utility Agency ("IEUA"); and

WHEREAS, this water is delivered to the Water Facilities Authority ("WFA") for treatment and sale to the City; and

WHEREAS, the City is subject to certain regulatory requirements and charges imposed by the Chino Basin Watermaster (the "Watermaster") to protect the groundwater basin within the City, and costs of such regulatory requirements and charges are passed on to City water customers through its water service fees; and

WHEREAS, the City has experienced and anticipates future increases in the costs to operate and maintain the potable and recycled water systems (collectively "System") and to provide ongoing repairs, replacements, and upgrades to the System, including costs imposed on the City by MWD, IEUA, WFA, and the Watermaster; and

WHEREAS, the City determined to undertake a rate study to analyze the revenue requirements, and the rate structure necessary to proportionately allocate the costs of providing ongoing water services; and

WHEREAS, the rate study demonstrates that existing System revenues are and will be insufficient to cover: (i) current and projected operations and maintenance costs of the System; and (ii) the capital infrastructure improvements needed to repair, replace, and update the System; and

WHEREAS, a report of the results of the rate study (the "Rate Report"), attached hereto as Exhibit A and by this reference incorporated herein, has been prepared which includes the proposed rates for the potable and recycled water service charges and documents the estimated and reasonable costs of providing such services; and

WHEREAS, the findings and determinations contained herein are based upon the Rate Report documenting the estimated reasonable costs of providing potable and recycled water services; and

WHEREAS, the City has determined to increase the rates for its potable and recycled water service charges for a two-year period, commencing March 4, 2016 and January 1, 2017, respectively; and

WHEREAS, the City has also determined to increase the rates for new meter charges and other miscellaneous one-time water fees that are imposed as a request for a water service or product; and

WHEREAS, the schedule of proposed rates for the potable and recycled water service charges for ongoing water service, the new meter charges and other miscellaneous one-time water charges is attached hereto as Exhibit B and by this reference incorporated herein; and

WHEREAS, the City made available to the public the Rate Report documenting the estimated costs required to provide the potable and recycled water services for which the charges are proposed to be increased and the revenue sources anticipated to provide such services; and

WHEREAS, the City Council hereby finds and determines the following with regard to the proposed rate increases to the potable and recycled water service charges:

1. The monthly potable and recycled water service charges consist of two components: (a) a fixed monthly service charge (the "Readiness-to-Serve Charge"), which is imposed only as a condition of extending or initiating service upon the request of a customer; and (b) a variable monthly water usage charge (the "Commodity Charge"), which is imposed on the basis of the amount of water used or consumed by the customer;

2. The rates for the Readiness-to-Serve Charge are established on the basis of the meter size of the property receiving water service from the City and are calculated to recover the City's fixed costs of water facilities repairs and replacements, as well as the cost of meter reading, billing and customer service. The rates for the Commodity Charge are calculated on the basis of the cost of providing water, including purchasing water, managing the City's water resources, and deterring water waste and encouraging water use efficiency, and a portion of the utility's fixed costs. For potable water, the Commodity Charge consists of two tiers which will impose higher rates per one hundred cubic feet (HCF) of water as the level of consumption increases. For recycled water, there is a uniform rate for each HCF of water delivered;

3. A private Fire Service Charge is imposed only as a condition of extending or initiating such service by the installation of a private fire hydrant and upon the request of the consumer or property owner for the delivery of water to the property for the purpose of private fire service protection. The rates for the monthly Fire Service Charges are established on the basis of the size of the pipes through which the water is delivered to the private fire hydrant and are calculated to recover the cost of providing water to such properties for private fire service protection;

4. The proposed potable and recycled water service charges referenced above and those included in Exhibit B represent increases in such fees and charges;

5. The revenues derived from the proposed potable and recycled water service charges will not exceed the funds required to provide the water services and shall be used exclusively for the System;

6. The amount of the proposed potable and recycled water service charges will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition;

7. The proposed potable and recycled water service charges will not be imposed on a parcel unless the water services are actually used by, or immediately available to, the customer of the parcel;

8. The proposed potable and recycled water service charges will not be used for any other purpose than that for which they are imposed;

9. The proposed potable and recycled water service charges are not levied for general governmental services;

10. The proposed potable and recycled water service charges represent increases in the charges needed to provide water services and to operate System; 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 increased potable and recycled water service charges are proposed to be imposed, and calculated the amount of the fees and charges proposed to be imposed;

2. On December 4, 2015, the City mailed written notice to the record owners of the parcels upon which the potable and recycled water service charges are proposed to be imposed and any tenants directly liable for the payment of potable and recycled water service charges ("customers") of each parcel upon which the proposed increases to the potable and recycled water service charges are proposed for imposition, 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 January 19, 2016 (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 potable and recycled water service charges; and

4. At the conclusion of the public hearing, written protests against the proposed increases to the potable and recycled water service charges were not presented by a majority of customers subject to the proposed charges; and

WHEREAS, the City hereby finds and determines that in accordance with the provisions of California Constitution article XIII C, section 1(e)(2), the new meter charges and other miscellaneous one-time fees that are imposed as a request for service or product provided directly to the payor that is not provided to those not charged, and do not exceed the reasonable costs to the City of providing the service or product; 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 potable and recycled water service charges, the new meter charges and other miscellaneous one-time water fees are exempt from CEQA pursuant to Section 15378 and Section 15273 of the CEQA Guidelines because: (a) the increased fees and 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.

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. The current rates for potable and recycled water service charges as set forth in Exhibit B shall remain in full force and effect in accordance with the schedule set forth in Exhibit B. Commencing March 4, 2016, and January 1, 2017, respectively, the City Council hereby authorizes and establishes the rates for potable and recycled water service charges as more fully set forth in Exhibit B.

SECTION 3. The current rates for the new meter charges and other miscellaneous one-time water fees as set forth in Exhibit B shall remain in full force and effect in accordance with the schedule set forth in Exhibit B. Commencing March 4, 2016, and January 1, 2017, respectively, the City Council hereby authorizes and establishes the rates for the new meter charges and other miscellaneous one-time water fees as more fully set forth in Exhibit B.

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 potable and recycled water service charges, the new meter charges and other miscellaneous one-time water fees set forth in Exhibit B.

SECTION 5. 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 6. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

SECTION 7. A full reading of this Ordinance is hereby waived. This Ordinance was introduced at a regular meeting of the City Council of the City of Ontario, California, on January 19, 2016, and thereafter adopted at a regular meeting of the City Council held on the 2nd day of February 2016.

SECTION 8. This Ordinance shall become effective thirty (30) calendar days after its adoption by the City Council.

SECTION 9. The Mayor shall sign this Ordinance and the Assistant 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 Assistant 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.

SECTION 10. City staff is directed to file a Notice of Exemption within five (5) days of the adoption of this Ordinance.

PASSED, APPROVED, AND ADOPTED this 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3042 was duly introduced at a regular meeting of the City Council of the City of Ontario held January 19, 2016, and adopted at the regular meeting held February 2, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3042 duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016 and that Summaries of the Ordinance were published on January 26, 2016 and February 9, 2016, in the Inland Valley Daily Bulletin newspaper.

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

EXHIBIT A

City of Ontario



Solid Waste, Sewer, & Water Rate Report

EXECUTIVE SUMMARY

The City recently evaluated the service and infrastructure needs, programs, operation and maintenance costs of the City's solid waste, sewer and water enterprises. The City has determined that solid waste, sewer and water service charges are and will be insufficient to cover (i) current and projected operations and maintenance costs for providing solid waste, sewer and water services and (ii) the cost of capital infrastructure improvements needed to cover anticipated costs repair and update the City's water and sewer systems. Accordingly, the City has determined that rate increases are necessary to address the need for infrastructure and sewer and water quality improvements, and to avoid operational deficits and depletion of reserves.

The following table illustrates the combined effect of the proposed rate increases on the monthly utility bill for City charges for "Typical Residential" and "Typical Commercial – Industrial" customers over the next two years.

Combined Utility Rate

Typical Residential

Service	Current	March 2016	January 2017
Solid Waste	\$ 27.14	\$ 27.41	\$ 27.68
Sewer	\$ 13.37	\$ 13.50	\$ 13.63
Water	\$ 66.01	\$ 67.49	\$ 68.97
Combined	\$106.52	\$108.40	\$110.28

Typical Commercial - Industrial

Service	Current	March 2016	January 2017
Solid Waste	\$ 288	\$ 291	\$ 294
Sewer	\$ 233	\$ 235	\$ 237
Water	\$ 986	\$1,010	\$1,035
Combined	\$1,507	\$1,536	\$1,566

SOLID WASTE ENTERPRISE

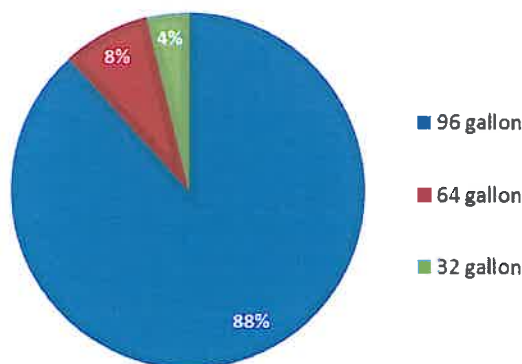
A review of the solid waste service charges indicates that current and projected revenue estimates based on the current rates are not sufficient to cover the anticipated cost of providing solid waste services. Therefore, staff recommends changes to the solid waste rates that the City should charge its customers in calendar years 2016 and 2017. Increases in the cost of handling, transfer and landfill disposal of the materials the City collects and the increased cost of service to meet legislative mandates related to expanded diversion and recycling in order to help reduce greenhouse gas emissions, such as commercial and industrial recycling, food waste recycling, and special material (e.g., tires, mattresses, and electronic waste) handling and recycling programs are primary drivers of the recommended rate increases.

To offset some of the cost increases associated with handling and disposal and regulatory requirements, the City has implemented cost avoidance and cost cutting measures, including extending the useful life of solid waste vehicles to reduce capital replacement cost, and increasing operational efficiency to reduce labor costs, in order limit the proposed rate increase to a minimum.

The City provides the following three types of collection service to its customers:

Automated curbside: The City offers three sizes of containers to automated service customers, 32-gallon, 64-gallon and 96-gallon. The charges are based on the size of containers. In FY 2014-15, the City served approximately 31,250 automated service customers, about eighty-eight percent (88%) of automated service customers used the 96-gallon containers, about eight percent (8%) used the 64-gallon containers and about four percent (4%) used the 32-gallon containers.

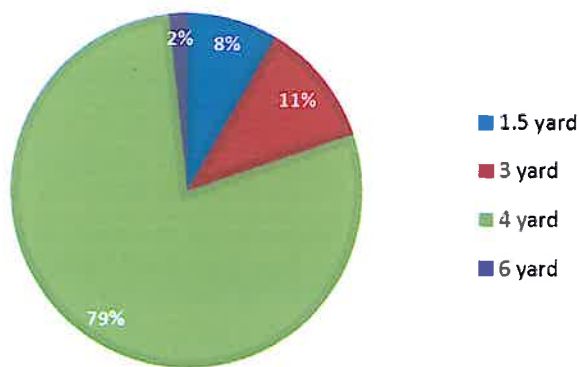
Figure 1
FY 2014-15 Residential Curbside Service



For residential automated service customers, the rates for service are different in the “Old Model Colony” (OMC) and the “Ontario Ranch” based on a differential cost of service. The difference in the cost of service is primarily driven by 1) greater collection times servicing stops; and 2) greater transportation distances. It takes approximately 20% longer to service a typical residential route in Ontario Ranch than it does in the OMC due to the increased housing densities as well as access. Also, the average distance of travel per day for the collection vehicles is approximately 30% greater than in the OMC. Together, these factors result in a higher cost of service (e.g., more collection vehicles, more personnel, fuel costs, etc.) for the Ontario Ranch when compared to the OMC.

Commercial bins: Commercial bin service includes collection of 1.5 cubic-yard, 3.0 cubic-yard, 4.0 cubic-yard, and 6.0 cubic-yard standard and compactor bins for refuse, organics, greenwaste, and co-mingled recycling. In FY 2014-15, the City serviced approximately 5,655 commercial bin customers and about seventy-nine percent (79%) of these were 4.0 cubic-yard bins.

Figure 2
FY 2014-15 Commercial Bin Service

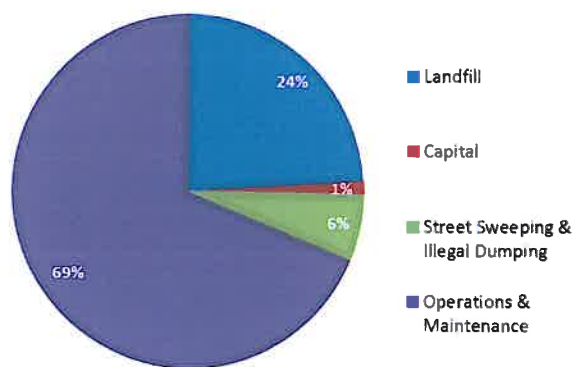


Roll-off bins: Roll-off service includes open-top and compactor service for refuse, single-commodity recycling, greenwaste, and inert material. In FY 2014-15, the City serviced approximately 12,795 roll-off loads.

The City continues to exceed the State mandated diversion rate for recyclable materials. To further encourage recycling, the City offers specific services and rates for co-mingled recycling and greenwaste collection services for automated service customers, organics, greenwaste and co-mingled recycling collection services for commercial bin customers, and single-commodity recycling, greenwaste, and inert collection services for roll-off customers.

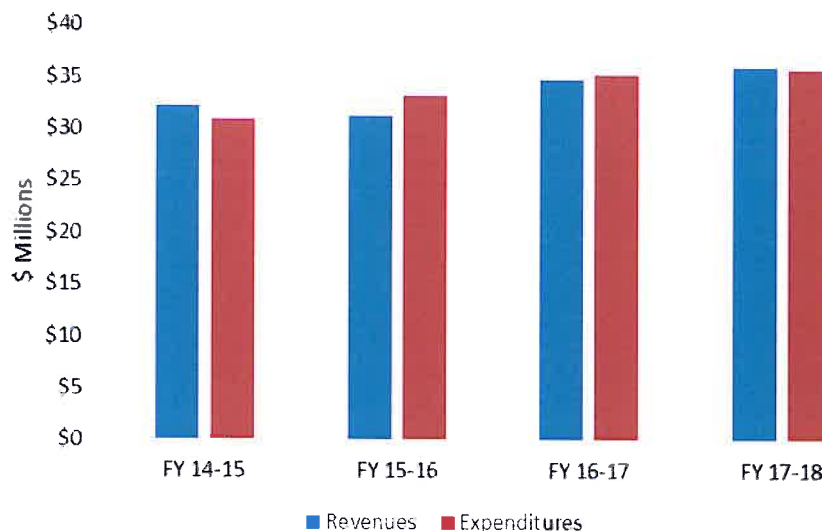
Solid waste expenses consist of landfill disposal costs including handling, transfer, and recycling services; operation and maintenance (O&M) expenses including general overhead costs related to supervision, utility billing and customer service, and cost allocations to the General Fund for City provided services; street sweeping and illegal dumping clean up services; and a capital improvement program, as illustrated by Figure 3.

