

**CITY OF ONTARIO**  
**CITY COUNCIL AND HOUSING AUTHORITY**  
**AGENDA**  
**FEBRUARY 3, 2015**

**Paul S. Leon**  
Mayor

**Alan D. Wapner**  
Mayor pro Tem

**Jim W. Bowman**  
Council Member

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

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

**CALL TO ORDER (OPEN SESSION)**

**6:00 p.m.**

**ROLL CALL**

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

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

**CLOSED SESSION**

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Property: APN 0218-241-15 and 0218-241-16; 9811 East Edison Avenue and 10084 East Eucalyptus Avenue; City/Authority Negotiator: Al C. Boling or his designee; Negotiating parties: Chaffey Joint Union High School District; Under negotiation: Price and terms of payment.
- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Property: APN 0110-321-39 and 0110-321-40; 104 and 116 North Vineyard Avenue; City/Authority Negotiator: Al C. Boling or his designee; Negotiating parties: Mark Sabbah; Under negotiation: Price and terms of payment.
- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *City of Ontario v. City of Los Angeles, Los Angeles World Airports, and Los Angeles Board of Airport Commissioners, RIC 1306498.*

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

**PLEDGE OF ALLEGIANCE**

Mayor pro Tem Wapner

**INVOCATION**

Bishop Reid Halterman, Church of Jesus Christ of Latter Day Saints

**REPORT ON CLOSED SESSION**

City Attorney

**PUBLIC COMMENTS**

**6:30 p.m.**

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

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

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

**CONSENT CALENDAR**

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

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

**I. APPROVAL OF MINUTES**

Minutes for the regular meeting of the City Council and Housing Authority of January 6, 2015, and approving same as on file in the Records Management Department.

**2. BILLS/PAYROLL**

**Bills** December 28, 2014 through January 10, 2015 and **Payroll** December 28, 2014 through January 10, 2015 when audited by the Finance Committee.

**3. A RESOLUTION APPROVING PARCEL MAP NO. 19579 FOR FINANCE PURPOSES ONLY LOCATED ON THE SOUTH SIDE OF INLAND EMPIRE BOULEVARD BETWEEN VINEYARD AVENUE AND ARCHIBALD AVENUE, JUST WEST OF THE CUCAMONGA CREEK CHANNEL**

That the City Council adopt a resolution approving Parcel Map No. 19579 for finance purposes only, located on the south side of Inland Empire Boulevard between Vineyard Avenue and Archibald Avenue, just west of the Cucamonga Creek Channel within the Meredith International Centre Specific Plan area.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING PARCEL MAP NO. 19579 FOR FINANCE PURPOSES ONLY WITHIN THE MEREDITH INTERNATIONAL CENTRE SPECIFIC PLAN AREA LOCATED ON THE SOUTH SIDE OF INLAND EMPIRE BOULEVARD BETWEEN VINEYARD AVENUE AND ARCHIBALD AVENUE, JUST WEST OF THE CUCAMONGA CREEK CHANNEL.

**4. A COOPERATIVE PURCHASE AGREEMENT WITH MERIT OIL COMPANY FOR UNLEADED AND DIESEL FUELS/MERIT OIL COMPANY**

That the City Council approve a cooperative purchase agreement based on the County of San Bernardino's contract (on file with the Records Management Department) with Merit Oil Company of Bloomington, California, for the purchase and delivery of unleaded and diesel fuels to all City fueling sites and emergency generators for an amount not to exceed the current Fiscal Year's budgeted funding for fuel purchases of \$1,800,000; and authorize the City Manager to execute an extension of this agreement for one year, consistent with the County of San Bernardino's contract, and subject to budget appropriations approved by the City Council for future Fiscal Years.

**5. ACCEPT WRITTEN PETITION TO CREATE A COMMUNITY FACILITIES DISTRICT; ADOPT A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 32 (ARCHIBALD/SCHAEFER - SERVICES); AND TO AUTHORIZE THE ASSOCIATED LEVY OF SPECIAL TAXES**

That the City Council:

- (A) Accept a written petition (on file with the Records Management Department) from Ontario Schaefer Holdings, LLC (the "Landowner"), to create a community facilities district ("CFD"), and to waive certain procedural matters, under the Mello-Roos Community Facilities Act of 1982; and

- (B) Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 32 (Archibald/Schaefer – Services); authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting scheduled for Tuesday, March 17, 2015.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

**6. A CONSTRUCTION CONTRACT FOR WELL FACILITY BACKUP POWER UPGRADES AT WELL NOS. 37, 38 AND 39/PACIFIC WINDS BUILDING, INC.**

That the City Council approve the plans and specifications, and award Contract No. UT 1415-02 (on file with the Records Management Department) to Pacific Winds Building, Inc. of Irvine, California, for the construction of the well facility backup power upgrades at Well Nos. 37, 38 & 39 in the amount of \$183,263 for the base bid plus the additive alternate bid in the amount of \$9,105, plus a 15% combined contingency of \$28,855, for a total amount of \$221,223; and authorize the City Manager to execute said contract and file a notice of completion at the conclusion of all construction activities related to the project.

**7. PROFESSIONAL SERVICES AGREEMENTS FOR THE WATER AND SEWER MAIN REPLACEMENT PROGRAMS/ALBERT A. WEBB ASSOCIATES/HALL AND FOREMAN, INC.**

That the City Council:

- (A) Approve and authorize the City Manager to execute a Professional Services Agreement (on file with the Records Management Department) with Albert A. Webb Associates of Riverside, California, to provide engineering design services for the water main replacement program in the amount of \$223,905 for FY 2014-15 and authorize the option to extend the agreement for up to four successive one year periods consistent with City Council approved work programs and budgets; and
- (B) Approve and authorize the City Manager to execute a Professional Services Agreement (on file with the Records Management Department) with Hall and Foreman, Inc. of Tustin, California, to provide engineering design services for the sewer main replacement program in the amount of \$112,440 for FY 2014-15 and authorize the option to extend the agreement for up to four successive one year periods consistent with City Council approved work programs and budgets.

**8. AN AGREEMENT FOR PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE COLONY COMMERCE CENTER SPECIFIC PLAN/URS CORPORATION**

That the City Council approve and authorize the City Manager to execute an agreement (on file with the Records Management Department) with URS Corporation of Ontario, California, to prepare an environmental impact report (EIR) for the Colony Commerce Center Specific Plan, located north of Remington Avenue, south of Merrill Avenue, east of Carpenter Avenue, and west of the Cucamonga Creek Flood Control Channel, in the amount not to exceed \$280,759 (includes a 10% contingency), and authorize the City Manager to approve any future budget adjustments necessary to complete the EIR.

**9. AN ORDINANCE APPROVING AN AMENDMENT (SECOND AMENDMENT) TO A DEVELOPMENT AGREEMENT (FILE NO. PDA14-007) BETWEEN THE CITY OF ONTARIO AND SC ONTARIO DEVELOPMENT COMPANY, LLC, TO UPDATE CERTAIN PROVISIONS OF THE EXISTING DEVELOPMENT AGREEMENT (FILE NO. PDA05-002) AND TO CONFORM WITH THE CURRENT CONSTRUCTION AGREEMENT WITH NMC BUILDERS LLC, AND TO PROVIDE FOR THE PHASING OF THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE FOR 250 ACRES OF THE PARKSIDE SPECIFIC PLAN**

That the City Council consider and adopt an ordinance approving an amendment (File No. PDA14-007) to the Development Agreement between SC Ontario Development Company, LLC, a Delaware Limited Liability Company, and the City of Ontario to update certain provisions of the existing Development Agreement to conform with the current Construction Agreement with NMC Builders, LLC, and update certain provisions of the existing Development Agreement (File No. PDA05-002).

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT (FILE NO. PDA14-007) BETWEEN THE CITY OF ONTARIO AND SC ONTARIO DEVELOPMENT COMPANY, LLC, TO UPDATE CERTAIN PROVISIONS OF THE EXISTING DEVELOPMENT AGREEMENT (FILE NO. PDA05-002) TO CONFORM TO THE CURRENT CONSTRUCTION AGREEMENT WITH NMC BUILDERS LLC, AND TO PROVIDE FOR THE PHASING OF THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE FOR 250 ACRES OF THE PARKSIDE SPECIFIC PLAN AND MAKING FINDINGS IN SUPPORT THEREOF  
- APN: 0218-221-09 AND 10, 0218-231-06 THROUGH 39.

**10. AN ORDINANCE APPROVING A ZONE CHANGE REQUEST TO CHANGE 0.58 ACRES OF LAND FROM C1 (SHOPPING CENTER COMMERCIAL) TO R2 (MEDIUM DENSITY RESIDENTIAL) AND TO CHANGE 0.48 ACRES OF LAND FROM C1 (SHOPPING CENTER COMMERCIAL) TO NC (NEIGHBORHOOD COMMERCIAL), LOCATED ON THE WEST SIDE OF EUCLID AVENUE, NORTH OF ELM STREET**

That the City Council consider and adopt an ordinance approving a Zone Change (File No. PZC14-001) within the Euclid Avenue Overlay District to change the base zoning of 0.58 acres of land from C1 (Shopping Center Commercial) to R2 (Medium Density Residential) and to change the base zoning of 0.48 acres of land from C1 (Shopping Center Commercial) to NC (Neighborhood Commercial), located on the west side of Euclid Avenue, north of Elm Street from 1420 to 1442 South Euclid Avenue.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC14-001, A ZONE CHANGE REQUEST WITHIN THE EUCLID AVENUE OVERLAY DISTRICT TO CHANGE THE BASE ZONING OF 0.58 ACRES OF LAND FROM C1 (SHOPPING CENTER COMMERCIAL) TO R2 (MEDIUM DENSITY RESIDENTIAL) AND TO CHANGE THE BASE ZONING OF 0.48 ACRES OF LAND FROM C1 (SHOPPING CENTER COMMERCIAL) TO NC (NEIGHBORHOOD COMMERCIAL), LOCATED ON THE WEST SIDE OF EUCLID AVENUE, NORTH OF ELM STREET, FROM 1420 TO 1442 S. EUCLID AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 1050-051-01 THRU 05.