Figure 3
FY 2014-15 Expenses - \$31 million



The City's current solid waste rates will not generate adequate revenue to cover the City's projected expenditures, as illustrated by Figure 4.

Figure 4



Since revenues generated by the existing solid waste service charges included in Table 1 are not adequate to cover the anticipated expenditures to provide solid waste services, staff recommends the following solid waste rates that the City should charge its customers in March 2016 and January 2017. Staff will continue to periodically review the financial plan to ensure continued financial stability.

Table 1
Current and Proposed Solid Waste Rates

Automated Refuse Container Collection Rates									
Old Model Colony	Gallons	First Refuse Container Set			Additional Refuse Containers				
		Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017		
	96	\$27.14	\$27.41	\$27.68	\$24.78	\$25.03	\$25.28		
	64	\$23.60	\$23.83	\$24.06	\$21.24	\$21.45	\$21.66		
	32	\$20.07	\$20.27	\$20.47	\$17.70	\$17.89	\$18.08		
Ontario Ranch	Gallons	First Refuse Container Set			Additional Refuse Containers				
		Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017		
	96	\$30.67	\$30.97	\$31.27	\$28.00	\$28.28	\$28.56		
	64	\$26.67	\$26.93	\$27.19	\$24.00	\$24.24	\$24.48		
	32	\$22.67	\$22.89	\$23.11	\$20.00	\$20.20	\$20.40		
Bin Monthly Rates (Refuse/Organics)									
Bin Size (Cubic Yards)	One Pickup/Week			Each Extra Pickup/Week			Saturday Service		
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
1.5	\$104.00	\$105.00	\$106.00	\$94.68	\$96.00	\$97.00	\$113.62	\$115.00	\$116.00
3	\$123.81	\$125.00	\$126.00	\$110.24	\$112.00	\$113.00	\$131.09	\$132.00	\$133.00
4	\$152.94	\$155.00	\$157.00	\$135.25	\$137.00	\$138.00	\$162.30	\$164.00	\$166.00
6	\$215.36	\$218.00	\$220.00	\$195.60	\$198.00	\$200.00	\$234.72	\$237.00	\$240.00
Bin Monthly Rates (Recycling/Green)									
Bin Size (Cubic Yards)	One Pickup/Week			Each Extra Pickup/Week			Saturday Service		
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
1.5	\$35.00	\$35.35	\$35.70	\$35.00	\$35.35	\$35.70	\$42.00	\$42.50	\$43.00
3	\$50.00	\$50.50	\$51.00	\$50.00	\$50.50	\$51.00	\$60.00	\$60.60	\$61.20
4	\$59.00	\$59.60	\$60.20	\$59.00	\$59.60	\$60.20	\$70.80	\$71.50	\$72.25
6	\$78.00	\$78.80	\$79.60	\$78.00	\$78.80	\$79.60	\$93.60	\$94.50	\$95.50
Roll Off Container Service Rates									
				Current	3/4/2016	1/1/2017			
Refuse (Open Top or Compactor) Includes Disposal up to 5 tons				\$499.00	\$505.00	\$510.00			
Recycling (Open Top or Compactor) Actual Disposal Costs Additional				\$154.00	\$156.00	\$158.00			
Inert/Green/Wood (Open Top or Compactor) Actual Disposal Costs Additional				\$194.00	\$196.00	\$198.00			
Compactor Bin Monthly Rates									
Bin Size (Cubic Yards)	One Pickup/Week			Each Extra Pickup/Week			Saturday Service		
	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
1.5	\$175.83	\$177.00	\$179.00	\$175.83	\$177.00	\$179.00	\$211.00	\$213.00	\$215.00
2	\$198.72	\$201.00	\$203.00	\$198.72	\$201.00	\$203.00	\$238.47	\$241.00	\$244.00
3	\$244.49	\$247.00	\$249.00	\$244.49	\$247.00	\$249.00	\$293.39	\$296.00	\$299.00
4	\$291.31	\$294.00	\$297.00	\$291.31	\$294.00	\$297.00	\$349.58	\$353.00	\$357.00
6	\$383.91	\$388.00	\$392.00	\$383.91	\$388.00	\$392.00	\$460.70	\$466.00	\$471.00

SEWER ENTERPRISE

A review of the sewer service charges indicates that current and projected revenue estimates based on the current rates are not sufficient to cover the anticipated cost of providing sewer services. Therefore, staff recommends changes to sewer rates that the City should charge its customers in calendar years 2016 and 2017.

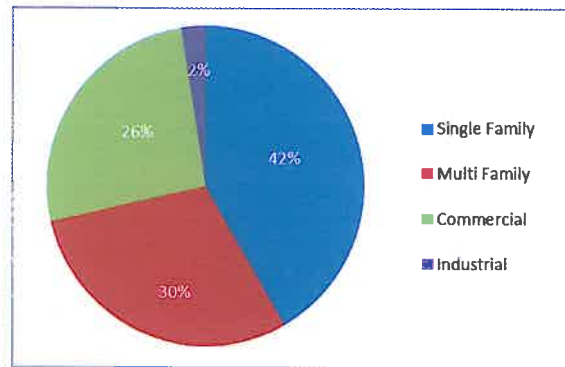
Sewer service charges are billed on a monthly basis. The rate structure for sewer service charges has three customer classifications – (1) single-family residential customers; (2) multi-family residential customers; and (2) non-residential, which includes commercial and industrial customers. The rate structure 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) (“IEUA Charge”) that is passed through by the City to its sewer customers. The rates are calculated to proportionately allocate capital replacement, operations, maintenance, and treatment costs to each customer class.

For single-family and multi-family residential customers, the rates for the City Charge are determined on the basis of the number of residential units on the property. For non-residential customers, the rates for the City Charge have two components: (1) a variable equivalent dwelling unit (EDU) charge; and (2) a fixed unit charge. The EDU charge is determined on the basis of the amount of metered water delivered to the property and assumptions of the amount of water returned to the sewer (i.e., “flow”) based on the customer’s classification, and is designed to recover a portion of the utility’s costs of providing sewer service such as capital replacement, operations and maintenance, billing and customer service. The fixed unit charge is determined on the basis of the type of commercial activity where the service is provided and is designed to recover a portion of the utility’s cost of providing sewer service such as permitting, inspection and environmental regulatory costs.

The IEUA Charge for residential and non-residential is based on the number of EDUs. For residential customers, this charge is fixed at one (1) EDU of a single family residence, and seven tenths of one (0.7) EDU for a multi-family unit. For non-residential customers, the charge varies from month to month based on the number of EDUs as determined by sewer flow and water consumption.

As shown in Figure 5, together, single-family and multi-family customers are approximately 72 percent of the EDUs.

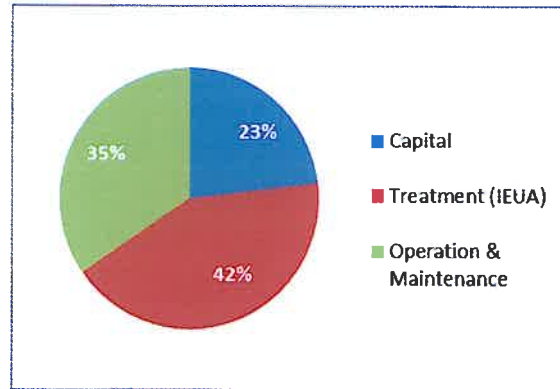
Figure 5
FY 2014-15 EDUs by Customer Class



The City sewer expenses consist of the cost of operation and maintenance (O&M) including sewer line cleaning, video inspection, repairs, and environmental programs. In accordance with the City's Sewer System Management Plan (SSMP), approximately 1.2 million linear feet of sewer collection pipelines are inspected and cleaned in order to prevent the buildup of debris, such as sand, silt, grease, roots and rocks that can significantly reduce the capacity of the pipes causing blockages and overflows. Environmental program responsibilities include issuance of industrial discharge permits, monitoring sewer discharge data, conducting compliance inspections of commercial grease interceptors as part of the City's "FOG" (Fats, Oils & Grease) program and inspections of permitted industrial facilities, as well as monitoring and reporting on sanitary sewer overflows (SSO). Other costs covered by the City charges for sewer services include general overhead costs related to supervision, utility billing and customer service, cost allocations to the General Fund for City provided services, and a capital improvement program, as shown in Figure 6.

The City's sewer system consists of more than 393 miles of sewer pipes along with 7,800 manholes and cleanouts, and the average age of pipelines throughout Ontario is about 45 years, with some sections still in use today that date back to the 1890's. The sewer master plan estimates the cost to replace the entire system today at more than \$325 million. Additionally, the master plan identifies more than \$100 million in capital improvement projects that are needed to correct existing system deficiencies where peak sewer flows are greater than the capacity of the pipelines. The overall age and condition of the sewer system creates a significant liability for the sewer fund. The capital improvement program is developed in order to prioritize projects within available funding, currently averaging about \$5 million per year, in order to address this liability on an annual basis.

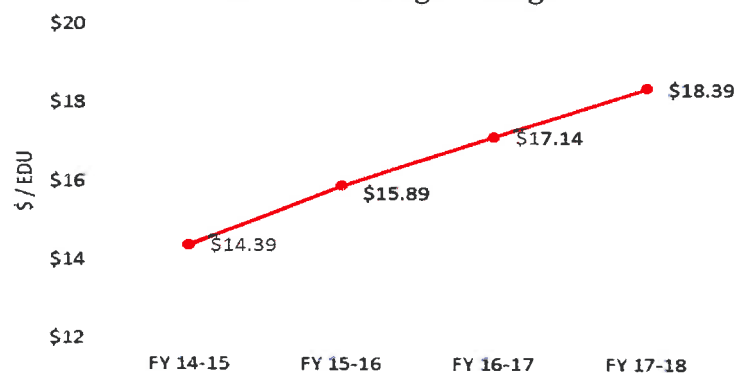
Figure 6
FY 2014-15 Expenses - \$21 million



The graph includes the cost of treatment provided by IEUA. The City pays IEUA to treat its sewer and these costs are passed on to City sewer customers through the IEUA Charge.

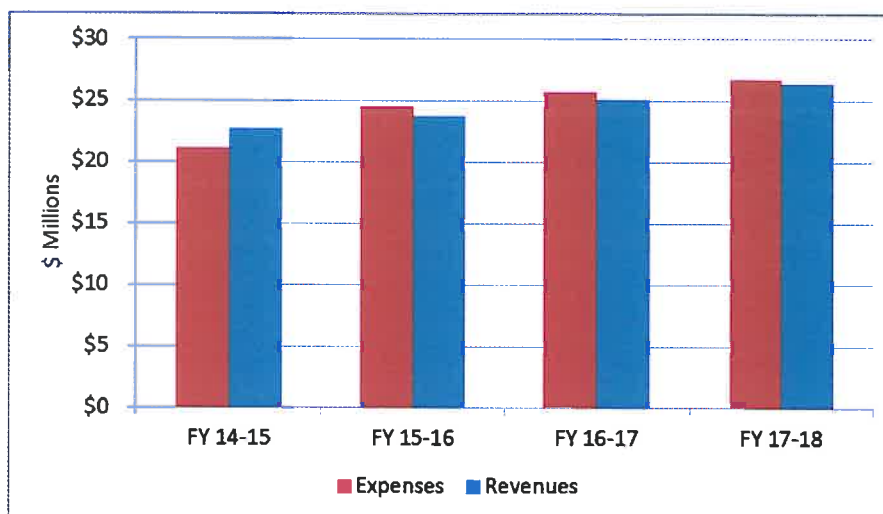
Based on IEUA projections, the current IEUA charge will not generate adequate revenues to cover the treatment cost. The IEUA Board has adopted increases to the IEUA Charge, from the current charge of \$15.89 per EDU to \$17.14 per EDU in 2016 and \$18.39 per EDU in 2017 (see Figure 7). If approved by the City Council, the proposed IEUA Charges may be imposed for the periods commencing on July 1, 2016 and July 1, 2017, respectively. Prior to implementing any IEUA Pass Through Adjustment that the IEUA Board may consider and adopt, the City will provide written notice of the rate increase not less than 30 days prior to its effective date.

Figure 7
IEUA Pass Through Charge



The City's current sewer rates will not provide adequate revenue to cover the City's costs for O&M and the capital improvement program, as illustrated by Figure 8.

Figure 8



As a result of the anticipated increases in the costs of providing sewer service, the City is proposing to increase the City Charges for sewer services in March 2016 and January 2017 and to pass through future IEUA Charges for treatment over the two-year period. The proposed rates for the sewer service charges are set forth below for the different customer classes are summarized in Table 2.

Table 2
Current and Proposed Sewer Rates

EDU Rates				Unit Rates			
Customer Class	Current	3/4/2016	1/1/2017	**Rates for Per Building Unit or Room Sewer Service Charges for Non-Residential Customers	Current	3/4/2016	1/1/2017
Single Family Residential (\$/Unit)	\$13.37	\$13.50	\$13.63	Hotel/Motel (\$/ Room)	\$8.38	\$8.45	\$8.55
Multiple Family Residential (\$/Unit)	\$12.84	\$12.97	\$13.10	Professional Offices (\$/ Building Unit)	\$13.16	\$13.30	\$13.45
Non-Residential per EDU * (\$/EDU)	\$13.37	\$13.50	\$13.63	Other Commercial (\$/Building Unit)	\$32.25	\$32.60	\$32.90
(*) EDU (Equivalent Dwelling Unit) is a term used to compare the flows from non-residential units in terms of flows generated by a single family residential unit. (**) Non-residential customers also pay a “per building unit” charge as shown in the table at right.				Categorical/Significant Industry (\$/ Permitted Unit (SIU))	\$120.62	\$121.80	\$123.00
				Class II Industry (\$/Permitted Unit)	\$120.62	\$121.80	\$123.00
				Other Industries (\$/Permitted Unit)	\$60.37	\$61.00	\$61.60

Based on the charges adopted and imposed on the City by IEUA, the current and proposed rates for IEUA Charges are set forth below:

CURRENT AND PROPOSED MONTHLY RATES FOR IEUA CHARGES

Monthly Rates	IEUA Pass Through Rates		
	Current	7/1/2016	7/1/2017
Volumetric Rate per EDU*	\$15.89	\$17.14	\$18.39
(*) EDU (Equivalent Dwelling Unit) is a term used to compare the flows from non-residential units in terms of flows generated by a single family residential unit. Multi-family is 0.7 EDU.			

WATER ENTERPRISE

A review of the water service charges indicates that current and projected revenue estimates based on the current rates are not sufficient to cover the anticipated cost of providing water services. Therefore, staff recommends changes to water rates that the City should charge its customers in calendar years 2016 and 2017.

Water service charges are billed on a monthly basis. The proposed water rate structure for water service charges has two customer classes – (1) residential, which includes single-family and multi-family customers; and (2) non-residential, which includes, commercial and industrial customers. The rate structure is comprised of two components: (1) a fixed monthly service charge (the “Readiness to Serve Charge”); and (2) a variable monthly water usage charge (the “Commodity Charge”). The Readiness to Serve Charge is a fixed charge established on the basis of the meter size of the property receiving water service from the City and is calculated to recover the City’s fixed costs of water facilities repairs and replacements as well as the cost of meter reading, billing and customer service. The Commodity Charge is calculated on the basis of the cost of providing water, including purchasing water, managing the City’s water resources, and deterring water waste and encouraging water use efficiency, and a portion of the utility’s fixed costs, and consists of two tiers which will impose higher rates per unit of water (one unit equals one hundred cubic feet or 748 gallons) as the level of consumption increases. The first tier cut-off is 15 hundred cubic feet (hcf) per month. Together, the two components are structured in such a way as to proportionately allocate capital replacement, operations and maintenance costs to each customer class, while managing the City’s water resources.

In addition to the general water service charge imposed on property owners, the City also imposes a monthly private fire service fee on certain properties. The private fire service fee is imposed only as a condition of extending or initiating water service by (i) the installation of a private fire hydrant, or (ii) upon the request of the consumer or property owner for the delivery of water to the property for the purpose of private fire service protection.

The City serves approximately 33,570 individual water customer accounts. Single family accounts make up the largest customer group with approximately 79 percent of the total accounts (see Figure 9). The average water usage for a single family residence is approximately 18 hcf per month (450 gallons per day), and single family residents accounted for about 35 percent of the total water consumed in the City (see Figure 10).

Figure 9

FY 2014-15 Meters by Customer Class

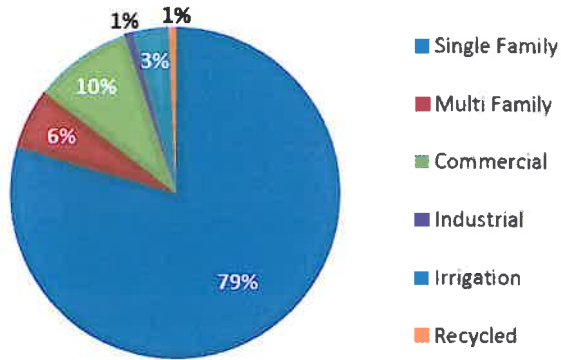
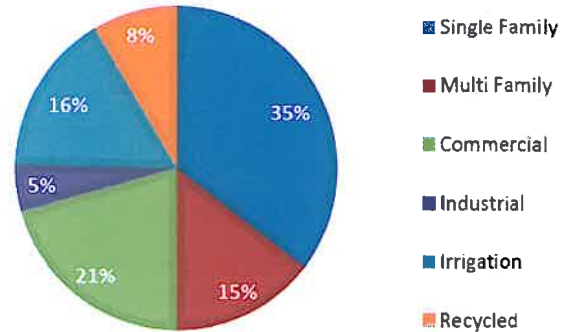


Figure 10

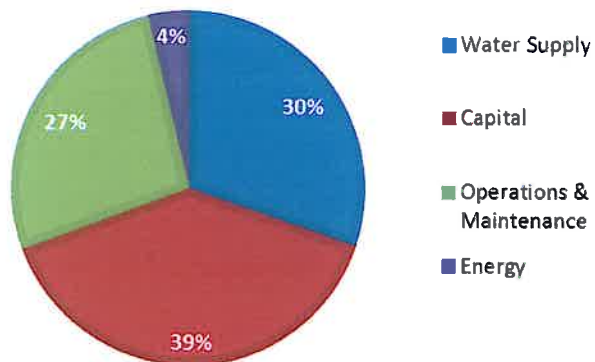
FY 2014-15 Usage by Customer Class



Water expenses consist of water supply costs including the cost to purchase imported water and supplemental water production rights, cost of energy for water production; other operation and maintenance (O&M) expenses including cost of system maintenance, general overhead costs related to supervision, utility billing and customer service, and cost allocations to the General Fund for City provided services; and a capital improvement program, as illustrated by Figure 11.

Figure 11

FY 2014-15 Expenses - \$59 million



The City's potable water supply includes imported water from Metropolitan Water District (MWD), groundwater pumped from its wells in the Chino Basin, and desalted water from the Chino Basin Desalter Authority (CDA) (see Figure 12). The Desalter expansion that is currently underway is anticipated to provide 3,533 acre feet (AF) of additional potable water per year. In addition to these potable water sources, the City uses recycled water for groundwater replenishment and for direct use in landscape irrigation and some industrial applications.

While an important part of Ontario's water supply, there is rapid escalation in the cost to purchase recycled water from IEUA, as illustrated by Figure 13. As a result, the cost to provide recycled water to Ontario's customers has increased.

Figure 12
FY 2014-15 Water Supply by Source

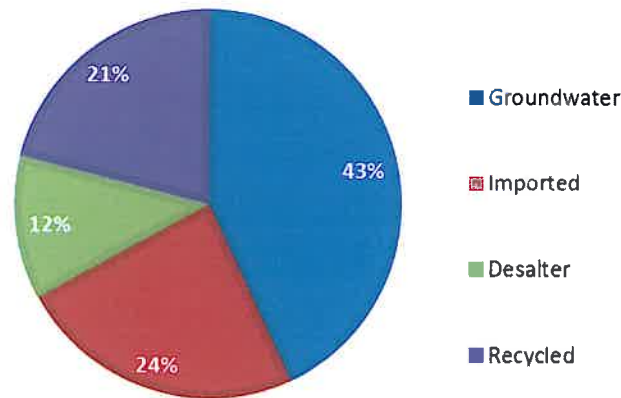
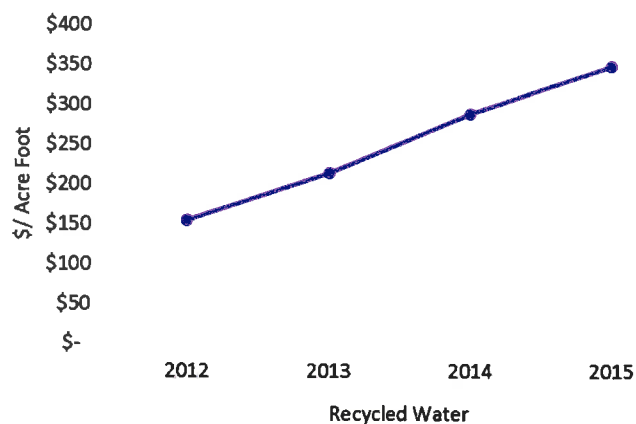


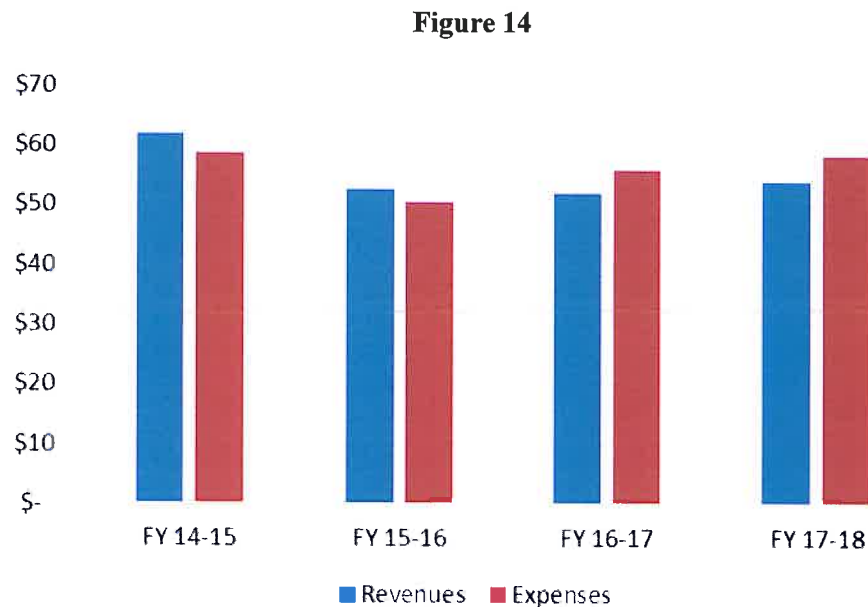
Figure 13
Recycled Water Cost (\$/AF)



The water and recycled water master plans establish the basis and cost for new and replacement capital infrastructure required to maintain reliable water service for existing users and to expand the water systems for future users. The City maintains about 605 miles of main water pipelines, and the average age of the pipelines throughout Ontario is about 35 years, with about 115 miles (21%) of these being 50 years and older. The water system also consists of 24 active groundwater wells, 12 water reservoirs that store 75 million gallons of water, pressure reducing stations, booster stations, and water treatment facilities. The water master plan estimates the cost to replace the entire system today at more than \$700 million. Additionally, the master plans identify more than \$150 million in capital improvements that are needed to

correct existing deficiencies primarily related to meeting fire flow requirements. Planned infrastructure improvements include ongoing meter replacement, additional water storage capacity, replacement of aging water production wells (five out of the City's twenty-four active wells are more than 40 years old), additional water treatment, and projects that will provide site security and system reliability such as seismic retrofits for existing water facilities.

The City's projected expenditures will exceed the available resources under the existing rates, as illustrated by Figure 14.



The City has experienced and anticipates future increases in the costs to operate and maintain the water system and to provide ongoing water system repairs, replacements, and upgrades. As a result of the anticipated increases in the costs of providing water service, the City is proposing to increase the City Charges for water services over the two-year period, commencing March 2016 and January 2017. Included in the proposed rates are the cost of imported water from wholesale agencies and fees imposed by regulatory agencies. The proposed rates for water service charges for the different customer classes are summarized in Table 3 below:

Table 3
Current and Proposed Water Rates

Monthly Water Use (Potable)	Commodity Charge Rates \$/HCF (Hundred Cubic Feet = 748 gallons)		
	Current	3/4/2016	1/1/2017
0-15 HCF	\$2.34	\$2.39	\$2.44
More than 15 HCF	\$2.72	\$2.78	\$2.84

Monthly Water Use (Recycled)	Commodity Charge Rates \$/HCF (Hundred Cubic Feet = 748 gallons)		
	Current	3/4/2016	1/1/2017
Per HCF	\$1.56	\$1.63	\$1.71

Fire Service Charge Rates \$/Month				Readiness-to-Serve Charge Rates \$/Month						
				Meter Size	Potable Water Rates			Recycled Water Rates		
Pipe Size	Current	3/4/2016	1/1/2017		Current	3/4/2016	1/1/2017	Current	3/4/2016	1/1/2017
2"	\$12.10	\$12.40	\$12.70	5/8"	\$22.75	\$23.30	\$23.85	\$12.60	\$13.25	\$13.90
4"	\$24.65	\$25.25	\$25.85	3/4"	\$30.70	\$31.45	\$32.20	\$17.10	\$17.95	\$18.85
6"	\$49.05	\$50.25	\$51.45	1"	\$40.40	\$41.35	\$42.35	\$22.45	\$23.60	\$24.80
8"	\$69.35	\$71.00	\$72.70	1.5"	\$89.65	\$91.80	\$94.00	\$49.75	\$52.25	\$54.85
10"	\$94.05	\$96.30	\$98.60	2"	\$129.25	\$132.00	\$135.00	\$71.75	\$75.30	\$79.00
12"	\$183.60	\$188.00	\$193.00	3"	\$252.05	\$258.00	\$264.00	\$139.95	\$147.00	\$154.00
16"	\$365.55	\$374.00	\$383.00	4"	\$399.60	\$409.00	\$419.00	\$221.85	\$233.00	\$245.00
				6"	\$826.05	\$846.00	\$866.00	\$458.65	\$482.00	\$506.00
				8"	\$1,225.85	\$1,255.00	\$1,285.00	\$680.70	\$715.00	\$750.00
				10"	\$1,891.20	\$1,937.00	\$1,983.00	\$1,050.10	\$1,100.00	\$1,155.00

EXHIBIT B

(a) The rate schedule for potable and recycled water service charges within the City limits shall include a Readiness-to-Serve Charge and a Commodity Charge. All potable and recycled water furnished by the City for use within the City shall be subject to the following monthly rate schedule:

1. The rates for the monthly Readiness-to-Serve Charge per meter size for potable and recycled water shall be as follows:

Monthly Readiness-to-Serve Charge Rates (\$/Meter Size)						
Meter Size	Potable Water			Recycled Water		
	Current Rates in Effect	Rates Effective 3/4/2016	Rates Effective 1/1/2017	Current Rates in Effect	Rates Effective 3/4/2016	Rates Effective 1/1/2017
5/8"	22.75	23.30	23.85	12.60	13.25	13.90
3/4"	30.70	31.45	32.20	17.10	17.95	18.85
1"	40.40	41.35	42.35	22.45	23.60	24.80
1.5"	89.65	91.80	94.00	49.75	52.25	54.85
2"	129.25	132.00	135.00	71.75	75.30	79.00
3"	252.05	258.00	264.00	139.95	147.00	154.00
4"	399.60	409.00	419.00	221.85	233.00	245.00
6"	826.05	846.00	866.00	458.65	482.00	506.00
8"	1,225.85	1,255.00	1,285.00	680.70	715.00	750.00
10"	1,891.20	1,937.00	1,983.00	1,050.10	1,100.00	1,155.00

2. The rates for the monthly Commodity Charge per one hundred cubic feet (HCF) (1 HCF = 748 gallons) for potable water service shall be as follows:

Monthly Water Use (Potable)	Commodity Charge Rates (\$/HCF)		
	Current	3/4/2016	1/1/2017
0-15 HCF	2.34	2.39	2.44
More than 15 HCF	2.72	2.78	2.84

The rates for the monthly Commodity Charge per HCF for recycled water service shall be as follows:

Monthly Water Use (Recycled)	Commodity Charge Rates (\$/HCF)		
	Current*	3/4/2016	1/1/2017
Per HCF	1.56	1.63	1.71

(b) Private fire service rates. The monthly rates for private Fire Service Charges shall be as follows:

Monthly Fire Service Rates (\$/Pipe Size)			
Pipe Size	Current Rates in Effect	Rates in Effect 3/4/2016	Rates in Effect 1/1/2017
2"	12.10	12.40	12.70
4"	24.65	25.25	25.85
6"	49.05	50.25	51.45
8"	69.35	71.00	72.70
10"	94.05	96.30	98.60
12"	183.60	188.00	193.00
16"	365.55	374.00	383.00

(c) Miscellaneous one-time water fees. All miscellaneous one-time Water fees are imposed as a request for a specific service or product. The rates for the fees imposed for the following services and products are as follows:

Other Water Services and Products	Current Rates in Effect (\$/Service)	Rates in Effect 3/4/2016 (\$/Service)	Rates in Effect 1/1/2017 (\$/Service)
Restore Water Service (requested before 3:30 pm)	52.00	53.00	54.00
Restore Water Service (requested after 3:30 pm)	104.00	106.00	108.00
Broken Meter Lock	139.00	142.00	145.00
Install meter same day	260.00	265.00	270.00
Install meter next day	152.00	155.00	158.00
Meter tampering	649.00	662.00	675.00
Fire Hydrant Meter Deposit	2,435.00	2,485.00	2,535.00
Fire Hydrant Meter Moved without Notice	179.00	182.00	185.00
Bacteriological Test	44.00	43.00	44.00
Backflow Prevention per Device	5.10	5.20	5.30

CITY OF ONTARIO

Agenda Report
February 2, 2016

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING REGARDING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT AND A THIRD AMENDMENT TO AGREEMENT FOR PURCHASE OF OPERATING COVENANT AND OPERATING COVENANT BETWEEN THE CITY OF ONTARIO AND MARK CHRISTOPHER CHEVROLET, INC. PURSUANT TO GOVERNMENT CODE SECTION 53083; CONSIDERATION OF RESOLUTIONS ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT, APPROVING THE OPERATING COVENANT AGREEMENT, AND MAKING RELATED FINDINGS

RECOMMENDATION: That the City Council take the following actions:

- (A) Hold the public hearing;
- (B) Adopt a resolution accepting the Economic Development Subsidy Report prepared pursuant to Government Code Section 53083 regarding a Third Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant (on file with the Records Management Department) by and between the City of Ontario and Mark Christopher Chevrolet, Inc. a Delaware Corporation ("Mark Christopher");
- (C) Adopt a resolution approving the Third Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant for no less than ten years, with the option to exercise the unilateral right to extend the term of the Agreement for an additional ten years, authorizing the City Manager to execute the Operating Covenant Agreement, and making related findings; and
- (D) Direct City staff to file a categorical exemption based upon the City Council's finding that the impacts for this existing facility is not a project and subject to environmental review and that there is no possibility that the activity in question may have a significant effect on the environment.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Invest in the Growth and Evolution of the City's Economy

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

Prepared by: Nicholas Gonzalez
Department: Economic Development

City Manager
Approval: 

Submitted to Council/O.H.A. 02/02/2016

Approved: _____

Continued to: _____

Denied: _____

12

Operate in a Businesslike Manner

FISCAL IMPACT: Pursuant to the terms of the existing Second Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant, the operating covenant payment between the City and Mark Christopher is calculated based on Mark Christopher's sales tax revenue in an amount equal to the sum of fifty percent (50%) of Mark Christopher's sales tax revenues attributable to the location in excess of the base, \$700,000 per year, sales tax amount for each year during the eligibility period. Entering into the Third Amendment ensures that local sales tax revenue generated by Mark Christopher, will continue to remain in the City until the date upon which the City stops receiving sales tax revenue from Mark Christopher.

BACKGROUND: Mark Christopher is a highly successful auto dealership, which generates substantial annual sales tax for the City. Mark Christopher has been and remains one of the City's top sales tax generators on a yearly basis. The continued growth and prosperity of this auto center is of most importance to the City. Through this additional revenue, the City is able to fund necessary public services and facilities, including but not limited to, public safety services and facilities, public improvements and recreation opportunities that otherwise may not be available to the community for many years.

Ontario and Mark Christopher entered into the Original Operating Covenant Agreement dated May 6, 1997. Both parties entered into a First Amendment dated June 19, 2001, where the parties extended the term of the Original Operating Covenant Agreement by six years. On May 24, 2010 the City Council authorized the City Manager to negotiate and execute an additional extension ("Second Amendment") to this agreement.

In light of Mark Christopher's importance to the community, including job opportunities and civic involvement, Staff recommends a Third Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant to incentivize Mark Christopher to remain in the City and continue their operations well past the expiration date of the Second Amendment, which is March 31, 2018. If approved, the operating covenant payment to Mark Christopher by the City will be an amount equal to 50% of sales tax revenues which are in excess of \$700,000 per twelve month period commencing April 1, 2018 and ending March 31, 2028. The City and Mark Christopher will have the option to exercise the unilateral right to extend the term of the Agreement for an additional ten years, beginning in 2028.

Senate Bill 533 went into effect on January 1, 2016. This bill prohibits a local agency from entering into an agreement that would result in the payment of local tax revenues to an entity if the agreement will result in a reduction of Bradley Burns local tax revenues to another local agency and the entity is maintaining a presence in the other local jurisdiction. As Mark Christopher does not pay sales tax to another local agency, nor do they maintain a physical presence in another jurisdiction, the prohibitions in SB 533 are not applicable to this proposed amendment to the Operating Covenant Agreement.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT PREPARED PURSUANT TO GOVERNMENT CODE SECTION 53083 REGARDING AN OPERATING COVENANT AGREEMENT BY AND BETWEEN THE CITY OF ONTARIO AND MARK CHRISTOPHER CHEVROLET, INC.

WHEREAS, the City of Ontario ("City") and Mark Christopher Chevrolet, Inc. ("Mark Christopher") have negotiated an Operating Covenant Agreement ("Agreement") for the retention of an auto dealership within the City; and

WHEREAS, pursuant to that Agreement Mark Christopher is committed to continue operating an auto dealership in the City for an additional ten year period; and

WHEREAS, Mark Christopher is also covenanted to, among other things, designate the City as the point of sale for certain transactions; and

WHEREAS, the City has agreed to purchase those covenants through quarterly payments equal to fifty percent (50%) of the sales tax, above a base sales tax amount, generated by transactions allocated to the auto dealership; and

WHEREAS, based on information provided by City staff, and other such written and oral evidence as presented to the City, the City finds and determines that the allocation of funds to Mark Christopher pursuant to the Agreement is reasonably related to a legitimate governmental purpose in that the retention of the auto dealership will provide numerous public benefits including:

- Generating substantial revenue for the City through additional Local Sales Tax Revenue which may be used by the City for the funding of necessary public services and facilities, including but not limited to, public safety services and facilities, public improvements and recreational opportunities that otherwise may not be available to the community for many years; and
- Mark Christopher is a highly successful auto dealership who will be committed to maintaining the auto dealership in the City of Ontario which will ensure the retention and creation of jobs and provide opportunity for additional job growth throughout the term of this Agreement; and
- Entering into this Agreement and retaining the auto dealership may attract additional businesses and investment in the community due to increased services and economic activity in the area; and
- Retaining this business within the City will create jobs, maintain economic diversity in the community and stimulate the economic recovery of the Inland Empire by generating new opportunities for economic growth within the region; and

- Retaining Mark Christopher's operations within the City will generate substantial revenue for the City, allow for the retention of jobs, revitalize an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years; and

WHEREAS, in accordance with Government Code Section 53083, the City provided certain information in written form to the public and on its website, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference, and held a noticed public hearing on February 2, 2016 to consider all written and oral comments on the Economic Development Subsidy Report; and

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

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

SECTION 1. Incorporation of Recitals. The foregoing recitals are true and correct, and are incorporated herein and made an operative part of this Resolution.

SECTION 2. Findings. The City Council additionally finds and determines that (a) there are identifiable public purposes fulfilled by the Agreement, as set forth in the Recitals, that outweigh the benefit to private persons; and (b) the findings set forth in this Resolution are based upon substantial written and oral evidence presented to the City Council.

SECTION 3. CEQA. The City Council hereby finds that pursuant to the California Environmental Quality Act ("CEQA") (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), approval of the Agreement and acceptance of the Economic Development Subsidy Report is not a "project" for purposes of CEQA and therefore is not subject to CEQA review. The Agreement and acceptance of the Economic Development Subsidy Report is not a project pursuant to State CEQA Guidelines section 15378(b)(4), which states that government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant environmental impact are not subject to CEQA. Further, the Agreement and acceptance of the Economic Development Subsidy Report is not a project under State CEQA Guidelines section 15061(b)(3), which states that CEQA does not apply where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

In addition, the City Council will direct staff to file a categorical exemption with the County of San Bernardino for this location upon adoption of this Resolution.

SECTION 4. Acceptance of Economic Development Subsidy Report. The City Council finds and determines that this Economic Development Subsidy Report is in compliance with applicable law and specifically Government Code Section 53083.

SECTION 5. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 6. Effective Date. This Resolution shall become effective 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 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2016- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 2, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2016- duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016.

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

EXHIBIT A
ECONOMIC DEVELOPMENT SUBSIDY REPORT

[Attached behind this cover page]

**ECONOMIC DEVELOPMENT SUBSIDY REPORT
PURSUANT TO GOVERNMENT CODE SECTION 53083**

**FOR AN OPERATING COVENANT AGREEMENT
BY AND BETWEEN
CITY OF ONTARIO
AND
MARK CHRISTOPHER CHEVROLET, INC.**

Pursuant to Government Code Section 53083, the City Council of the City of Ontario must hold a noticed public hearing and, prior to the public hearing, provide all of the following information in written form and available to the public and through the City's website, regarding a proposed economic development subsidy to be provided by the City pursuant to an Operating Covenant Agreement by and between the City of Ontario and Henry Schein, Inc. ("Agreement"). Notice was published in the local newspaper for a public hearing to be held on February 2, 2016.

The purpose of this report is to provide the information required pursuant to Government Code Section 53083 in regards to the Agreement. This report shall remain available to the public and posted on the City's website until the end date of the economic development subsidy, as further described in number 2 below.

1. The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy.

The Agreement is with Mark Christopher Chevrolet, Inc., a Delaware corporation. Mark Christopher Chevrolet, Inc. is the sole beneficiary of the economic development subsidy.

Mark Christopher Chevrolet, Inc.
2131 E. Convention Center Way
Ontario, CA 91764

2. The start and end dates and schedule, if applicable, for the economic development subsidy.

If the Agreement is approved by the City Council, the start date of the economic development subsidy for the Third Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant will be for the period commencing April 1, 2018 and ending March 31, 2028 ("Fourth Covenant Period"), unless extended pursuant to the terms of the Agreement. If the extended term is exercised, the subsidy shall continue for an additional 10 years and will end no later than March 31, 2038.

The economic development subsidy will be paid quarterly (every 3 months), within 120 days of the end of each Computation Quarter. Computation Quarters run from January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31.

3. **A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.**

The economic development subsidy is calculated based on Mark Christopher Chevrolet, Inc.'s sales tax revenue received by the City during a Covenant Period in an amount equal to the sum of fifty percent (50%) of the Sales Tax Revenues attributable to annual taxable sales to the location in excess of the base, \$700,000 per year, sales tax amount for each year during the eligibility period.

The City estimates that the total amount of the expenditure of public funds as a result of the economic development subsidy will be approximately \$15,000,000.

4. **A statement of the public purposes for the economic development subsidy.**

Mark Christopher Chevrolet, Inc. ("Mark Christopher") is a highly successful auto dealership, which generates substantial annual sales tax for the City. Mark Christopher has been and remains one of the City's top sales tax generators on a yearly basis. The continued growth and prosperity of this auto center is of most importance to the City. Through this additional revenue, the City is able to fund necessary public services and facilities, including but not limited to, public safety services and facilities, public improvements and recreation opportunities that otherwise may not be available to the community for many years. Through this Agreement, Mark Christopher will be committed to retaining and operating their auto dealership in the City for transacting auto sales.

The public purpose of the economic development subsidy includes, but is not limited to, maintaining and creating jobs and stimulating the economic recovery of the Inland Empire. Mark Christopher has agreed to retain the auto dealership within the City for a period of not less than 10 years. The City has determined that the retention of the auto dealership within the City will continue to generate substantial revenue for the City, retain jobs, revitalize an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years. Additionally, by having a company like Mark Christopher remain in the City, the City will be adding diversity to and generating new opportunities for economic growth.

Further, the commitment to stay in Ontario serves the additional public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom, thereby assisting the City in its goal of furthering the development of the community.

5. **The projected tax revenue to the local agency as a result of the economic development subsidy.**

The City anticipates that the retention of the auto dealership within the City will result in an approximate increase of sales tax revenue by \$1.5 million per year, minus the

covenant payments to be paid to Mark Christopher Chevrolet, Inc., as set forth in number 2 above.

There will also be an increase in other taxes including business license tax and real property taxes, in an approximate amount of \$50,000.

6. The estimated number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions.

The retention of the auto dealership within the City is anticipated to result in the retention of approximately 200 jobs and the potential creation of new jobs over the term of the Agreement, as follows:

- 5 full-time jobs
- 5 part-time jobs

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE OPERATING COVENANT AGREEMENT BETWEEN THE CITY OF ONTARIO AND MARK CHRISTOPHER CHEVROLET, INC. AND MAKING RELATED FINDINGS.