**II. AN ORDINANCE APPROVING A ZONE CHANGE REQUEST ON 23.96 ACRES OF LAND TO CHANGE THE ZONING: (1) FROM AR (AGRICULTURAL-RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL 25.1 TO 45.0 DU/AC) FOR PROPERTIES GENERALLY LOCATED ON THE EAST SIDE OF BENSON AVENUE, SOUTH OF MISSION BOULEVARD; WEST SIDE OF OAKS AVENUE SOUTH OF MISSION BOULEVARD; AND WEST SIDE OF MAGNOLIA AVENUE, SOUTH OF MISSION BOULEVARD; (2) FROM R2 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 FOR PROPERTIES LOCATED NEAR THE SOUTHWEST CORNER OF MISSION BOULEVARD AND OAKS AVENUE; (3) FROM C1 (SHOPPING CENTER COMMERCIAL) TO HDR-45 FOR PROPERTIES LOCATED ON THE SOUTH SIDE OF MISSION BOULEVARD, WEST OF PALMETTO AVENUE; AND (4) FROM C3 (COMMERCIAL SERVICE) TO HDR-45 FOR PROPERTIES GENERALLY LOCATED ON THE SOUTH SIDE OF MISSION BOULEVARD, BETWEEN BENSON AVENUE AND OAKS AVENUE AND AT THE SOUTHWEST CORNER OF MISSION BOULEVARD AND MAGNOLIA AVENUE**

The City Council consider and adopt an ordinance approving a Zone Change (File No. PZC14-005) from AR (Agricultural Residential), R2 (Medium Density Residential), C1 (Shopping Center) and C3 (Commercial Service) to HDR-45 (High Density Residential) to create consistency between the zoning and the existing High Density Residential General Plan land use designation.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC14-005, A ZONE CHANGE REQUEST TO CHANGE THE ZONING DESIGNATION FROM AR (AGRICULTURAL RESIDENTIAL), R2 (MEDIUM DENSITY RESIDENTIAL), C1 (SHOPPING CENTER) AND C3 (COMMERCIAL SERVICE) TO HDR-45 (HIGH DENSITY RESIDENTIAL 25.1 – 45 DU/AC) FOR 33 PARCELS TOTALING APPROXIMATELY 24 ACRES OF LAND, GENERALLY LOCATED ON THE SOUTH SIDE OF MISSION BOULEVARD BETWEEN BENSON AND PALMETTO AVENUES, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1011-361-01 THRU 05, 07 THRU 12, 15, 19 THRU 32, 1011-371-12 THRU 16, 1011-382-04 AND 1011-382-65.

**12. APPLICATION FOR GRANTS FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY  
FY2016 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM / AVOID LEAD AGENCY  
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 \$750,000 from the California Office of Traffic Safety (OTS) for participation in the FY2016 Selective Traffic Enforcement Program (STEP) / Avoid Lead Agency Grant Program.

**PUBLIC HEARINGS**

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

**13. A PUBLIC HEARING TO CONSIDER A REIMBURSEMENT AGREEMENT BY AND  
BETWEEN THE CITY OF ONTARIO AND SEC EUCLID & HOLT AVENUE PROPERTY L.P.**

That the City Council adopt resolutions authorizing the City Manager to execute a Reimbursement Agreement (on file with the Records Management Department), which will provide up to \$700,000 in General Fund appropriations, and all other necessary documentation by and between the City of Ontario and SEC Euclid & Holt Avenue Property L.P. of Corona, California, related to the development of parking and related infrastructure improvements in the Ontario Downtown Euclid Avenue District.

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 A REIMBURSEMENT AGREEMENT FOR COSTS ASSOCIATED WITH THE CONSTRUCTION OF A PARKING STRUCTURE IN THE ONTARIO DOWNTOWN EUCLID AVENUE DISTRICT.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND SEC EUCLID & HOLT AVENUE PROPERTY L.P. FOR COSTS ASSOCIATED WITH THE CONSTRUCTION OF A PARKING STRUCTURE IN THE ONTARIO DOWNTOWN EUCLID AVENUE DISTRICT.

**14. A PUBLIC HEARING TO CONSIDER ADOPTION OF A RESOLUTION TO UPDATE AND MODIFY DEVELOPMENT IMPACT FEES**

That the City Council adopt a resolution to update and modify the City's Development Impact Fees (DIF).

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, UPDATING AND MODIFYING DEVELOPMENT IMPACT FEES.

**STAFF MATTERS**

City Manager Boling

**COUNCIL MATTERS**

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

**ADJOURNMENT**



**CITY OF ONTARIO  
CLOSED SESSION REPORT**  
City Council // Housing Authority // Other // (GC 54957.1)  
**February 3, 2015**  
(Continued)

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

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *City of Ontario vs. City of Los Angeles, Los Angeles World Airports, and Los Angeles Board of Airport Commissioners, RIC 1306498.*

| No Reportable Action | Continue | Approved |
|----------------------|----------|----------|
|----------------------|----------|----------|

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Disposition: \_\_\_\_\_

Reported by: \_\_\_\_\_  
City Attorney / City Manager / Executive Director

# CITY OF ONTARIO

Agenda Report

February 3, 2015

SECTION:  
CONSENT CALENDAR

**SUBJECT: A RESOLUTION APPROVING PARCEL MAP NO. 19579 FOR FINANCE PURPOSES ONLY LOCATED ON THE SOUTH SIDE OF INLAND EMPIRE BOULEVARD BETWEEN VINEYARD AVENUE AND ARCHIBALD AVENUE, JUST WEST OF THE CUCAMONGA CREEK CHANNEL**

**RECOMMENDATION:** That the City Council adopt a resolution approving Parcel Map No. 19579 for finance purposes only, located on the south side of Inland Empire Boulevard between Vineyard Avenue and Archibald Avenue, just west of the Cucamonga Creek Channel within the Meredith International Centre Specific Plan area.

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

**FISCAL IMPACT:** None. All offsite infrastructure improvements required for this subdivision will be constructed at a future date by the developer at its sole cost.

**BACKGROUND:** Parcel Map No. 19579 for finance purposes only, consisting of one numbered commercial lot on 5 acres as shown in Exhibit A, has been submitted by the developer, Craig Development Corp., a California Corporation (Craig Meredith, President).

This "finance purposes" map allows the subdivision and sale of the subject parcel to the future developer. At the time of the site plan approval, the future developer will complete the required offsite infrastructure improvements.

Tentative Parcel Map No. 19579 for finance purposes was approved by the Planning Commission on November 25, 2014 and is consistent with the Meredith International Centre Specific Plan.

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

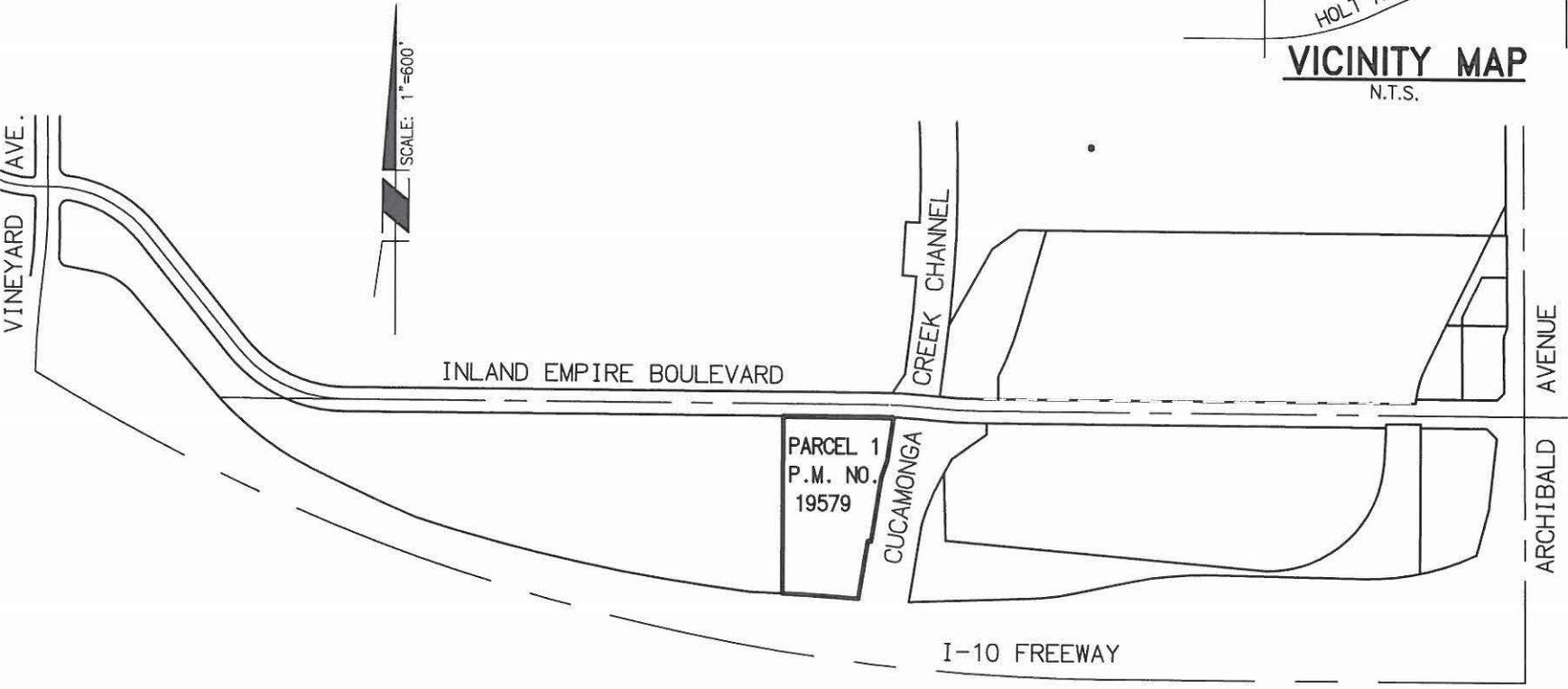
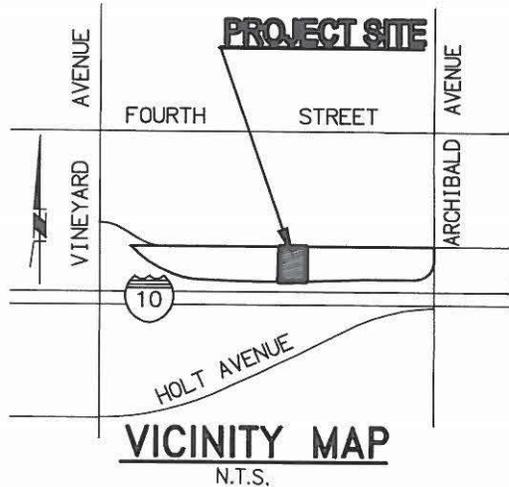
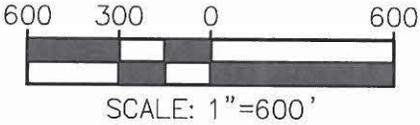
**STAFF MEMBER PRESENTING:** Louis Abi-younes, P.E., City Engineer

Prepared by: Dean Williams  
Department: Engineering

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/03/2015  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

# EXHIBIT A



SHEET 1 OF 1 SHEETS



CITY OF ONTARIO  
ENGINEERING DEPARTMENT  
FILE NO. PM 19579

**EXHIBIT A**  
APPLICANT:  
**CRAIG DEVELOPMENT CORPORATION, A CALIFORNIA CORPORATION**  
PROJECT - 1 NUMBERED PARCEL

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING PARCEL MAP NO. 19579 FOR FINANCE PURPOSES ONLY WITHIN THE MEREDITH INTERNATIONAL CENTRE SPECIFIC PLAN AREA LOCATED ON THE SOUTH SIDE OF INLAND EMPIRE BOULEVARD BETWEEN VINEYARD AVENUE AND ARCHIBALD AVENUE, JUST WEST OF THE CUCAMONGA CREEK CHANNEL.