WHEREAS, Mark Christopher Chevrolet, Inc. ("Mark Christopher"), a Delaware Corporation and an auto dealership with its only location in the City of Ontario ("City") are parties to that certain "Agreement for Purchase of Operating Covenant and Operating Covenant" ("Original Agreement") dated May 6, 1997 for reference purposes; and

WHEREAS, Mark Christopher and the City entered into that certain "First Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant" dated June 19, 2011 for reference purposes where the Parties extended the term of Mark Christopher's operating covenant by six (6) years in exchange for the City's agreement to extend by six (6) years the period during which Mark Christopher may receive financial incentive payments from the City; and

WHEREAS, Mark Christopher and the City entered into that certain "Second Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant" dated May 24, 2010, for reference purposes where the Parties extended the term of Mark Christopher's operating covenant by five (5) years in exchange for the City's agreement to extend by five (5) years the period during which Mark Christopher may receive financial incentive payments from the City; and

WHEREAS, that "Second Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant" will terminate on March 31, 2018; and

WHEREAS, to ensure that Mark Christopher remains in the City and continues to do business in the City after the expiration of the Agreement, Mark Christopher and the City have negotiated a Third Amendment ("Agreement") which provides incentives to ensure Mark Christopher maintains the existing auto dealership within the City; and

WHEREAS, the City has determined that the retention of the Mark Christopher auto dealership within the City will generate substantial revenue for the City, allow for the retention of and the creation of new jobs, revitalize an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years; and

WHEREAS, entering into this Agreement and ensuring the retention of the warehouse and distribution center may attract additional businesses and investment to the community due to increased services and economic activity in the area; and

WHEREAS, on February 2, 2016, the City Council of the City of Ontario conducted a public hearing to consider the Agreement and concluded said hearing on that date; and

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

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

SECTION 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. Findings. The City Council hereby finds that:

(a) Entering into this Agreement will serve the following public purposes:

(1) Mark Christopher is a highly successful auto dealership who will be committed to retaining the auto dealership in the City of Ontario.

(2) Retaining this business within the City will create jobs, maintain economic diversity in the community and stimulate the economic recovery of the Inland Empire by generating new opportunities for economic growth within the region.

(3) Retaining Mark Christopher's auto dealership within the City will generate substantial revenue for the City, allow for the retention of jobs, revitalize an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years.

(4) Entering into this Agreement and ensuring the retention of the auto dealership may attract additional businesses and investment in the community due to increased services and economic activity in the area.

(b) Based upon these and other public benefits the public purposes of the Agreement outweigh any private benefit to private persons or entities.

(c) Contingent Obligations. The City finds that each City obligation is contingent upon separate consideration by Mark Christopher including but not limited to quarterly sales tax generation.

SECTION 3. CEQA Compliance. The City Council hereby finds that pursuant to the California Environmental Quality Act ("CEQA") (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), approval of the Agreement is not a "project" for purposes of CEQA and therefore is not subject to CEQA review. The Agreement is not a project pursuant to State CEQA Guidelines section 15378(b)(4), which states that government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant environmental impact are not subject to CEQA. Further, the Agreement is not a project under State CEQA Guidelines section 15061(b)(3), which states that CEQA does not apply where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

In addition, the City Council will direct staff to file a categorical exemption with the County of San Bernardino for this location upon adoption of this Resolution.

SECTION 4. Approve Agreement. The City Council hereby approves the Third Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant in the form attached to this Resolution as Exhibit A. The City Council hereby authorizes the City Manager, with the concurrence of the City Attorney, to execute said Agreement. City Manager is hereby authorized to take any additional steps necessary to facilitate the intent of this action.

SECTION 5. Implementation. The City Manager or his or her designee is hereby authorized and directed to, on behalf of the City, execute any and all documents in accordance with this Resolution and applicable law.

SECTION 6. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 7. Certification. The City Clerk shall certify to the adoption of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

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NOES: COUNCIL MEMBERS:

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VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2016- duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016.

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

EXHIBIT A
OPERATING COVENANT AGREEMENT

[Attached behind this cover page]

**THIRD AMENDMENT TO AGREEMENT FOR PURCHASE OF
OPERATING COVENANT AND OPERATING COVENANT**

between

**THE CITY OF ONTARIO
a municipal corporation**

and

**MARK CHRISTOPHER CHEVROLET, INC.
a Delaware corporation**

[Dated as of _____ for reference purposes only]

1. PARTIES AND EFFECTIVE DATE.

This Third Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant ("Third Amendment") is entered into between (i) the City of Ontario ("Ontario"), a municipal corporation, and (ii) Mark Christopher Chevrolet, Inc. ("Dealership"), a Delaware corporation. This Amendment shall not become effective until the date ("Effective Date") on which all of the following are true:

- (i) This Third Amendment has been approved by the Dealership and executed by its authorized representatives, and
- (ii) This Third Amendment has been approved by the City Council, following all legally required hearings, and executed by its authorized representative.

This Third Amendment may be recorded by Ontario against the Property (defined below) at any time following the Effective Date.

2. RECITALS AND REPRESENTATIONS.

2.1. Ontario and Dealership are parties to that certain "Agreement for Purchase of Operating Covenant and Operating Covenant" ("Original Agreement") dated May 6, 1997 for reference purposes. All initially capitalized terms used, but not otherwise defined, herein shall have the meaning for such terms as set forth in the Original Agreement.

2.2 The Original Agreement provided for, among other things, the Dealership's covenant to operate in Ontario and to generate sales tax revenues for Ontario in exchange for Ontario's payment to Dealership of certain financial incentive payments described in the Original Agreement.

2.3 The Parties entered into that certain "First Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant" dated June 19, 2001 for reference purposes where the Parties extended the term of the Dealership's operating covenant by six (6) years in exchange for Ontario's agreement to extend by six (6) years the period during which the Dealership may receive financial incentive payments from Ontario.

2.4 The Parties entered into that certain “Second Amendment to Agreement for Purchase of Operating Covenant and Operating Covenant” dated May 24, 2010, for reference purposes where the Parties extended the term of the Dealership’s operating covenant by five (5) years in exchange for Ontario’s agreement to extend by five (5) years the period during which the Dealership may receive financial incentive payments from Ontario. That Second Amendment will terminate on March 31, 2018.

2.5 Dealership has been an important part of the community during the term of the Agreement. With the termination of the Agreement, Dealership may relocate to another jurisdiction resulting in a loss of jobs and community involvement by the Dealership. To avoid that, the Parties now desire to extend the term of the Dealership’s operating covenant by ten (10) years in exchange for Ontario’s agreement to extend by ten (10) years the period during which the Dealership may receive financial incentive payments from Ontario.

2.6 Entering into this Third Amendment and giving Dealership an incentive to continue to conduct operations in the City will generate substantial revenue for the City, enable the Owner to retain the existing workforce on the Property, create the potential for additional job growth on the Property, and continue to stimulate the economy in an area of the City of Ontario which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000’s, and result in community and public improvements that might not otherwise be available to the community for many years.

2.7 Dealership represents and warrants that the Agreement, as amended, is not subject to California Government Code Section 53084.5 because the Agreement, as amended, will not result in a reduction in the amount of revenue received by another local agency from Dealership that is located within the territorial jurisdiction of that other local agency from the tax proceeds collected under the Bradley-Burns Uniform Local Sales and Use Tax Law.

2.8 Additionally, Dealership represents and warrants that the Agreement, and specifically this Third Amendment, is not subject to California Government Code Section 53084.5 because this Agreement, as amended, will not result in a reduction in the amount of revenue under the Bradley-Burns Uniform Local Sales and Use Tax Law (“Tax”) that would be received by another local agency and Dealership does not maintain a physical presence within the territorial jurisdiction of another local agency that might experience a reduction in Tax.

3. TERMS.

3.1 Amended Section 3.2. The following shall be added to the first paragraph of Section 3.2 of the Original Agreement:

“The Dealership covenants and agrees for itself and all voluntary and involuntary successors and assigns to, that commencing on April 1, 2018 and continuing until March 31, 2028, unless this Agreement is terminated sooner pursuant to specific provision of this Agreement, the Dealership shall operate, or cause to be operated, upon the Property the entirety of the Dealership Facilities in a commercially reasonable business manner, consistent with all applicable provisions of Federal, State and local laws and regulations. Subject to Section 3.17, the Dealership Facilities shall be operated in accordance with the reasonable and customary automobile dealership practices in the surrounding communities.”

3.2 New Section 3.2.1. The following shall be added as a new section to the Agreement:

3.2.1 Additional Covenants of the Dealership:

3.2.1.1 Dealership’s Additional Obligations Regarding Repairs and Alterations to the Property. Dealership covenants and agrees that, for the term of this Agreement, the Dealership shall maintain, or cause to be maintained, the Property and facilities thereon in good condition, ordinary wear and tear excepted, and free from the accumulation of trash or other debris and agrees to promptly

remove, or cause the removal of, all graffiti upon the Property and the facilities thereon. Dealership shall also maintain or cause to be maintained the landscaping upon the Property in a good condition.

3.2.1.2 Covenant Against Solicitation and Acceptance of Economic Incentives During the Term of this Agreement. Dealership covenants and agrees that, for the term of the Agreement, Dealership will not directly or indirectly solicit or accept any “Financial Assistance” from any other public or private person or entity, if such Financial Assistance is given for the purpose of causing or would result in Dealership’s breach of any of the Covenants. For purposes of this Section 3.2.1.2 the term “Financial Assistance” means any direct or indirect payment, subsidy, rebate, or other similar or dissimilar monetary or non-monetary benefit, including, without implied limitation, payment of land subsidies, relocation expenses, public financings, property or sales tax relief, rebates, exemptions or credits, relief from public improvement obligations, and payment for public improvements to or for the benefit of Dealership and relating solely to the Property and/or the facilities thereon.

3.2.1.3 Use of Property. Dealership covenants and agrees that the Property shall be put to no use other than those uses specified in the City’s General Plan, the Specific Plan, zoning ordinances, and this Agreement as the same may be amended from time to time. Nothing in this Section 3.2.1.3 shall limit, expand, modify or otherwise affect any right of the Dealership to continue any legal nonconforming use upon the Property following changes in the City’s General Plan or zoning ordinances.

3.2.1.4 Jobs Covenant and Operational Covenant. Dealership covenants and agrees that entering into this Agreement will enable the Dealership to retain the existing workforce on the Property subject to future market forces and possibly create the potential for additional job growth on the Property.

Amended Section 3.3.1. Section 3.3.1 of the Original Agreement is amended to include:

“This paragraph sets forth the parties’ intent with respect to Ontario’s acquisition of the Operating Covenant set forth in Section 3.2. It is the parties’ intent that the consideration to be paid to the Dealership in exchange for the Operating Covenant shall consist of Ontario’s payment to the Dealership of the following amount during the period commencing April 1, 2018 and ending March 31, 2028 (“Fourth Covenant Period”), an amount equal to fifty percent (50%) of Sales Tax Revenues which are in excess of Seven Hundred Thousand Dollars (\$700,000) per twelve (12) month period of the Fourth Covenant Period;

It is expressly agreed that Ontario’s obligations under this Section 3.3 are contingent on a year-to year basis and, for each Computation Year (hereinafter defined), Ontario’s obligations to make any payments hereunder are expressly contingent upon the satisfaction of the following conditions precedent in each such Computation Year: (i) Dealership having, for the entirety of such Computation Year, completely fulfilled its material obligations under this Agreement, including, without limitation, the Operating Covenant; (ii) Dealership having generated Sales Tax Revenues during each Computation Year within the Fourth Covenant of no less than Seven Hundred Thousand Dollars (\$700,000). Should any of the foregoing conditions precedent not be satisfied as to any Computation Year, then Ontario shall have no obligation under this Section 3.3 to make any payments to Dealership in such Computation Year. In any action or proceeding brought by either party to interpret or enforce the provisions of this Section 3.3, the trier of fact in such action or proceeding may refer to this paragraph to ascertain and give effect to the intention of the parties hereto.

3.3 Amended Section 3.3.2. Section 3.3.2 of the Agreement is amended as to include the following:

“For purposes of this Section 3.3, the term “Eligibility Period” includes the period commencing April 1, 2018 and ending March 31, 2028, and consists of the Fourth Covenant Period.

3.4 Amended Section 3.3.3. Section 3.3.3 of the Original Agreement is amended to read as follows:

“Within thirty (30) days following the end of each of the first three (3) Computation Periods during each Computation Year, Dealership shall submit to Ontario a certified copy of its report to the State of California Board of Equalization (“BOE”) which sets forth the amount of sales tax paid to the BOE during that Computation Period arising from Dealership Activities conducted at the Dealership Facilities on the Property. Within twenty (20) days from the Dealership’s submission of the aforementioned report, Ontario shall determine the amount of Sales Tax Revenue for the subject Computation Period. Within twenty (20) days following Ontario’s determination of the Sales Tax Revenue for the subject Computation Period, and contingent upon Ontario’s determination that, as applicable: (1) during any subject Computation Period in the First Covenant Period, the Dealership generated no less than One Hundred Twelve Thousand Five Hundred Dollars (\$112,500) in Sales Tax Revenues during such Computation Period, or (2) during any subject Computation Period during the Second Covenant Period, Third Covenant Period, or Fourth Covenant Period, as applicable, the Dealership generated no less than One Hundred Seventy-Five Thousand Dollars (\$175,000) in Sales Tax Revenues during such Computation Period, then Ontario shall pay to Dealership an amount equal to: (A) fifty percent (50%) of the Sales

Tax Revenues generated during any subject Computation Period within the First Covenant Period which exceed the sum of One Hundred Twelve Thousand Five Hundred Dollars (\$112,500) (“First Covenant Period Quarterly Payment”), or (B) fifty percent (50%) of the Sales Tax Revenues generated during any subject Computation Period within the Second Covenant Period, Third Covenant Period, or Fourth Covenant Period, as applicable, which exceed the sum of One Hundred Seventy Five Thousand Dollars (\$175,000) (“Second Covenant Period Quarterly Payment”, “Third Covenant Period Quarterly Payment” and “Fourth Covenant Period Quarterly Payment,” respectively). The fourth Computation Period of each Computation Year shall be used as an adjustment period as described in the immediately following Section 3.3.4.

3.5 Amended Section 3.3.4. Section 3.3.4 of the Agreement is hereby amended as follows:

“Within sixty (60) days following the end of each Computation Year within the First Covenant Period, Ontario will determine, based upon information furnished by Dealership and from the BOE, whether Dealership has generated a minimum of Four Hundred Fifty Thousand Dollars (\$450,000) in Sales Tax Revenues for such First Covenant Period Computation Year. Contingent upon Ontario’s determination that the Sales Tax Revenue generated during such First Covenant Period Computation Year is equal to or greater than Four Hundred Fifty Thousand Dollars (\$450,000), then Ontario will then determine an amount (“First Covenant Period Computation Year Compensation”) which will be equal to fifty percent (50%) of the Sales Tax Revenues in excess of Four Hundred Fifty Thousand Dollars (\$450,000) for the subject Computation Year.

Within sixty (60) days following the end of each Computation Year within the Second Covenant Period, Third Covenant Period, or Fourth Covenant Period as applicable, Ontario will determine, based upon information furnished by Dealership and from the BOE, whether Dealership has generated a minimum of Seven Hundred Thousand Dollars (\$700,000) in Sales Tax Revenues for such Second Covenant Period Computation Year, Third Covenant Period Computation Year, or Fourth Covenant Period, as applicable. Contingent upon Ontario's determination that the Sales Tax Revenue generated during the Second Covenant Period Computation Year, Third Covenant Period Computation Year, or Fourth Covenant Period Computation Year as applicable, is equal to or greater than Seven Hundred Thousand Dollars (\$700,000), then Ontario will then determine an amount ("Second Covenant Period Computation Year Compensation," "Third Covenant Period Computation Year Compensation," or "Fourth Covenant Period Computation Year Compensation," respectively) which shall be equal to fifty percent (50%) of the Sales Tax Revenues in excess of Seven Hundred Thousand Dollars (\$700,000) for the subject Computation Year.

If, as applicable, the First, Second, Third or Fourth Covenant Period Computation Year Compensation is equal to the total amount of the Quarterly Payments made by Ontario to Dealership during the subject Computation Year, then no adjustment shall be necessary.

If, as applicable, the First, Second, Third and/or Fourth Covenant Period Computation Year Compensation is greater than the total amount of any Quarterly Payment made by Ontario to Dealership during the subject Computation Year, then, within one hundred (100) days following the end of that Computation Year,

Ontario shall pay to Dealership an amount (“Adjustment Payment”) equal to the difference between that Computation Year Compensation and the total amount of any Quarterly Payments made by Ontario to Dealership during that Computation Year. If, as applicable, the First, Second, Third and/or Fourth Covenant Period Computation Year Compensation is less than the total amount of any Quarterly Payments made by Ontario to Dealership during that Computation Year, then the difference between the respective First, Second, Third, and/or Fourth Covenant Period Computation Year Compensation and the total of any Quarterly Payments made by Ontario to Dealership during that Computation Year shall be an obligation of Dealership to Ontario. Such obligation shall be hereinafter referred to as the “Sales Tax Deficit.”

If the Sales Tax Revenues generated for: (1) any First Covenant Period Computation Year are less than Four Hundred Fifty Thousand Dollars (\$450,000), or (2) for any Second Covenant Period Computation Year, Third Covenant Period Computation Year or Fourth Covenant Period Computation Year, as applicable, are less than Seven Hundred Thousand Dollars (\$700,000), then the total of any Quarterly Payments which may have been paid by Ontario to Dealership during such Computation Year shall be an obligation of Dealership to Ontario and shall also be hereinafter referred to as a Sales Tax Deficit.

Sales Tax Deficits may be aggregated and carried over from Computation Year to the Computation Year. The term “Sales Tax Deficit” means the aggregate of any Sales Tax Deficit generated in the subject Computation Year and any Sales Tax Deficit carried over from a previous Computation Year or Years.

Sales Tax Deficits shall be applied to offset any Quarterly Payment or Adjustment Payment which Ontario may owe to

Dealership in any subsequent Computation Period or Computation Year, i.e. any amounts which Ontario may owe Dealership pursuant to provisions of this Section 3.3 in any Computation Period shall be first credited to reduce the amount of any then existing Sales Tax Deficit, and, once that Sales Tax Deficit has been eliminated, Ontario shall again commence making Quarterly Payments or Adjustment Payments to Dealership if and as warranted in future Computation Periods or Computation Years.

3.6 Commencement Date; Ratification; Absence of Defaults. The Dealership and Ontario each hereby ratify, reaffirm and reauthorize each and every one of their obligations as set forth in the Original Agreement, as modified by the First Amendment, Second Amendment, and this Third Amendment.

The Dealership and Ontario each represent to the other that there have been no events that, with the passage of time, the giving of notice, or both, would constitute an Event of Default under the Original Agreement. Except as expressly modified herein, the terms, covenants, conditions and obligations of the Original Agreement, as modified by the First and Second Amendments, remain in full force and effect. From and after the Effective Date of this Third Amendment, wherever the term “Agreement” appears in the Original Agreement, it shall be read and understood to mean the Original Agreement as amended by the First Amendment, Second Amendment and this Third Amendment.

3.7 Counterparts. This Third Amendment maybe executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one in the same instrument.

**SIGNATURE PAGE TO
THIRD AMENDMENT TO AGREEMENT FOR
PURCHASE OF OPERATING COVENANT AND OPERATING COVENANT**

ONTARIO:

CITY OF ONTARIO
a municipal corporation

By: _____
Al C. Boling
City Manager

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

John Brown
City Attorney

**SIGNATURE PAGE TO
THIRD AMENDMENT TO AGREEMENT FOR
PURCHASE OF OPERATING COVENANT AND OPERATING COVENANT**

DEALERSHIP:

MARK CHRISTOPHER CHEVROLET, INC.
a Delaware corporation

By: _____
Signature

Name (Print)

Title (Print)

APPROVED AS TO LEGAL FORM:

Attorney for Dealership

CITY OF ONTARIO

Agenda Report
February 2, 2016

**SECTION:
PUBLIC HEARINGS**

SUBJECT: A PUBLIC HEARING TO CONSIDER RESOLUTIONS REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 37 (PARK & TURNER NE SERVICES) AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES

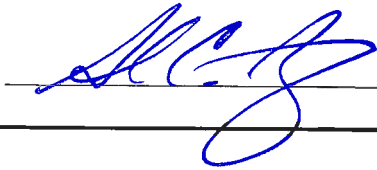
RECOMMENDATION: That the City Council:

- (A) Adopt a resolution establishing City of Ontario Community Facilities District No. 37 (Park & Turner NE 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. 37 (Park & Turner NE 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. 37 (Park & Turner NE Services).

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

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 Old Model Colony, the use of Mello-Roos financing in connection with the Park & Turner NE Services development is projected to generate approximately \$495,000 per

STAFF MEMBER PRESENTING: Grant D. Yee, Administrative Services/Finance Director

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

Submitted to Council/O.H.A. 02/02/2016
Approved: _____
Continued to: _____
Denied: _____

13

year, at build-out, to fund City services. As proposed, the maximum annual tax rate on each of the project's 330 single-family detached units is \$1,500. 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 the New Model Colony."** The use of Mello-Roos financing for the Park & Turner NE Services 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 December 15, 2015, the City Council approved Resolution No. 2015-146, a Resolution of the City of Ontario, California, of Intention to establish City of Ontario Community Facilities District No. 37 (Park & Turner NE Services) and to authorize the levy of special taxes within the district (Resolution of Intention). The Park & Turner NE Services project addresses the residential development of approximately 80 acres located north of Eucalyptus Avenue, generally south of Edison Avenue, east of Archibald Avenue and west of Haven Avenue. At build-out, the development is projected to include 330 single family detached units.

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. 37 (Park & Turner NE 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 landowners. The Resolution of Intention set the public hearing on the establishment of the community facilities district for February 2, 2016. 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. Additionally, the City gave notice of the time and place of the meeting to each registered voter and to each landowner within the district's boundaries at least fifteen days before the hearing, and the district boundary map was recorded on December 23, 2015. The election will be held immediately after the close of the public hearing in order for the City Council to be presented with the results of the election during the meeting. The City Council may then adopt a resolution declaring the results of the election after receiving a statement from the City Clerk as to the canvass of ballots.

Attached are three resolutions and an ordinance. The first resolution establishes the community facilities district, with the rate and method of apportionment of special taxes, and introduces the levy of special taxes within the community facilities district. The second resolution calls for a special landowner election to be held on February 2, 2016. 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. 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. 37 (PARK & TURNER NE 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 December 15, 2015, 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. 37 (Park & Turner NE 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. 37 (Park & Turner NE 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 January 11, 2016, 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. 37 (Park & Turner NE 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 87 at Page 5 of Maps of Assessments and Community Facilities Districts in the San Bernardino County Recorder's Office (Document No. 2015-0560012).

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 \$25,000,000.

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 January 11, 2016, 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 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2016- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 2, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2016- duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016.

VICKI KASAD, MMC, ASSISTANT 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. 37 (PARK & TURNER NE 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. 37 (Park & Turner NE Services) ("CFD No. 37") and collected each Fiscal Year commencing in Fiscal Year 2016-17, 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. 37, 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. 37: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 37 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. 37 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. 37; and amounts estimated or advanced by the City or CFD No. 37 for any other administrative purposes of CFD No. 37, 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. 37” means City of Ontario Community Facilities District No. 37 (Park & Turner NE 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. 37.

“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, 2015, 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. 37 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. 37 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 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, 2015, 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. 37: 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. 37 to be levied within the boundaries of CFD No. 37.

“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, the gross floor area square footage reflected on the original construction building permit for such building, plus any square footage subsequently added to a building 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. 37 which are not exempt from the Special Tax pursuant to law or Section E below.

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

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2016-17, all Taxable Property within CFD No. 37 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 2016-17
Residential Property:	
Single Family Detached Dwelling Unit	\$1,500 per Unit
Multiple Family Dwelling Unit	\$1,300 per Unit
Gated Apartment Community Dwelling Unit	\$1,090 per Unit
Non-Residential Property	\$0.28 per Sq. Ft.

On January 1 of each Fiscal Year, commencing January 1, 2017, 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 an 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 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 2016-17, 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. 37 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. 37.

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. 37 (PARK & TURNER NE 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. 37 (Park & Turner NE 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. 37 (Park & Turner NE 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 January 11, 2016, 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 February 2, 2016 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 February 2, 2016;

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 January 11, 2016, 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 February 2, 2016, 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 February 2, 2016.

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, California, on February 2, 2016. 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 February 2, 2016; 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 February 2, 2016, 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 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2016- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 2, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2016- duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016.

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

EXHIBIT A

OFFICIAL BALLOT

CITY OF ONTARIO
FEBRUARY 2, 2016

SPECIAL ELECTION

This ballot is for a special, landowner election. The number of votes to be voted pursuant to this ballot is 80.

INSTRUCTIONS TO VOTERS:

To vote on the measure, mark a cross (+) 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. 37
(PARK & TURNER NE SERVICES)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 37 (Park & Turner NE 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 \$25,000,000, 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. 37 (Park & Turner NE 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 February 2, 2016?

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 February 2, 2016, 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. 37 (Park & Turner NE Services)" (the "Resolution Calling Election"), calling for a special election of the qualified electors within City of Ontario Community Facilities District No. 37 (Park & Turner NE 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 February 2, 2016; 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 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

EXHIBIT A

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 37
(PARK & TURNER NE SERVICES)

CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on February 2, 2016, I canvassed the returns of the special election held on February 2, 2016, for the City of Ontario Community Facilities District No. 37 (Park & Turner NE 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	<u>Votes Cast</u>	<u>YES</u>	<u>NO</u>
City of Ontario Community Facilities District No. 37 (Park & Turner NE Services) Special Election, February 2, 2016	80	80	80	0

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 37 (Park & Turner NE 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 \$25,000,000, 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. 37 (Park & Turner NE 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 February 2, 2016?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 2nd day of February 2016.

By: _____
Vicki Kasad, Assistant 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. 37 (PARK & TURNER NE SERVICES).

WHEREAS, on December 15, 2015, 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. 37 (Park & Turner NE Services) and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 37 (Park & Turner NE Services) (the "Community Facilities District") and to finance certain services (the "Services"); and

WHEREAS, on February 2, 2016, 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. 37 (Park & Turner NE 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. 37 (Park & Turner NE 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 February 2, 2016, 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 2016-17 and in each fiscal year thereafter until the last fiscal year in which such special taxes are authorized to be levied pursuant to the Rate and Method of Apportionment.

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

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

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

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

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

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

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

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2016.

PAUL S. LEON, MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, _____ 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 _____, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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.

CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
February 2, 2016

SECTION:
PUBLIC HEARINGS

SUBJECT: A CITY INITIATED REQUEST TO [1] CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM BUSINESS PARK TO INDUSTRIAL (FILE NO. PGPA15-002); [2] MODIFY THE FUTURE BUILDOUT TABLE TO BE CONSISTENT WITH THE LAND USE DESIGNATION CHANGES (AMENDING EXHIBITS LU-01 AND LU-03); AND [3] CHANGE THE ZONING DESIGNATIONS (FILE NO. PZ15-003) FROM IL, LIGHT INDUSTRIAL WITH ES, EMERGENCY SHELTER OVERLAY TO IG, GENERAL INDUSTRIAL WITH ES, EMERGENCY SHELTER OVERLAY FOR SIXTEEN PARCELS LOCATED 260 TO 625 FEET NORTH OF MISSION BOULEVARD BETWEEN BENSON AND MAGNOLIA AVENUES (APNS: 1011-211-07, 1011-211-10, 1011-211-12 THRU 21, 1011-221-01 THRU 03 AND 1011-221-20)

RECOMMENDATION: That the City Council adopt a resolution approving an addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140), adopted by City Council on January 27, 2010; adopt a resolution approving General Plan Amendment File No. PGPA15-002 to change the land use designations of certain properties (Exhibit LU-01 and LU-03); and introduce and waive further reading of an ordinance approving a Zone Change (File No. PZC15-003) to create consistency between the zoning and the General Plan land use designations of the subject properties.

COUNCIL GOALS: Regain Local Control of Ontario International Airport
Operate in a Businesslike Manner

FISCAL IMPACT: No fiscal impacts are anticipated because the proposed General Plan Amendment and Zone Change are in alignment with the existing uses of the properties.


BACKGROUND: In 2010, The Ontario Plan was adopted which established the land use pattern for the City. Since then, staff has been working to ensure that the zoning is consistent with the land use designations established in The Ontario Plan. The proposed General Plan Amendment (File No.