WHEREAS, Tentative Parcel Map No. 19579, submitted for approval by the developer Craig Development, Corp., a California Corporation (Craig Meredith, President) was approved by the Planning Commission of the City of Ontario on November 25, 2014; and

WHEREAS, Tentative Parcel Map 19579 consists of one (1) numbered lot, being a subdivision of portions of Lot 2, Block 22, Tract No. 2244 in the City of Ontario, County of San Bernardino, State of California as per plat recorded in Book 35 of Maps, Pages 50 through 56, Inclusive, Records of San Bernardino County, California.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ontario, California, that Final Parcel Map No. 19579 be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

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

PASSED, APPROVED, AND ADOPTED this 3<sup>rd</sup> day of February, 2015.

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

ATTEST:

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 3, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015- duly passed and adopted by the Ontario City Council at their regular meeting held February 3, 2015.

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

# CITY OF ONTARIO

Agenda Report  
February 3, 2015

SECTION:  
CONSENT CALENDAR

**SUBJECT: A COOPERATIVE PURCHASE AGREEMENT WITH MERIT OIL COMPANY FOR UNLEADED AND DIESEL FUELS**

**RECOMMENDATION:** That the City Council approve a cooperative purchase agreement based on the County of San Bernardino's contract (on file with the Records Management Department) with Merit Oil Company of Bloomington, California, for the purchase and delivery of unleaded and diesel fuels to all City fueling sites and emergency generators for an amount not to exceed the current Fiscal Year's budgeted funding for fuel purchases of \$1,800,000; and authorize the City Manager to execute an extension of this agreement for one year, consistent with the County of San Bernardino's contract, and subject to budget appropriations approved by the City Council for future Fiscal Years.

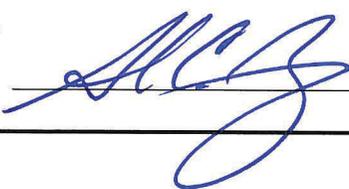
**COUNCIL GOALS:** Regain Local Control of the Ontario International Airport  
Maintain the Current High Level of Public Safety  
Operate in a Businesslike Manner  
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

**FISCAL IMPACT:** The actual cost of unleaded and diesel fuel will be determined by the Oil Price Information Service daily pricing and usage, and will not exceed the budget appropriations approved by the City Council. The current Fleet Services budget is \$1,800,000 for Fuels and Oil for Fiscal Year 2014-15.

**BACKGROUND:** Ontario purchases over 375,000 gallons of fuel annually for eleven fueling sites and twenty emergency generators located throughout the City. The County of San Bernardino recently solicited competitive bids and awarded a new contract to Merit Oil Company. The contract allows for other government agencies to piggyback their purchases under the same terms and conditions.

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. Cooperative purchasing allows the City to pool its procurement power with other public agencies to obtain prices lower than would otherwise be possible.

**STAFF MEMBER PRESENTING:** Brent Schultz, Housing & Municipal Services Director

Prepared by: Victor Moraga  
Department: Housing & Municipal Services  
City Manager  
Approval: 

Submitted to Council/O.H.A. 02/03/2015  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

# CITY OF ONTARIO

Agenda Report  
February 3, 2015

SECTION:  
CONSENT CALENDAR

**SUBJECT: ACCEPT WRITTEN PETITION TO CREATE A COMMUNITY FACILITIES DISTRICT; ADOPT A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 32 (ARCHIBALD/SCHAEFER – SERVICES); AND TO AUTHORIZE THE ASSOCIATED LEVY OF SPECIAL TAXES**

**RECOMMENDATION:** That the City Council:

- (A) Accept a written petition (on file with the Records Management Department) from Ontario Schaefer Holdings, LLC (the “Landowner”), to create a community facilities district (“CFD”), and to waive certain procedural matters, under the Mello-Roos Community Facilities Act of 1982; and
- (B) Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 32 (Archibald/Schaefer – Services); authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting scheduled for Tuesday, March 17, 2015.

**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 New Model Colony 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 Archibald/Schaefer development is projected to generate approximately \$330,000 per year, at build-out, to fund City services. As proposed, the maximum annual tax rate on each of the project’s 229 single-family detached units is \$1,442. 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

**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. 02/03/2015  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

5

**Self-Sustaining Community in the New Model Colony.**” The use of Mello-Roos financing for the Archibald/Schaefer development will not generate funds for facilities, and bonds will not be issued as part of this formation. The CFD is being formed pursuant to the provisions of the Landowner’s Development Agreement and Amendment, and the First Amended and Restated Construction Agreement between the City and NMC Builders.

**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.

Ontario Schaefer Holdings, LLC, a member of NMC Builders, has provided a written petition to the City requesting formation of a community facilities district, along with a deposit pursuant to a development agreement, dated February 1, 2015, to fund their Archibald/Schaefer project. The Archibald/Schaefer project addresses the development of approximately 60 acres located north of Schaefer Avenue, south of Chino Avenue, east of Turner Avenue and west of Haven Avenue. At build-out, the development is projected to include 229 single-family detached units.

Under the Mello-Roos Act, the initial steps in the formation of a community facilities district normally involve resolutions declaring the City’s intention to establish a community facilities district, levy special taxes, and issue bonds. As noted, the issuance of bonds is not being contemplated for this project at this time, so there is no resolution to issue bonds associated with this action. As proposed, the resolution of intention to establish the district and to levy special taxes will set the public hearing date on the formation of the CFD for the regularly scheduled City Council meeting on Tuesday, March 17, 2015 to consider the matter.

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. 32 (Archibald/Schaefer – 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 presented and discussed the proposed Rate and Method of Apportionment of Special Tax with the landowner.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

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

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

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

WHEREAS, the Landowner has represented and warranted to the City Council that it is the owner of 100% of the area of land proposed to be included within the Community Facilities District; and

WHEREAS, the Landowner has previously submitted to the City the fee required by the City to be used to compensate the City Council and the City for all costs incurred in conducting proceedings to create the Community Facilities District, which the City Council has determined to be sufficient for such purpose.

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

SECTION 1. THE above recitals are true and correct and the City Council hereby so finds.

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

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

SECTION 4. The name proposed for the Community Facilities District is "City of Ontario Community Facilities District No. 32 (Archibald/Schaefer – Services)".

SECTION 5. 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 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 City Council hereby fixes Tuesday, March 17, 2015, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the establishment of the Community Facilities District.

SECTION 8. The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53322 of the Act.

SECTION 9. The levy of said proposed special tax shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the Community Facilities District, with each owner having one vote for each acre or portion of an acre such owner owns in the Community Facilities District.

SECTION 10. Each officer of the City who is or will be responsible for providing one or more of the proposed types of Services is hereby directed to study, or cause to be studied, the proposed Community Facilities District and, at or before said public hearing, file a report with the City Council containing a brief description of the Services by type which will in his or her opinion be required to adequately meet the needs of the Community Facilities District, and his or her estimate of the cost of providing the Services. Such officers are hereby also directed to estimate the fair and reasonable cost of the incidental expenses proposed to be paid. Such report shall be made a part of the record of said public hearing.

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 3<sup>rd</sup> day of February 2015.

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PAUL S. LEON, MAYOR

ATTEST:

---

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

---

BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015-     was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 3, 2015 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015-     duly passed and adopted by the Ontario City Council at their regular meeting held February 3, 2015.

\_\_\_\_\_  
MARY E. WIRTES, MMC, 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. 32 (ARCHIBALD/SCHAEFER – SERVICES)

### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

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A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 32 (Archibald/Schaefer – Services) ("CFD No. 32") and collected each Fiscal Year commencing in Fiscal Year 2015-16, 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. 32, 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. 32: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 32 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. 32 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. 32; and amounts estimated or advanced by the City or CFD No. 32 for any other administrative purposes of CFD No. 32, 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. 32”** means City of Ontario Community Facilities District No. 32 (Archibald/Schaefer – 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. 32.

**“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. 32 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. 32 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. 32: 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. 32 to be levied within the boundaries of CFD No. 32.

**“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. 32 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 2015-16, all Taxable Property within CFD No. 32 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**

| <b>Land Use Class</b>                   | <b>Maximum Special Tax<br/>Fiscal Year 2015-16</b> |
|---|--|
| <b>Residential Property:</b>            |  |
| Single Family Detached Dwelling Unit    | \$1,442 per Unit                                   |
| Multiple Family Dwelling Unit           | \$1,250 per Unit                                   |
| Gated Apartment Community Dwelling Unit | \$1,048 per Unit                                   |
| <b>Non-Residential Property</b>         | \$0.27 per Sq. Ft.                                 |

On January 1 of each Fiscal Year, commencing January 1, 2016, 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 2015-16, 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. 32 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. 32.

# CITY OF ONTARIO

Agenda Report  
February 3, 2015

SECTION:  
CONSENT CALENDAR

**SUBJECT: A CONSTRUCTION CONTRACT FOR WELL FACILITY BACKUP POWER UPGRADES AT WELL NOS. 37, 38 AND 39**

**RECOMMENDATION:** That the City Council approve the plans and specifications, and award Contract No. UT 1415-02 (on file with the Records Management Department) to Pacific Winds Building, Inc. of Irvine, California, for the construction of the well facility backup power upgrades at Well Nos. 37, 38 & 39 in the amount of \$183,263 for the base bid plus the additive alternate bid in the amount of \$9,105, plus a 15% combined contingency of \$28,855, for a total amount of \$221,223; and authorize the City Manager to execute said contract and file a notice of completion at the conclusion of all construction activities related to the project.

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

**FISCAL IMPACT:** The Fiscal Year 2014-15 Capital Improvement Program includes appropriations from the Water Capital Fund for this project. The recommended contract award to Pacific Winds Building, Inc. is \$192,368 plus a 15% contingency of \$28,855 for a total amount of \$221,223. There is no impact to the General Fund.

**BACKGROUND:** The Water Master Plan recommends equipping a sufficient number of wells with backup power to ensure that the residents and business of the City of Ontario have reliable water service in the event of a power outage. A sudden loss of power caused by an emergency, such as an earthquake, would limit the City's ability to pump water from its wells. Four of the City's twenty-four wells in service currently have stationary backup generators. The City Council has previously authorized the purchase of three mobile generators, and this construction contract will provide the necessary electrical modifications at these three well sites to allow for the use of the mobile generators. These well sites were selected based on several factors including age of the well, water production capacity, electrical requirements, and hydraulic pressure zone. A location map is provided for reference.

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

Prepared by: Katie Gienger  
Department: MU/Engineering  
City Manager  
Approval: 

Submitted to Council/O.H.A. 02/03/2015  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

6

On November 25, 2014, three bids were received for the well facility backup power upgrades at Well Nos. 37, 38 & 39. The base bids ranged from \$183,263 to \$332,357. The bids are summarized below:

| <u>Bidder</u>                       | <u>Location</u>   | <u>Base Bid Amount</u> |
|-------------------------------------|-------------------|------------------------|
| <b>Pacific Winds Building, Inc.</b> | <b>Irvine, CA</b> | <b>\$183,263</b>       |
| EGA, dba A & B Electric             | Pomona, CA        | \$230,161              |
| Construction Electric, Inc.         | Riverside, CA     | \$332,357              |

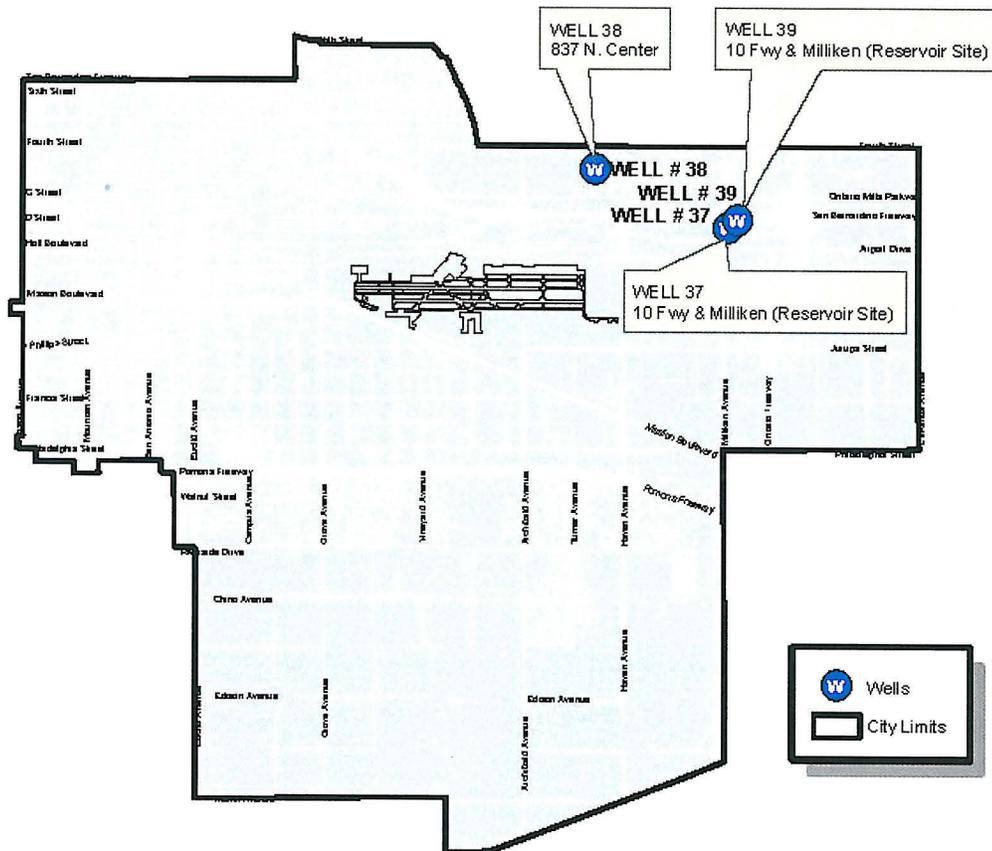
Staff recommends the award including the base bid (Schedule “A”) and alternate bid (Schedule “B”) to Pacific Winds Building, Inc. of Irvine, California, based on their expertise and ability to perform the work in a timely manner and successful completion of this type of work in the past.

The project is a component of the 2012 Infrastructure Master Plans approved by the City Council on December 4, 2012. A Mitigated Negative Declaration was prepared and approved for the 2012 Infrastructure Master Plans pursuant to the provisions of CEQA. An analysis of the project has determined that there is no significant deviation from the description of this component of the overall 2012 Infrastructure Master Plans. Thus, no further CEQA analysis is required.



ONTARIO  
**MUNICIPAL  
UTILITIES**  
COMPANY

**CONTRACT NO. UT1415-02**  
**WELL FACILITY BACKUP POWER**  
**PROJECT NO. 1: WELLS 37, 38, & 39**



# CITY OF ONTARIO

Agenda Report  
February 3, 2015

SECTION:  
CONSENT CALENDAR

**SUBJECT: PROFESSIONAL SERVICES AGREEMENTS FOR THE WATER AND SEWER MAIN REPLACEMENT PROGRAMS**

**RECOMMENDATION:** That the City Council:

- (A) Approve and authorize the City Manager to execute a Professional Services Agreement (on file with the Records Management Department) with Albert A. Webb Associates of Riverside, California, to provide engineering design services for the water main replacement program in the amount of \$223,905 for FY 2014-15 and authorize the option to extend the agreement for up to four successive one year periods consistent with City Council approved work programs and budgets; and
- (B) Approve and authorize the City Manager to execute a Professional Services Agreement (on file with the Records Management Department) with Hall and Foreman, Inc. of Tustin, California, to provide engineering design services for the sewer main replacement program in the amount of \$112,440 for FY 2014-15 and authorize the option to extend the agreement for up to four successive one year periods consistent with City Council approved work programs and budgets.

**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 Fiscal Year 2014-15 Capital Improvement Program includes appropriations from the Water Capital Fund for the contract award of \$223,905 to Albert A. Webb Associates and appropriations from the Sewer Capital Fund for the contract award of \$112,440 to Hall and Foreman, Inc. At the City's discretion, the agreements may be extended up to four additional years, subject to City Council approved work programs and budgets in subsequent years. Annual billing rates for the option years will be negotiated, but any increase shall not exceed 3% per year. There is no impact to the General Fund.

**BACKGROUND:** The City's sewer system includes approximately 385 miles of pipeline, approximately 40% of which is more than 50 years old. Similarly, the City's water system includes

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

Prepared by: Katie Gienger  
Department: MU/Engineering

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/03/2015

Approved: \_\_\_\_\_

Continued to: \_\_\_\_\_

Denied: \_\_\_\_\_

7

approximately 564 miles of pipeline, about 22% of which is more than 50 years old. Replacement of these aging pipelines as well as undersized pipelines is recommended to maintain the reliability of water and sewer service to the residents and businesses of the City of Ontario and to improve service pressures and fire flow availability. The selected engineering firms will evaluate Master Plan recommendations, prioritize projects, and provide professional design services for the annual water and sewer main replacement projects.

On July 22, 2014, seven proposals were received to provide engineering design services for the water and sewer main replacement programs.

| <u>Firm</u>  | <u>Location</u>      |
|--|----------------------|
| <b>Albert A. Webb Associates</b> <i>[Selected for water]</i> | <b>Riverside, CA</b> |
| <b>Hall &amp; Foreman, Inc.</b> <i>[Selected for sewer]</i>  | <b>Tustin, CA</b>    |
| Krieger & Stewart Engineering Consultants                    | Riverside, CA        |
| Parsons Brinckerhoff   | San Bernardino, CA   |
| RBF Consulting   | Ontario, CA          |
| Tetra Tech   | San Dimas, CA        |
| TKE Engineering, Inc.  | Riverside, CA        |

Albert A. Webb Associates and Hall and Foreman, Inc., are recommended based on their proposals, expertise and ability to perform the work in a timely manner and have successfully performed similar engineering water/sewer design services and are familiar with the City's plan approval process.

The authorization to provide professional design services for the water and sewer main replacement projects is not a project under CEQA. Upon completion of the water or sewer pipeline replacement design, an environmental review will be performed pursuant to CEQA. At that time any required CEQA compliance measures will be brought to the City Council for consideration.

# CITY OF ONTARIO

Agenda Report  
February 3, 2015

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN AGREEMENT FOR PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE COLONY COMMERCE CENTER SPECIFIC PLAN**

**RECOMMENDATION:** That the City Council approve and authorize the City Manager to execute an agreement (on file with the Records Management Department) with URS Corporation of Ontario, California, to prepare an environmental impact report (EIR) for the Colony Commerce Center Specific Plan, located north of Remington Avenue, south of Merrill Avenue, east of Carpenter Avenue, and west of the Cucamonga Creek Flood Control Channel, in the amount not to exceed \$280,759 (includes a 10% contingency), and authorize the City Manager to approve any future budget adjustments necessary to complete the EIR.

**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  
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

**FISCAL IMPACT:** None. The EIR contract is a "pass-thru" to be paid by the project applicant. The total cost for completing the EIR is \$280,759, which includes a ten percent (10%) contingency as required by the City, which will be paid by the applicant. A budget adjustment for the \$280,759 in revenue and corresponding expenditure appropriations will be included in the FY 2014-15 3rd quarter budget report to City Council.

**BACKGROUND:** On January 27, 2010, the City adopted The Ontario Plan (TOP) and certified the accompanying EIR. TOP serves as the City's General Plan for the City, including the New Model Colony. The project site is zoned SP/AG (Specific Plan/Agriculture Preserve). The zoning of "SP" requires the adoption of a specific plan to establish the development standards and design guidelines and to carry out the goals and policies of TOP that support a premier lifestyle community in the New Model

**STAFF MEMBER PRESENTING:** Scott Murphy, Planning Director

Prepared by: Richard Ayala

Department: Planning

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/03/2015

Approved: \_\_\_\_\_

Continued to: \_\_\_\_\_

Denied: \_\_\_\_\_

8

Colony, distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.

CapRock Partners, the applicant, is proposing a specific plan for the development of industrial uses on approximately 123 gross acres of land, generally located north of Remington Avenue, south of Merrill Avenue, east of Carpenter Avenue, and west of the Cucamonga Creek Flood Control Channel. The specific plan area consists of seven parcels of various sizes that range from 1.4 acres to 39 acres under three separate ownerships. All parcels are designated Industrial (0.55 FAR) under TOP Policy Plan (General Plan). The specific plan proposes a maximum of 2.95 million square feet of industrial space with the flexibility to determine individual building sizes based on market conditions. In order to thoroughly address the environmental impacts associated with the proposed specific plan, a site specific EIR is required.