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Melanie Mullis

Department: Planning

City Manager

Approval: 

Submitted to Council/O.H.A. 02/02/2016

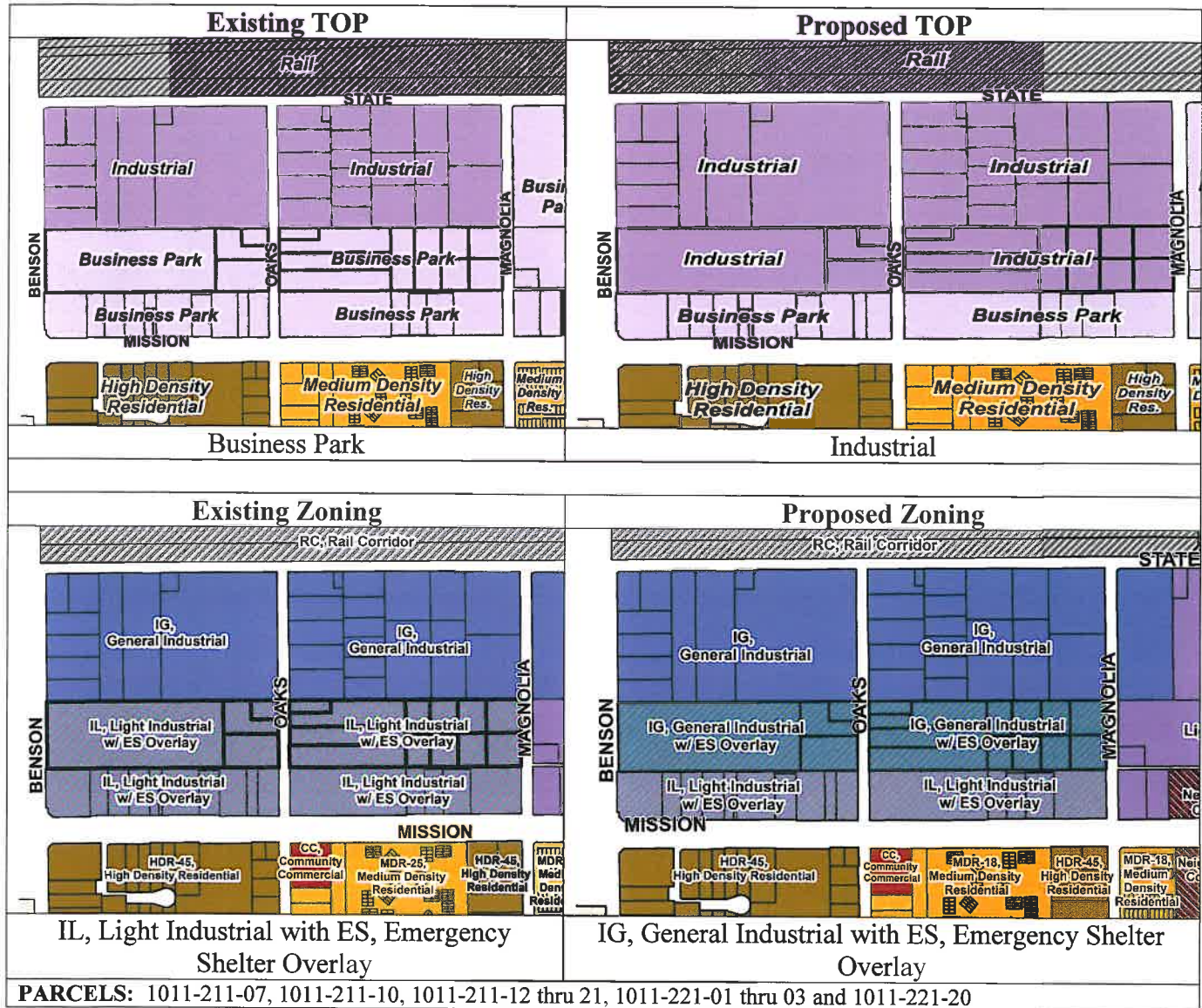
Approved: _____

Continued to: _____

Denied: _____

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PGPA15-002) and Zone Change (File No. PZC15-003) are designed to be processed concurrently on these sixteen parcels totaling approximately 22 acres as outlined below:



In addition to these proposed changes to Exhibit LU-01, the General Plan Amendment also includes changes to the Future Buildout Table (Exhibit LU-03) to reflect the changes in land use designation as shown in Exhibit B attached to the resolution.

The subject properties were part of the zone changes brought before City Council on November 17, 2015 (File No. PZC15-002). During the public hearing, several property owners expressed concerns about being zoned IL, Light Industrial, believing the existing M3, General Industrial, zone would be more permissive. The City Council approved staff's recommendation to change the zoning of the properties from M3, General Industrial to IL, Light Industrial to provide consistency with The Ontario Plan but directed staff to prepare, for their consideration, a General Plan Amendment to change the land use designation on these properties from Business Park to Industrial and a Zone Change to change the zoning from IL, Light Industrial with ES, Emergency Shelter Overlay to IG, General Industrial with ES,

Emergency Shelter Overlay. The City Council felt that sufficient buffer was provided to achieve the higher design standards desired along Mission Boulevard and provide a transition/buffer to residential properties south of Mission Boulevard.

This matter was heard by Planning Commission on December 22, 2015. No members of the public spoke during the public hearing. The Planning Commission noted that the proposed land use and zoning designations were in keeping with existing uses of the property and the location provided a sufficient buffer to residential land uses located south of Mission Boulevard. As a result, the Planning Commission unanimously recommended City Council approval of PGPA15-002 and PZC15-003 with a 5-0 vote.

AIRPORT LAND USE COMPATIBILITY: The Proposed project site is located within the Airport Influence Area of Ontario International Airport and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for Ontario.

ENVIRONMENTAL REVIEW: The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts. The environmental impacts of this project were reviewed in conjunction with an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010 in conjunction with File No. PGPA06-001. The Addendum was prepared pursuant to CEQA, the State CEQA Guidelines and The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" which provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This Application introduces no new significant environmental impacts not previously analyzed in the Environmental Impact Report. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by reference. The environmental documentation for this project is available for review at the Planning Department public counter.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ADDENDUM TO THE ONTARIO PLAN (TOP) CERTIFIED ENVIRONMENTAL IMPACT REPORT (SCH NO. 2008101140) FOR FILE NO. PGPA15-002 AND PZC15-003 FOR WHICH AN INITIAL STUDY HAS BEEN PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 1011-211-07, 1011-211-10, 1011-211-12 THRU 21, 1011-221-01 THRU 03 AND 1011-221-20.

WHEREAS, the City of Ontario ("Applicant") has initiated an Application for the approval of a General Plan Amendment, File No. PGPA15-002 and Zone Change, File No. PZC15-003, (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application proposes to change the General Plan land use designations on sixteen parcels from Business Park to Industrial and the zoning from Light Industrial with Emergency Shelter Overlay to General Industrial with Emergency Shelter Overlay generally located 260 to 625 feet north of Mission Boulevard from Benson to Magnolia Avenues, as shown in Exhibit A attached; and

WHEREAS, an Environmental Impact Report ("EIR") was certified on January 27, 2010, in which development and use of the Project site was discussed; and

WHEREAS, pursuant to California Environmental Quality Act ("CEQA") Guidelines Section 15164(a), a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary to a project, but the preparation of a subsequent or supplemental EIR is not required; and

WHEREAS, the City determined that none of the conditions requiring preparation of a subsequent or supplemental EIR would occur from the Project and that preparation of an addendum to the EIR was appropriate; and

WHEREAS, to consider the potential environmental impacts of the Project, the City prepared an addendum to the certified EIR pursuant to CEQA and the Guidelines promulgated thereunder (hereinafter referred to as "Addendum"); and

WHEREAS, pursuant to CEQA Guidelines Section 15164(c), the Addendum is not required to be circulated for public review, but can be attached to the certified EIR; and

WHEREAS, on December 22, 2015, the Planning Commission of the City of Ontario conducted a hearing and approved Resolution No. PC15-067 recommending City Council approval of the Addendum; and

WHEREAS, the City Council has reviewed the Addendum and all other relevant information presented to it regarding the Addendum; and

WHEREAS, the City Council, after evaluating the environmental impacts associated with the Project, has concluded that none of the conditions requiring preparation of a subsequent of supplemental EIR have occurred; and

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

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

SECTION 1. As the approving body for the Project, the City Council has reviewed and considered the information contained in the Addendum and supporting documentation. Based upon the facts and information contained in the Addendum and supporting documentation, the City Council finds as follows:

- a. The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project; and
- b. The Addendum has been completed in compliance with CEQA and the Guidelines promulgated thereunder; and
- c. The Addendum reflects the independent judgment of the City Council.

SECTION 2. Based upon the Addendum and all related information presented to the City Council, the City Council finds that the preparation of a subsequent or supplemental EIR is not required for the Project, as the Project:

- a. Does not constitute substantial changes to the certified EIR that will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- b. Does not constitute substantial changes with respect to the circumstances under which the certified EIR was prepared, that will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and.
- c. 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 EIR was certified, that shows any of the following:
 1. The project will have one or more significant effects not discussed in the certified EIR; or
 2. Significant effects previously examined will be substantially more severe than shown in the certified EIR; or

3. 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

4. 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. The City Council hereby approves the Addendum to the certified EIR.

SECTION 4. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2016- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 2, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

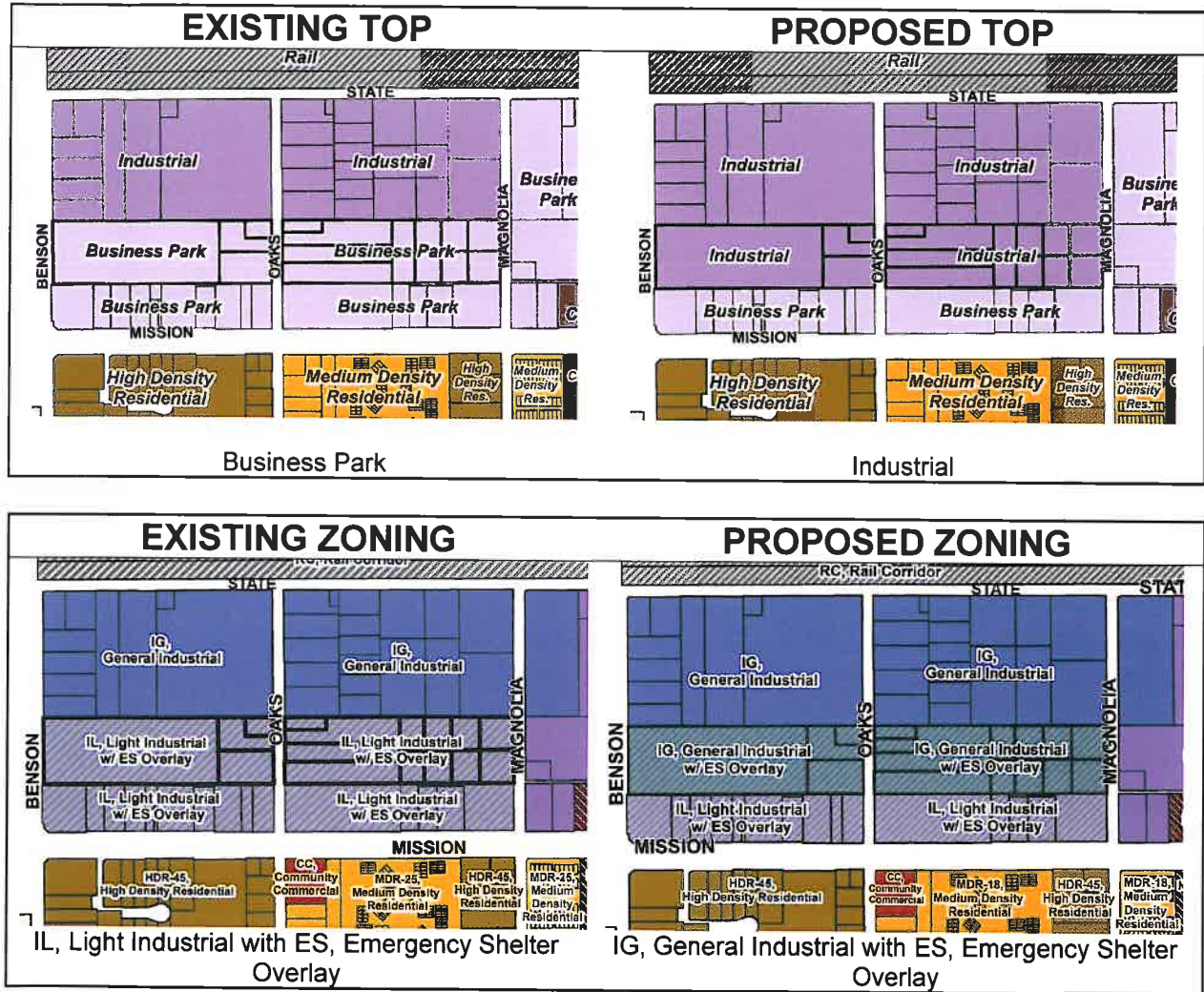
The foregoing is the original of Resolution No. 2016- duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016.

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

Exhibit A

APNs: 1011-211-07, 1011-211-10, 1011-211-12 thru 21, 1011-221-01 thru 03 and 1011-221-20



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PGPA15-002, A CITY INITIATED REQUEST TO 1) CHANGE THE GENERAL PLAN LAND USE DESIGNATIONS OF SIXTEEN PARCELS FROM BUSINESS PARK TO INDUSTRIAL GENERALLY LOCATED 260 TO 625 FEET NORTH OF MISSION BOULEVARD BETWEEN BENSON AND MAGNOLIA AVENUES; AND 2) MODIFY THE FUTURE BUILDOUT TABLE TO BE CONSISTENT WITH THE LAND USE DESIGNATION CHANGES (AMENDING EXHIBITS LU-01 AND LU-03), AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 1011-211-07, 1011-211-10, 1011-211-12 thru 21, 1011-221-01 thru 03 and 1011-221-20. (LAND USE CYCLE 3 FOR THE 2015 CALENDAR YEAR).

WHEREAS, the City of Ontario ("Applicant") has initiated an Application for the approval of a General Plan Amendment, File No. PGPA15-002, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application proposes to change the General Plan land use designations on sixteen parcels from Business Park to Industrial generally located 260 to 625 feet north of Mission Boulevard between Benson and Magnolia Avenues, as shown in Exhibit "A" attached; and

WHEREAS, the proposed General Plan Amendment applies to 16 parcels totaling approximately 22 acres; and

WHEREAS, the proposed changes to Figure LU-01 Official Land Use Plan include changes to land use designations of certain properties shown in Exhibit "A" to make the land use designations of these properties consistent with the existing use of the property and to coordinate with the surrounding land use designations; and

WHEREAS, Figure LU-03 Future Buildout specifies the likely buildout for Ontario with the adopted land use designations. The proposed changes to Figure LU-01 Official Land Use Plan will require Figure LU-03 Future Buildout to be modified, as shown in Exhibit "B", to be consistent with LU-01 Official Land Use Plan; and

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

WHEREAS, the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), was routed for inter-agency review and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT; and

WHEREAS, on December 22, 2015, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and approved Resolution No. PC15-068 recommending City Council approval of the application; and

WHEREAS, as the first action on the Project, on February 2, 2016, the City Council approved a resolution adopting an Addendum to a previously approved Environmental Impact Report ("EIR"), prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

WHEREAS, on February 2, 2016, 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 Resolution have occurred.