A Request for Proposal to prepare an EIR for the Colony Commerce Center Specific Plan was sent to six qualified environmental consulting firms. The selection committee unanimously recommends URS Corporation (“URS”) be hired to prepare the EIR for the Colony Commerce Center Specific Plan. The experience and qualifications of the URS team best addressed and fully responded to the work scope.

# CITY OF ONTARIO

Agenda Report  
February 3, 2015

SECTION:  
CONSENT CALENDAR

**SUBJECT:** AN ORDINANCE APPROVING AN AMENDMENT (SECOND AMENDMENT) TO A DEVELOPMENT AGREEMENT (FILE NO. PDA14-007) BETWEEN THE CITY OF ONTARIO AND SC ONTARIO DEVELOPMENT COMPANY, LLC, TO UPDATE CERTAIN PROVISIONS OF THE EXISTING DEVELOPMENT AGREEMENT (FILE NO. PDA05-002) AND TO CONFORM WITH THE CURRENT CONSTRUCTION AGREEMENT WITH NMC BUILDERS LLC, AND TO PROVIDE FOR THE PHASING OF THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE FOR 250 ACRES OF THE PARKSIDE SPECIFIC PLAN

**RECOMMENDATION:** That the City Council consider and adopt an ordinance approving an amendment (File No. PDA14-007) to the Development Agreement between SC Ontario Development Company, LLC, a Delaware Limited Liability Company, and the City of Ontario to update certain provisions of the existing Development Agreement to conform with the current Construction Agreement with NMC Builders, LLC, and update certain provisions of the existing Development Agreement (File No. PDA05-002).

**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  
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)  
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

**FISCAL IMPACT:** The proposed Development Agreement Amendment will update certain provisions of the existing Development Agreement to conform to the current Construction Agreement with NMC Builders, LLC. In addition, the City will receive Public Service Funding fees plus development impact, compliance processing, licensing, and permitting fees. Original Model Colony revenue will not be used to support the New Model Colony development. The Development Agreement requires the developer to construct public infrastructure.

**STAFF MEMBER PRESENTING:** Scott Murphy, Planning Director

Prepared by: Rudy Zeledon  
Department: Planning

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/03/2015  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

9

**BACKGROUND:** On January 20, 2015, the City Council introduced an ordinance approving an amendment to the Development Agreement between SC Ontario Development Company, LLC, and the City of Ontario. On August 22, 2006, the City Council approved the Development Agreement (File No. PDA05-002) between the City of Ontario and SC Ontario Development Corporation to provide the funding for additional City services required to support the Parkside Specific Plan residential development of up to 1,947 residential units and the infrastructure improvements required to support the related Tract Map 18048 (referred to as an “A” Map). In June 2009, the Development Agreement was amended (First Amendment) to allow Tract Map 18048 to be recorded for the purpose of financing.

The Development Agreement and the proposed Amendment applies to 250 acres of land that make up the Parkside Specific Plan, generally located south of Edison Avenue, north of Eucalyptus Avenue, between Archibald Avenue to the east and Carpenter Avenue to the west. The Development Agreement granted to SC Ontario Development Company a vested right to develop the project subject to the terms and conditions of the Development Agreement and Parkside Specific Plan.

The Amendment incorporates new and modified provisions to conform to the current NMC Builders LLC, Construction Agreement, including:

- Continues the requirement for funding of Fire Station No. 9
- Continues the requirement for funding of the regional water and storm water treatment improvements
- Retention of public service funding fees amounts and payment terms
- Modification of school financing provisions
- Modifications of the amount of the CFD to finance City services

The Amendment also incorporates specific requirements for the phased construction and completion of required public infrastructure, including regional and local streets and traffic signals, water and sewer utilities, and regional and local storm drain improvements.

The Development Agreement and the Amendment continue to require funding for all new City expenses created by the development of the project. These expenses include all additional City-provided services, infrastructure and affordable housing requirements.

The main points of the Development Agreement including the provisions of the Amendment are as follows:

- |             |   |
|-------------|---|
| Term:       | Maintains the same term of ten years with a five year option.   |
| Assignment: | Assignable with all terms and conditions applying to the assignee. New provisions are added in the Amendment to recognize and provide City approval of all partial assignments. |

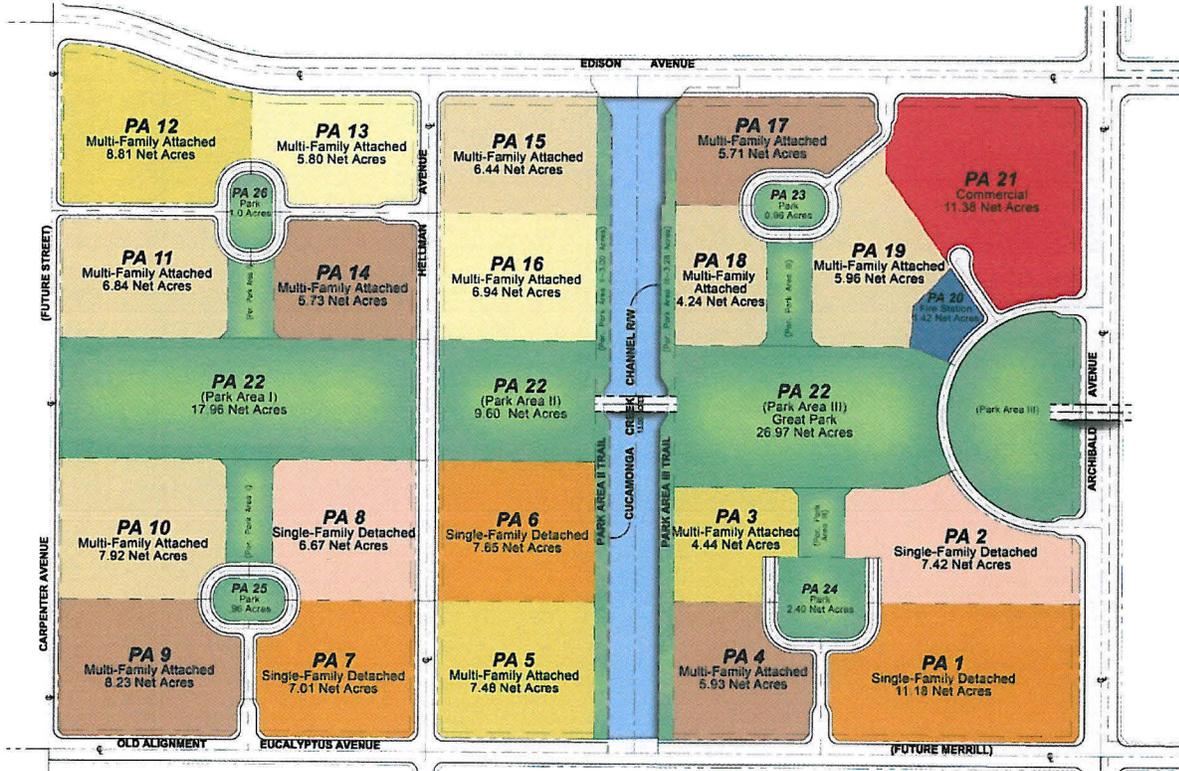
|                                      |  |
|--------------------------------------|--|
| Development Impact Fees:             | To be paid at current amounts; varies by category (i.e. Streets and Bridges, Police, Fire, Open Space/Parks etc.). This is a separate fee from existing City licensing fees and permits and is due at building permit issuance for each unit.  |
| Community Facilities District (CFD): | City will cooperate with Owner to form a CFD to reimburse costs of infrastructure construction and maintenance of public facilities.   |
| Parks/Open Space:                    | Maintains The Ontario Plan (General Plan) requirement of five acres per 1,000 projected population through park dedication and/or the payment of in-lieu fees.   |
| Acquisition of Great Park:           | The Great Park (approximately 58 gross acres) identified in the Parkside Specific Plan will be constructed and transferred to the City in four phases. Within twenty-four months from the effective date of this Amendment, the City and Owner will jointly develop a plan for the timing and completion of each phase of design and construction of the Great Park. Through a separate acquisition agreement, the City will acquire the park acreage at “Fair Market Value” (consistent with DIF program). The City will compensate the Owner with DIF Credit for the use by the Owner as credit against the Owner’s DIF obligation for Parkland Facilities Development fees. The specific terms of the issuance of DIF Credit and DIF Reimbursement to the Owner will be included in a separate DIF Credit and Reimbursement Agreement between the City and the Owner. |
| Housing:                             | Maintains the provision of affordable housing as required by the General Plan through construction, rehabilitation, or by paying an in-lieu fee.   |
| Schools:                             | Maintains the requirement to satisfy Mountain View Elementary School District and Chaffey High School District school facilities requirements.   |
| Phasing:                             | Acknowledges the development of the property in four phases and establishes the phasing for the completion of needed infrastructure improvements and the availability of improvements and services to serve all four phases.   |
| Termination:                         | Maintains the City’s ability to terminate the Agreement if substantial evidence is found of noncompliance.   |

In considering the application at their meeting of December 15, 2014, the Planning Commission found that the Development Agreement Amendment is consistent with State law, The Ontario Plan, the City’s Development Agreement policies, and other Development Agreements previously approved for NMC development. As a result, the Planning Commission voted unanimously (6-0, with Commissioner

Downs absent) recommending approval of the Development Agreement Amendment to the City Council.

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were previously analyzed in the EIR (SCH #2004011008) prepared for the Parkside Specific Plan (File No. PSP03-002) and adopted by the City Council on September 7, 2006. All adopted mitigation measures of the certified EIR shall be a condition of approval for the project and are incorporated herein by reference.

# EXHIBIT "A" THE PARKSIDE SPECIFIC PLAN



**Notes:**

Net acres is Planning Area (PA) acreage, minus street R/W

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT (FILE NO. PDA14-007) BETWEEN THE CITY OF ONTARIO AND SC ONTARIO DEVELOPMENT COMPANY, LLC, TO UPDATE CERTAIN PROVISIONS OF THE EXISTING DEVELOPMENT AGREEMENT (FILE NO. PDA05-002) TO CONFORM TO THE CURRENT CONSTRUCTION AGREEMENT WITH NMC BUILDERS LLC, AND TO PROVIDE FOR THE PHASING OF THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE FOR 250 ACRES OF THE PARKSIDE SPECIFIC PLAN AND MAKING FINDINGS IN SUPPORT THEREOF - APN: 0218-221-09 AND 10, 0218-231-06 THROUGH 39.

WHEREAS, California Government Code Section 65864 now provides, in pertinent part, as follows:

“The Legislature finds and declares that:

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

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

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

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

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

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent

discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

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

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

WHEREAS, on September 19, 2006, the City Council of the City of Ontario, adopted Ordinance No. 2838, approving a Development Agreement between SC Ontario Development Company and the City; and

WHEREAS, on June 16, 2009, the City Manager of the City of Ontario, approved the First Amendment to the Development Agreement between SC Ontario Development Company and the City; and

WHEREAS, on December 15, 2014, the Planning Commission of the City of Ontario conducted a hearing to consider the Amendment and concluded said hearing on that date. After considering all public testimony, the Planning Commission recommended approval of the Development Agreement Amendment to the City Council; and

WHEREAS, attached to this Ordinance, marked Exhibit “A” and incorporated herein by reference, is the proposed Second Amendment to the Development Agreement between SC Ontario Development Company and the City of Ontario, File No. PDA14-007. Hereinafter in this Ordinance, the Development Agreement is referred to as the “Second Amendment”; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with the Parkside Specific Plan, for which an Environmental Impact Report (SCH #2004011008) was certified by the City Council on September 7, 2006. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by reference; and

WHEREAS, on January 20, 2015, the City Council of the City of Ontario conducted a public 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 decision-making body for the Project, the City Council has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. The Second Amendment to the Development Agreement applies to 250 acres of residential land within the Parkside Specific Plan, generally located south of Edison Avenue, north of Eucalyptus Avenue, between Archibald Avenue to the east and Carpenter Avenue to the west; and

b. The properties to the north of the Project site are within The Avenue Specific Plan, are designated for residential uses and an elementary school, and are developed with dairy and agriculture uses. The properties to the southwest are zoned SP/AG (Specific Plan/Agriculture Preserve) and are developed with dairy and agriculture uses. The properties to the south are located within Planning 1 of the Subarea 29 Specific Plan, are designated for residential uses, and are developed with dairy and agriculture uses. The properties to the east are within the Grand Park Specific Plan, are designated for open space and residential uses, and are developed with dairy and agriculture uses. The properties to the west are zoned SP/AG (Specific Plan/Agriculture Preserve) and are developed with dairy and agriculture uses; and

c. The Development Agreement and the Second Amendment to the Development Agreement establish parameters for the development of the Parkside Specific Plan residential projects. The Development Agreement also grants SC Ontario Development Company, LLC, the right to develop, the ability to quantify the fees, and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Parkside Specific Plan; and

d. The Second Amendment to the Development Agreement focuses revisions to the development to bring it into consistency with the Construction Agreement between the City and New Model Colony Builders ("NMC"), LLC; and

e. The Second Amendment to the Development Agreement will provide phasing of the Parkside Specific Plan in four phases and establishes the phasing for the completion of needed infrastructure improvements and the availability of improvements and services to serve all four phases; and

f. The Second Amendment to the Development Agreement has been prepared in conformance with the goals and policies of The Ontario Plan Policy Plan (General Plan); and

g. The Second Amendment to the Development Agreement does not conflict with the Land Use Policies of The Ontario Plan Policy Plan (General Plan) and will provide for development, within the district, in a manner consistent with the Policy Plan and with related development; and

h. The Second Amendment to the Development Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and

i. The Second Amendment to the Development Agreement will not be materially injurious or detrimental to the adjacent properties and will not have a significant impact on the environment or the surrounding properties. The potential environmental impacts and the mitigation of these impacts were addressed in the Parkside Specific Plan EIR certified by the City Council on September 7, 2006.

SECTION 2. Based upon the findings and conclusions set forth in Section 1 above, the City Council hereby approves the Project.

SECTION 3. 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 4. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 5. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

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

PASSED, APPROVED, AND ADOPTED this 3<sup>rd</sup> day of February 2015.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3012 was duly introduced at a regular meeting of the City Council of the City of Ontario held January 20, 2015, and adopted at the regular meeting held February 3, 2015, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3012 duly passed and adopted by the Ontario City Council at their regular meeting held February 3, 2015 and that Summaries of the Ordinance were published on January 27, 2015 and February 10, 2015, in the Inland Valley Daily Bulletin newspaper.

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Exhibit A – Second Amendment to the Development Agreement  
(See Attached)

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE CITY OF ONTARIO AND  
SC ONTARIO DEVELOPMENT COMPANY L.L.C.**

This Second Amendment (hereinafter "Second Amendment") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 201\_ by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and SC ONTARIO DEVELOPMENT COMPANY LLC, a Delaware limited liability company (hereinafter "OWNER").

**RECITALS**

WHEREAS, the CITY and OWNER's predecessor have previously entered into a Development Agreement dated September 19, 2006 and recorded in San Bernardino County, California on November 14, 2006 as Instrument No. 2006-0774531 pursuant to Section 65864, et seq., of the Government Code, (hereinafter the "Original Development Agreement"); and

WHEREAS, the CITY and OWNER have previously entered into a First Amendment to the Development Agreement dated June 16, 2009, and recorded in San Bernardino County, California on September 14, 2009 as Instrument No. 2009-0403692 pursuant to Section 65864, et seq., of the Government Code, (hereinafter the "First Amendment"); and

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

WHEREAS, the CITY and NMC Builders, LLC, a California limited liability company ("NMC Builders"), entered into that certain Agreement for the Financing and Construction of Phase I and II Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony dated October 4, 2005, which is referred to both herein and in the Original Development Agreement as the "Construction Agreement;" and

WHEREAS, the CITY and NMC Builders have entered into the Amended and Restated Construction Agreement dated August 21, 2012 that supersedes and replaces the Construction Agreement (the "Construction Agreement Amendment"); and

WHEREAS, the Property is a portion of that certain real property depicted on Exhibit A to the Construction Agreement Amendment, which is referred to in the Construction Agreement Amendment as the "Property" and referred to herein as the "Construction Agreement Property;" and

WHEREAS, NMC Builders is identified as the Developer under the Construction Agreement Amendment; and

WHEREAS, OWNER is a member of NMC Builders and is a "Member" as such term is defined in the Construction Agreement Amendment; and

WHEREAS, OWNER and CITY have agreed to implement certain specified provisions of the Construction Agreement Amendment and modify the Original Development Agreement, as amended; and

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

WHEREAS, the term of the Development Agreement is for a ten (10) year period from the Effective Date thereof and will therefore expire on September 19, 2016, unless CITY and OWNER agree to extend the term of the Development Agreement for an additional five (5) year period.

## **AGREEMENTS**

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

### **1. DEFINITIONS AND EXHIBITS.**

1.1 Existing Definitions. The following terms when used in this Second Amendment shall be defined as in the Original Development Agreement: CITY; Construction Agreement; Deferred Infrastructure; Development; Development Approvals; Development Exaction; Development Impact Fee; Development Plan; General Plan; Land Use Regulations; OWNER; Project, Property, Specific Plan; Storm Water Capacity Availability Equivalents; Subsequent Development Approvals; Subsequent Land Use Regulations; and Water Availability Equivalent (WAE). Any capitalized terms not expressly defined in Section 1.2 below or otherwise expressly defined or modified in this Second Amendment shall have the meaning given to those terms in the Development Agreement.

#### 1.2 Additional and Modified Definitions.

1.2.1 The following additional terms shall be defined as follows:

"Construction Agreement Amendment" means that certain Amended and Restated Agreement for the Financing and Construction of Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony, entered into between the CITY and NMC Builders dated August 21, 2012.

"Effective Date" means the date that the ordinance approving this Second Amendment becomes effective.

“Model Units” means a maximum of thirty six (36) units in each Phase constructed by OWNER for promotion of sales.

“Phase” means the four (4) development phases of the Project as shown on Exhibit F.

“Phase 1 Improvements” means the Improvements (as defined in Section 1.2, below) that shall be designed, constructed and completed by OWNER prior to, and as a condition precedent to, CITY’s issuance of the first building permit for any Production Unit and as shown in Exhibit F- Phase 1 Improvements.”

“Phase 1 Units” means the first four hundred twenty-one (421) units for which the CITY issues building permits to OWNER and shall include up to thirty six (36) Model Units.

“Phase 2 Improvements” means the Improvements that shall be designed, constructed and completed by OWNER prior to, and as a condition precedent to, CITY’s issuance of the first building permit for any Production Unit in the Phase 2 area and as shown in “Exhibit F – Phase 2 Improvements”.

“Phase 2 Recycled Water Improvements” as added to, and defined in Exhibit B of the Construction Agreement Amendment, means the extension of master-planned recycled water system improvements in Riverside Drive and Haven Avenue as described in the attached Exhibit F.

“Phase 2 Units” means the next two hundred eighty-four (284) units for which the CITY issues building permits to OWNER after the issuance of building permits for the Phase 1 Units.

“Phase 3 Improvements” means the Improvements that shall be designed, constructed and completed by OWNER prior to, and as a condition precedent to, CITY’s issuance of the first building permit for any Production Unit in the Phase 3 area and as shown in “Exhibit F-Phase 3 Improvements”.

“Phase 3 Units” means the next six hundred fifty eight (658) units for which the CITY issues building permits to OWNER after the issuance of building permits for the Phase 2 Units.

“Phase 4 Improvements” means the Improvements that shall be designed, constructed and completed by OWNER prior to, and as a condition precedent to, CITY’s issuance of the first building permit for any

Production Unit in the Phase 4 area and as shown in “Exhibit F- Phase 4 Improvements”.

“Phase 4 Units” means the next six hundred fourteen (614) units for which the CITY issues building permits to OWNER after the issuance of the building permits for the Phase 3 Units.

“Production Units” means all residential or non-residential units constructed by OWNER for promotion of sales. “Residential Unit” means a Production Unit constructed for residential use. “Non-Residential Unit” means a Production Unit constructed for non-residential use.

“Storm Water Capacity Availability Equivalents” means a designated portion of the total Storm Water Capacity Availability made available to Owner in accordance with the Construction Agreement Amendment as a Member of NMC Builders through the completion of construction of a Phase of regional storm water treatment facilities by NMC Builders. OWNER shall be required to provide evidence of sufficient Storm Water Capacity Availability Equivalents (or portions thereof) based upon the storm water generation factors and assumptions contained in the Construction Agreement Amendment.

“Water Availability Equivalent (WAE)” means a designated portion of the total Net MDD made available to Owner in accordance with the Construction Agreement Amendment as a Member of NMC Builders through the construction of each phase described in the Water Phasing Plan of the Construction Agreement Amendment. The number of Water Availability Equivalents (or portions thereof) required for the issuance of each building permit shall be based upon water demand factors and assumptions listed in the Construction Agreement Amendment as “Water Availability Equivalents by Land Use” for each land use category.

1.2.2 The following definitions shall be revised as follows:

“Development Agreement” is revised to mean, collectively, the Original Development Agreement, First Amendment and this Second Amendment.

“Existing Development Approvals” is revised to mean all Development Approvals approved or issued prior to the Effective Date. Existing Development Approvals includes the Development Approvals incorporated herein as Exhibit “C-R” and all other Development Approvals that are a matter of public record on the Effective Date.