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

SECTION 1. As the approving body for the Project, the City Council has reviewed and considered the information contained in Addendum, the initial study, and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the Addendum, the initial study, and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. The Addendum, initial study, and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

b. The Addendum and initial study contain a complete and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment of the City Council; and

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

d. All environmental impacts of the Project are either insignificant or can be mitigated to a level of insignificance pursuant to the mitigation measures outlined in the Addendum.

SECTION 2. Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the City Council hereby concludes as follows:

a. The proposed amendment is consistent with the goals and policies of the General Plan as follows:

LU1-6 Complete Community. We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. Compliance: The proposed General Plan Amendment reflects the existing uses of the properties and closely coordinates with land use designations in the surrounding area which provides opportunities for choice in living and working environments.

LU2-1 Land Use Decisions. We minimize adverse impacts on adjacent properties when considering land use and zoning requests. Compliance: The proposed General Plan Amendment reflects the existing uses of the properties and closely coordinates with land use designations in the surrounding area which will not increase adverse impacts on adjacent properties.

LU4-1 Commitment to Vision. We are committed to achieving our Vision but realize that it may take time and several interim steps to get there. Compliance: The proposed land use designations allow for the continuation of existing uses while maintaining a logical land use pattern in and around the affected areas.

LU5-7 ALUCP Consistency with Land Use Regulations. We comply with state law that requires general plans, specific plans and all new development be consistent with the policies and criteria set forth within an Airport Land Use Compatibility Plan for any public use airport. Compliance: The proposed General Plan Amendment is consistent with the adopted Airport Land Use Compatibility Plan for both Ontario Airport and Chino Airport.

S4-6 Airport Noise Compatibility. We utilize information from Airport Land Use Compatibility Plans to prevent the construction of new noise sensitive land uses within airport noise impact zones. Compliance: The subject properties are located within the 60 to 65 CNEL of the Noise Impact areas. The proposed land use designations are compatible with the Noise Impact area or are existing uses.

b. The proposed General Plan Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City;

c. The Land Use Element is a mandatory element allowed four general plan amendments per calendar year and this general plan amendment is in the second amendment cycle to the Land Use Element of the 2015 calendar year consistent with California Government Code Section §65358;

d. The proposed project is consistent with the adopted Housing Element. The subject properties do not include any of the properties listed in the Available Land Inventory in the Housing Element. Changing the land use designation of the subject properties will not impact the City's Regional Housing Needs Allocation obligations or the City's ability to satisfy its share of the region's future housing need.

e. During the amendment of the General Plan, opportunities for the involvement of citizens, California Native American Indian tribes (§65352.3.), public agencies, public utility companies, and civic, education, and other community groups, through public hearings or other means were implemented consistent with California Government Code Section §6535.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council approves the Project as shown in Exhibits "A" and "B" attached.

SECTION 4. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 2nd day of February 2016.

PAUL S. LEON, MAYOR

ATTEST:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2016- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 2, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2016- duly passed and adopted by the Ontario City Council at their regular meeting held February 2, 2016.

VICKI KASAD, MMC, ASSISTANT CITY CLERK

(SEAL)

Exhibit A

APNs: 1011-211-07, 1011-211-10, 1011-211-12 thru 21, 1011-221-01 thru 03 and 1011-221-20

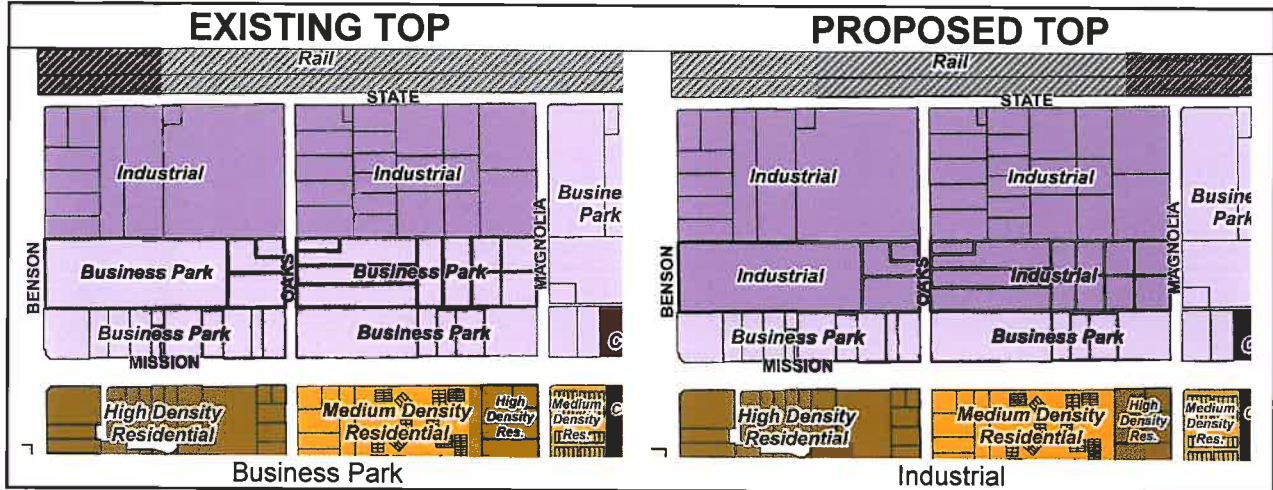


Exhibit B

LU-03 Future Buildout Table



LU-03 Future Buildout¹

Land Use	Acres ²	Assumed Density/Intensity ³	Units	Population ⁴	Non-Residential Square Feet	Jobs ⁵
Residential						
Rural	458	2.0 du/ac	917	3,663		
Low Density ⁶	7,370	4.0 du/ac (OMC) 4.5 du/ac (NMC)	31,042	124,075		
Low-Medium ⁶ Density	910	8.5 du/ac	7,739	30,931		
Medium Density	1,896	18.0 du/ac (OMC) 22.0 du/ac (NMC)	38,188	133,745		
High Density	234	35.0 du/ac	8,178	27,373		
Subtotal	10,869		86,064	319,788		
Mixed Use						
• Downtown	112	<ul style="list-style-type: none"> 60% of the area at 35 du/ac 40% of the area at 0.80 FAR for office and retail 	2,352	4,704	1,561,330	2,793
• East Holt Boulevard	57	<ul style="list-style-type: none"> 25% of the area at 30 du/ac 50% of the area at 1.0 FAR office 25% of area at 0.80 FAR retail 	428	856	1,740,483	3,913
• Meredith	93	<ul style="list-style-type: none"> 23% of the area at 37.4 du/ac 72% at 0.35 FAR for office and retail uses 5% at 0.75 FAR for lodging 	800	1,600	1,172,788	1,462
• Transit Center	76	<ul style="list-style-type: none"> 10% of the area at 60 du/ac 90% of the area at 1.0 FAR office and retail 	457	913	2,983,424	5,337
• Inland Empire Corridor	37	<ul style="list-style-type: none"> 50% of the area at 20 du/ac 30% of area at 0.50 FAR office 20% of area at 0.35 FAR retail 	368	736	352,662	768
• Guastl	77	<ul style="list-style-type: none"> 20% of the area at 30 du/ac 30% of area at 1.0 FAR retail 50% of area at .70 FAR office 	500	1,001	2,192,636	4,103
• Ontario Center	345	<ul style="list-style-type: none"> 30% of area at 40 du/ac 50% of area at 1.0 FAR office 20% of area at 0.5 FAR retail 	4,139	8,278	9,014,306	22,563
• Ontario Mills	240	<ul style="list-style-type: none"> 5% of area at 40 du/ac 20% of area at 0.75 FAR office 75% of area at 0.5 FAR retail 	479	958	5,477,126	7,285
• NMC West/South	315	<ul style="list-style-type: none"> 30% of area at 35 du/ac 70% of area at 0.7 FAR office and retail 	3,311	6,621	6,729,889	17,188
• NMC East	264	<ul style="list-style-type: none"> 30% of area at 25 du/ac 30% of area at 0.35 FAR for office 40% of area at 0.3 FAR for retail uses 	1,978	3,956	2,584,524	4,439
• Euclid/Francis	10	<ul style="list-style-type: none"> 50% of the area at 30 du/ac 50% of area at 0.8 FAR retail 	156	312	181,210	419
• SR-60/ Hamner Tuscana Village	41	<ul style="list-style-type: none"> 18% of the area at 25 du/ac 57% of the area at 0.25 FAR retail 25% of the area at 1.5 FAR office 	185	369	924,234	2,098
Subtotal	1,667		15,116	30,232	34,914,612	72,368

LU-03 Future Buildout¹ (Cont.)



Land Use	Acres ²	Assumed Density/Intensity ³	Units	Population ⁴	Non-Residential Square Feet	Jobs ⁵
Retail/Service						
Neighborhood ⁶	244	0.30 FAR			3,192,120	7,724
Commercial	615	0.30 FAR			8,035,644	7,465
Office/Commercial	527	0.75 FAR			17,227,218	38,204
Hospitality	145	1.00 FAR			6,312,715	7,237
Subtotal	1,532				34,767,697	60,630
Employment						
Business Park	1,591 1,570	0.40 FAR			27,721,418 27,355,680	48,637 47,995
Industrial	6,219 6,240	0.55 FAR			148,999,594 149,502,472	130,914 131,356
Subtotal	7,810				176,721,003 176,858,152	179,551 179,351
Other						
Open Space–Non-Recreation	1,230	Not applicable				
Open Space–Parkland ⁶	950	Not applicable				
Open Space–Water	59	Not applicable				
Public Facility	97	Not applicable				
Public School	632	Not applicable				
LA/Ontario International Airport	1,672	Not applicable				
Landfill	137	Not applicable				
Railroad	251	Not applicable				
Roadways	4,880	Not applicable				
Subtotal	9,907					
Total	31,784		101,180	350,021	246,483,312 246,540,461	312,549 312,349

Notes

- Historically, citywide buildout levels do not achieve the maximum allowable density/intensity on every parcel and are, on average, lower than allowed by the Policy Plan. Accordingly, the buildout projections in this Policy Plan do not assume buildout at the maximum density or intensity and instead are adjusted downward. To view the buildout assumptions, click here to access the [Methodology](#) report.
- Acres are given as adjusted gross acreages, which do not include the right-of-way for roadways, flood control facilities, or railroads.
- Assumed Density/Intensity includes both residential density, expressed as units per acre, and non-residential intensity, expressed as floor area ratio (FAR), which is the amount of building square feet in relation to the size of the lot.
- Projections of population by residential designation are based on a persons-per-household factor that varies by housing type. For more information, click here to access the [Methodology](#) report.
- To view the factors used to generate the number of employees by land use category, click here to access the [Methodology](#) report.
- Acreages and corresponding buildout estimates for these designations do not reflect underlying land uses within the Business Park, Industrial and Commercial Overlays. Estimates for these areas are included within the corresponding Business Park, Industrial and General Commercial categories.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC15-003, A REQUEST TO CHANGE THE ZONING OF SIXTEEN PROPERTIES LOCATED 260 TO 625 FEET NORTH OF MISSION BOULEVARD BETWEEN BENSON AND MAGNOLIA AVENUES FROM IL (LIGHT INDUSTRIAL) WITH ES (EMERGENCY SHELTER) OVERLAY TO IG (GENERAL INDUSTRIAL) WITH ES (EMERGENCY SHELTER) OVERLAY IN ORDER TO MAKE THE ZONING CONSISTENT WITH THE ONTARIO PLAN LAND USE DESIGNATIONS OF THE PROPERTIES, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 1011-211-07, 1011-211-10, 1011-211-12 THRU 21, 1011-221-01 THRU 03 AND 1011-221-20.

WHEREAS, the City of Ontario ("Applicant") has initiated an Application for the approval of a Zone Change, File No. PZC15-003, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 16 properties located 260 to 625 feet north of Mission Boulevard between Benson and Magnolia Avenues and requests to change the zoning from IL (Light Industrial) with ES (Emergency Shelter) Overlay to IG (General Industrial) with ES (Emergency Shelter) Overlay; and

WHEREAS, the zoning of the properties is inconsistent with The Ontario Plan ("TOP") land use designations of the properties and the proposed zone changes will make the zoning consistent with TOP land use designations of the properties as shown in Exhibit A; and

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

WHEREAS, the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT; and

WHEREAS, on December 22, 2015, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and approved Resolution No. PC15-069 recommending City Council approval of the application; and

WHEREAS, as the first action on the Project, on February 2, 2016, the City Council approved a resolution adopting an Addendum to a previously approved Environmental Impact Report ("EIR"), prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

WHEREAS, on February 2, 2016, 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. As the approving body for the Project, the City Council has reviewed and considered the information contained in Addendum, the initial study, and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the Addendum, the initial study, and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. The Addendum, initial study, and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

b. The Addendum and initial study contain a complete and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment of the City Council; and

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

d. All environmental impacts of the Project are either insignificant or can be mitigated to a level of insignificance pursuant to the mitigation measures outlined in the Addendum.

SECTION 2. Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the City Council hereby concludes as follows:

a. The proposed zone change is consistent with the goals and policies of the general plan.

b. The proposed zone change is reasonable and beneficial, and in the interest of good zoning practice.

c. The project site is physically suitable, including, but not limited to parcel size, shape, access, availability of utilities and compatibility with adjoining land uses, for the requested zoning designation and anticipated development.

d. The proposed zone change will not adversely affect the harmonious relationship with adjacent parcels and land uses.

e. The proposed zone change will not have a significant adverse impact on the environment.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council approves the Project as shown in Exhibit "A" attached.

SECTION 4. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid, unconstitutional or otherwise struck-down by a court of competent jobs, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more portions of this Ordinance might be declared invalid.

SECTION 5. 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 6. 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 7. 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 8. Effective Date. This Ordinance shall become effective 30 days following its adoption.

SECTION 9. 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 _____, 2016.

PAUL S. LEON, MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, _____ 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 _____, 2016, and adopted at the regular meeting held _____, 2016, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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.

CITY CLERK

(SEAL)

Exhibit A PZC15-003