“Existing Land Use Regulations” is revised to mean all Land Use Regulations in effect on the Effective Date and all other Land Use Regulations that are in effect and a matter of public record on the Effective

Date. Existing Land Use Regulations includes the Regulations incorporated herein as Exhibit “D-R”.

“Improvement”, “Improvements”, or Infrastructure is revised to mean those public improvements and public infrastructure required to support the development of the Project as described in the Tract Map conditions for the “A” Tract Map No. 18999 and any and all future “A” and “B” Tract Maps for the Property. Improvement, Improvements, or Infrastructure shall also mean those public improvements required to support the Phase 1 Units, Phase 2 Units, Phase 3 Units and Phase 4 Units as further described in the respective Exhibit “F” for each respective Phase (the “Infrastructure Improvements Exhibits”).

1.3 Exhibits. The following documents are attached to, and by this reference made a part of, this Second Amendment:

Exhibit B-R – Revised Legal Description of Property

Exhibit “C-R” – Revised Existing Development Approvals.

Exhibit “D-R” – Revised Existing Land Use Regulations.

Exhibit “E-R” — Revised Conceptual Phasing Plan.

Exhibit “F” — Infrastructure Improvements Exhibit for all Phases.

Exhibit “F-Phase 1” - Phase 1 Improvements Exhibit.

Exhibit “F-Phase 2” - Phase 2 Improvements Exhibit

Exhibit “F-Phase 3” - Phase 3 Improvements Exhibit

Exhibit “F-Phase 4” – Phase 4 Improvements Exhibit

Exhibit “G” - Form of Partial Assignment and Assumption of Development Agreement

## **2. MODIFICATIONS TO DEVELOPMENT AGREEMENT TO CONFORM TO CONSTRUCTION AGREEMENT AMENDMENT**

2.1 Requirements for Sufficient Water Availability Credits. Prior to, and as a condition precedent to, CITY’s approval of the final subdivision map for Phase 1, OWNER shall provide evidence of sufficient Water Availability Equivalents for the Phase 1 Units. Additionally, prior to, and as a condition precedent to, CITY’s approval of final subdivision maps for the Phase 2, 3 and 4 areas, OWNER shall provide evidence of sufficient Water Availability Equivalents for all Production Units in the respective Phase.

2.2 Requirements for Storm Water Capacity Availability Equivalents. Prior to, and as a condition precedent to, CITY's approval of any Tract Maps for Phase 1 of the Property OWNER shall provide evidence of sufficient Storm Water Treatment Capacity Availability for the acreage to be graded. If the CITY has not issued sufficient Storm Water Treatment Capacity Availability for the issuance of grading permits for the Phase 1 area of OWNER's Project, because regional storm water treatment facilities are not completed by NMC Builders, then OWNER may provide and CITY, in its sole discretion, may accept evidence of sufficient Storm Water Treatment Capacity that is conditioned upon the future completion of the regional storm water treatment facilities.

2.3 Modification of the Amounts of the CFD to Finance City Services. Prior to, and as a condition precedent to, the recordation of each final subdivision map creating buildable lots, such map shall be included in a Community Facilities District (CFD) to finance CITY services through annual special taxes. The amounts contained in Section 5.1 in the Development Agreement shall be modified as follows:

- Single Family Detached Dwelling Unit from \$1,103.00 to \$1,387.00
- Multiple Family Dwelling Unit from \$871.00 to \$1,202.00
- Gated Apartment Community Dwelling Unit from \$835.00 to \$1,008.00
- The amount for Non-Residential building shall be modified to \$.26 per square foot.

These modified amounts shall be subject to an automatic increase, not to exceed four (4%) percent per year, beginning on January 1, 2015.

2.4 Retention of Public Services Funding Fee Amounts and Payment Terms. CITY and OWNER acknowledge and agree that the modifications to amount and payments terms included in Section 3.7.4 of the Construction Agreement Amendment shall not apply to OWNER's Public Services Funding Fee Amounts and payment terms as OWNER entered into the Original Development Agreement with the City prior to the effective date of the Construction Agreement Amendment. Additionally, CITY agrees that OWNER is in compliance with the requirements for payment of the first installment of the Public Services Funding Fees as specified in Section 4.6 in the Original Development Agreement.

2.5 Modifications of School Financing Provisions. The provisions of Section 5.2 School Financing of the Development Agreement shall be removed and replaced with the following:

"5.2 Schools. OWNER, either through joint or individual agreements between OWNER and the applicable school district(s), shall satisfy its new school obligations. The new school obligations for the Mountain View School District in the New Model Colony area have been projected to include the acquisition or dedication of school sites for, and construction of, up to eight (8) schools. Of these eight (8) schools, six (6)

are to be elementary (K-5) grade schools and two (2) are to be middle grade schools. The new school obligations for the Chaffey Joint Union High School District in the New Model Colony area have been projected to include the dedication of a school site for, and construction of, an additional high school. The new school obligations for the applicable school district shall be met by combination of the following: (1) designating and dedicating school site(s) within the Property as set forth in the General Plan, and/or (2) paying school impact fees, (3) entering into a joint mitigation agreement or individual mitigation agreements, or (4) any combination of the foregoing. Written evidence of approval by the applicable school district that OWNER has met its school obligations may be required by the CITY as a condition to the issuance by the City of any entitlements for OWNER's Project. In the event OWNER is unable to provide such written evidence from the applicable school district(s), CITY shall have the right to decline to honor any DIF Credit, Certificates of MDD Availability, Certificates of Storm Water Treatment Capacity Availability, or any combination thereof, presented by OWNER, without liability to the City. To the extent that a joint mitigation agreement is approved by the applicable school district(s), and OWNER is a participant in good standing in such mitigation agreement, OWNER shall be deemed to have mitigated its new school obligations under this Section 5.2."

### **3. MODIFICATIONS TO DEVELOPMENT AGREEMENT TO REQUIRE CONSTRUCTION OF SPECIFIED PUBLIC IMPROVEMENTS**

3.1 Modifications to Conceptual Phasing Plan. Section 3.4 of the Development Agreement is hereby amended to read as follows:

"3.4 Phasing Plan. Development of the Property is contingent on the phasing of Improvements. Attached hereto as Exhibit "E-R" is a revised phasing plan which is based on the OWNER's established phasing for the completion of needed infrastructure improvements and the availability of improvements and services to serve Phases 1, 2, 3 and 4.

3.4.1 Subject to the prior submittal by OWNER, and approval by CITY, of a plan to provide sufficient public infrastructure for the construction of a maximum number of thirty six (36) Model Units in each Phase, CITY may issue a maximum of thirty six (36) building permits for Model Units in each Phase. The plan to be submitted by OWNER for CITY approval shall describe the utilities and other Infrastructure necessary to provide sufficient fire protection and other public health and safety requirements for the Model Units in each Phase.

3.2 Requirements for the Construction of Public Infrastructure and Improvements. The following provisions shall be added to Section 3.7 of the Development Agreement:

“3.7.1 Responsibility for the Timely Construction of Public Improvements. Attached hereto as Exhibit “F” is a description of the Infrastructure and Improvements needed for the development of the all Phases of the Property (the “Infrastructure Improvement Exhibits”).

3.7.1.1 OWNER shall be responsible for the construction of the necessary extension of permanent master planned water and recycled water utility Infrastructure to the Property. OWNER agrees that no building permits for Production Units in Phase 1 shall be issued by CITY for the Project prior to the completion of the extension of permanent master planned water utility Infrastructure to serve the Project as identified on “F-Phase 1”.

3.7.1.2 OWNER agrees that development of the Project shall require the construction of a significant portion of Improvements to Archibald Avenue. OWNER shall be responsible for the construction of those master planned street and related Improvements in a major portion of Archibald Avenue identified in Exhibit “F”, and in the Exhibit “F” for Phases 1 through 4.

3.7.1.3 OWNER shall be responsible for the construction of the master planned street and related improvements in a significant portion of Edison and Eucalyptus Avenues identified in Exhibit “F”, and in the Exhibit “F” for Phases 1 through 4.

3.7.2 Timely Construction of Public Improvements. The phasing of the Infrastructure construction within the Property shall be as approved by the City Manager. OWNER shall be responsible for the timely design, construction and completion of all Infrastructure required for each of the four (4) Phases of the Project as shown on the attached Exhibits “F” and the Exhibit “F” for Phases 1 through 4, for each applicable Phase of the Project. OWNER shall also be responsible for compliance with any and all other tract map conditions and requirements of Tract Map 18999 and all future Tract Maps for the Property. Unless otherwise specified in a Subdivision Agreement/Tract Map conditions, all other required Improvements and all other conditions or requirements of “A” Tract Map 18999 shall be complete prior to, and as a condition precedent to, CITY’s granting of any building permit for any Phase 1 Production Units. Additionally, unless otherwise specified in a Subdivision Agreement/Tract Map conditions, all other required improvements and all other conditions for each “B” Tract Map in the Phase 1 area shall be complete prior to, and as a condition precedent to, OWNER requesting and CITY’s granting of any building permit for any Production Unit within each such “B” Tract Map.

3.7.2.1 OWNER shall construct and complete all Infrastructure required for Phase 1 of the Project as shown on Exhibit F-

Phase 1 prior to, and as a condition precedent to, CITY's issuance of the first building permit for any Production Unit for the Property.

3.7.2.2 OWNER shall design, construct and complete all Infrastructure for Phase 2 as shown in Exhibit F-Phase 2 prior to, and as a condition precedent to, CITY's issuance of the four hundred twenty second (422nd) building permit for the Property (inclusive of building permits for Model Units and Production Units), or CITY's issuance of any building permits for any Production Units in the Phase 2 area. Unless otherwise specified in a Subdivision Agreement/Tract Map conditions, all other required Improvements and all other conditions for each Tract Map in the Phase 2 area shall be completed and operational prior to, and as a condition precedent to, CITY's issuance of a building permit for any Production Unit within any such "B" Tract Map.

3.7.2.3 OWNER shall design, construct and complete all public infrastructure for Phase 3 as shown in Exhibit F-Phase 3 prior to, and as a condition precedent to, CITY's issuance of the seven hundred sixth (706th) building permit for the Property (inclusive of Model Units and Production Units) or CITY's issuance of any building permits for any Production Units in the Phase 3 area. Unless otherwise specified in a Subdivision Agreement/Tract Map conditions, all other required improvements and all other conditions for each Tract Map in the Phase 3 area shall be completed and operational prior to, and as a condition precedent to, CITY's issuance of a building permit for any Production Unit within any such "B" Tract Map.

3.7.2.4 OWNER shall design, construct and complete all public infrastructure for Phase 4 as shown in Exhibit F-Phase 4 prior to, and as a condition precedent to, CITY's issuance of the one thousand three hundred sixty fourth (1,364th) building permit for the Property (inclusive of Model Units and Production Units) or CITY's issuance of any building permits for any Production Units in the Phase 4 area. Unless otherwise specified in a Subdivision Agreement/Tract Map conditions, all other required improvements and all other conditions for each Tract Map in the Phase 4 area shall be completed and operational prior to, and as a condition precedent to, CITY's issuance of a building permit for any Production Unit within any such "B" Tract Map.

3.7.2.5 OWNER or NMC Builders shall be responsible for the design and construction of additional extension of master planned recycled water infrastructure in Riverside and Haven Avenues (the "Phase 2 Recycled Water Improvements") to serve the Project as described in the attached Exhibit F. Prior to September 1, 2018, OWNER shall deposit, or shall have deposited, with NMC Builders, an amount equal to the OWNER's capital contribution for the design and construction of the Phase 2 Recycled Water Improvements and OWNER shall provide

evidence acceptable to CITY that OWNER has deposited such capital contribution with NMC Builders. If OWNER has not deposited such amount or if NMC Builders has not initiated construction of the Phase 2 Recycled Water System Improvements prior to September 1, 2018, OWNER shall initiate and complete construction of the Phase 2 Recycled Water System Improvements no later than September 1, 2019. OWNER acknowledges and agrees that if OWNER or NMC Builders has not completed the design and construction of the Phase 2 Recycled Water System Improvements prior to September 1, 2019 then CITY shall be entitled to withhold issuance of any further building permits for the Project unless and until the design and construction of the Phase 2 Recycled Water System Improvements is completed. If NMC Builders LLC or others have completed the design and initiated construction of the required Phase 2 Recycled Water System Improvements prior to September 1, 2019 then OWNER shall not be required to construct such improvements and OWNER shall not be eligible to receive the special reimbursement described in Section 4.2.5.1.

3.3 Modifications to Section 4.2 of the Development Agreement. Section 4.2 of the Development Agreement shall be amended to read as follows:

“4.2.1 Amount of Development Impact Fee. Development Impact Fees shall be paid by OWNER, and any credit and/or reimbursement shall be provided to OWNER, in accordance with Section 3.1 of the Construction Agreement Amendment. Without limiting the nature of the foregoing, nothing contained in this Agreement shall affect the ability of other public agencies to impose and amend, from time to time, Development Impact Fees established or imposed by such other public agencies, even though such Development Impact Fees may be collected by CITY.

4.2.2 Time of Payment. The Development Impact Fees required pursuant to Subsection 4.2.1 shall be paid to CITY prior to the issuance of building permit for each applicable residential or other unit, except for the Open Space and Habitat Acquisition Development Impact fees which shall be paid by OWNER to CITY prior to the issuance of a grading permit.

4.2.3 Parkland and Quimby Act Fees. Pursuant to the General Plan (Ontario Plan) Goal PR1, Policy PR1-5 (achievement of a park standard of 5 acres of parkland per 1,000 residents) OWNER shall, with respect to its Project, provide improved parks, developed in accordance with the CITY’s park standards in an amount equal to two (2) acres per 1,000 of projected population without credit, reimbursement, offset or consideration from CITY. Such areas shall be transferred to a homeowner’s association or to the CITY if any such areas are included in the public areas of the Great Park. If approved by the City Manager, Owner may satisfy this requirement through the development of non-public recreation facilities such as private clubhouses or pool facilities. Credit for such private

recreational facilities shall be limited to a maximum of 50% of the foregoing park development requirement

4.2.4 Construction and Acquisition of Great Park. OWNER agrees that the Great Park areas as identified in the Parkside Specific Plan are to be constructed and transferred to the CITY by OWNER in four (4) Phases and shall be developed in accordance with the City's park standards and open to the public. CITY and OWNER shall, within twenty-four (24) months from the Effective Date of this Amendment, jointly develop a plan for the timing and phasing of the development, funding, completion and acquisition of each Phase of design and construction of the Great Park area. Subject to the successful development of the aforementioned plan and OWNER's and CITY's approval and execution of a separate DIF Credit and Reimbursement Agreement, the design and construction of the Great Park areas shall entitle OWNER to a credit toward its obligations under the Quimby Act (Gov. Code, § 64477) and the City's implementing ordinance and/or resolution (collectively "Quimby Act Obligations"), and to the extent OWNER's Quimby Act Obligations are satisfied, OWNER shall be entitled to have the City acquire such developed and publicly available parks as Non-Program Interests as set forth in Section 3.6.2 of the Construction Agreement Amendment. CITY acknowledges that the development of the Great Park areas by OWNER exceeds OWNER's requirements for the development of parkland and open space and that OWNER may be entitled to further consideration for the development and dedication of the Great Park area in form of reimbursements to OWNER from Quimby Act Fees collected by CITY and paid by other development in the New Model Colony area. The specific terms of the issuance of DIF Credit and DIF reimbursement to OWNER will be included in the separate DIF Credit and Reimbursement Agreement between CITY and OWNER as provided for in Section 4.2.6.

4.2.5 Construction of DIF Program Infrastructure (Construction Agreement). To the extent OWNER is required to construct and completes construction of Improvements that are included in CITY's Development Impact Fee Program and the Construction Agreement Amendment between CITY and NMC Builders, CITY agrees that CITY shall issue DIF Credit in accordance with the provisions of the Construction Agreement Amendment and any further amendments thereto. Use of DIF Credit issued to OWNER as a Member of NMC Builders to offset OWNER's DIF payment obligations shall also be subject to the provisions of the Construction Agreement Amendment and any further amendments thereto.

4.2.5.1 CITY Reimbursement for the NMC Portion of the Phase 2 Recycled Water System Improvements. If OWNER designs and constructs the Phase 2 Recycled Water System Improvements, CITY agrees that the provisions of the DIF Credit and Reimbursement Agreement referenced above shall also include a requirement for a special

reimbursement from CITY to OWNER upon completion and acceptance by CITY of the Phase 2 Recycled Water System Improvements. The amount of the reimbursement shall be forty-four percent (44%) of the eligible design and construction costs for the segment of the Phase 2 Recycled Water System Improvements located in Riverside Avenue between Haven Avenue and Archibald Avenue. At this time, the estimated eligible cost for the design and construction of this segment of the NMC Builders portion of the Phase 2 Recycled Water System Improvements is one million, eight hundred thousand dollars (\$1,800,000). The actual amount of the special reimbursement shall be determined upon completion and acceptance of the NMC Builders portion improvements by CITY and shall be based upon the actual eligible costs for the design and construction of the improvements or the estimated costs in CITY's DIF Program for the improvements, whichever is less.

4.2.6 Construction of DIF Program Infrastructure (Non-Construction Agreement). To the extent OWNER is required to construct and completes construction of Improvements that are included in CITY's Development Impact Fee Program and such Improvements are not included in the Construction Agreement Amendment between CITY and NMC Builders, CITY agrees that CITY shall issue DIF Credit, and where appropriate, DIF Reimbursement in accordance with the provisions of a separate Fee Credit Agreement between CITY and OWNER. Limitation on the use of DIF Credit issued to OWNER to offset OWNER's DIF payment obligations shall also be subject to the provisions of a separate Fee Credit Agreement. OWNER may also be eligible to receive reimbursement from DIF collected by CITY and paid by other development that benefit from OWNER's construction of Infrastructure that is included in CITY's DIF Program. Any such DIF Reimbursement shall be subject to a Fee Credit Agreement between CITY and OWNER. CITY and OWNER agree that the Fee Credit Agreement between CITY and OWNER shall comply with CITY's adopted policies applicable to such agreements."

3.4 Modifications to Section 4.4 of the Development Agreement. Sections 4.4 and 4.5 of the Development Agreement shall be replaced and amended to read as follows:

"4.4 Transfer of Fire Station Site. The fire station site identified in the Parkside Specific Plan shall be transferred by OWNER or its designee to the CITY as a "Non-Program Interest" as provided in the Construction Agreement Amendment. OWNER shall develop the fire station site as provided in the Parkside Specific Plan and, to the extent not provided for therein, the CITY's standards. CITY shall, pursuant to a separate acquisition agreement with OWNER, acquire the fire station site. CITY shall provide to OWNER a combination of DIF Credit and reimbursement to OWNER as consideration for such development and transfer of the fire station site to CITY. It is the intention of the CITY and OWNER that the

specific terms of the issuance of DIF Credit and reimbursement to OWNER be included in a separate DIF Credit and Reimbursement Agreement between CITY and OWNER as provided for in Section 4.2.6.”

#### **4. OTHER MODIFICATIONS.**

4.1 Additional Provisions to Recognize the Partial Assignment and Assumption of the Development Agreement. Section 2.4.6 shall be added to the Development Agreement as follows:

“2.4.6 Partial Assignment and Assumption. OWNER may partially assign obligations and rights under this Development Agreement, and all amendments hereto, to a purchaser, transferee or assignee of a lot, which has been subdivided subject to provisions of a Partial Assignment and Assumption of Development Agreement in a form substantially the same as in the attached Exhibit “G” attached hereto, and incorporated herein. Any such completed and executed Partial Assignment and Assumption of Development Agreement shall be submitted to CITY for approval pursuant to Section 2.4.2 of the Development Agreement. Within thirty (30) days following such submittal, CITY shall review, and if the above conditions are satisfied shall approve the partial assignment and release and notify the purchaser, transferee or assignee in writing thereof. No such release approved pursuant to this Subsection 2.4.6 shall cause, or otherwise affect, a release of OWNER from the duties and obligations under this Development Agreement that are retained by OWNER and excluded from the transfer or assignment.”

4.2 Extension of Term of the Development Agreement. CITY and OWNER acknowledge that the Term of the Development will expire on September 19, 2016. CITY and OWNER also agree that the OWNER will not meet all requirements for the extension of the term of the Development Agreement as it is not anticipated that OWNER will obtain fifty percent (50%) of the building permits for Project prior to the end of the ten (10) year term of the Development Agreement. Notwithstanding this requirement, CITY and OWNER agree that OWNER has met the remaining requirements for the extension of the term of the Development Agreement and that OWNER is not in default of the Development Agreement. CITY and OWNER agree that the term of the Development Agreement shall be extended for an additional five (5) year period to September 19, 2021 for a total term of fifteen (15) years following the Effective Date of the Development Agreement.

4.3 Recognition of the Development Agreement as an Existing Land Use for the Purposes of Application of the Chino and Ontario Airport Compatibility Plans. CITY and OWNER agree that the Project is within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport. CITY and OWNER also acknowledge and agree that in accordance with Public Utilities Code Section 21674(a), the policies of

the Compatibility Plans do not apply to existing land uses and the approval of the Original Development Agreement meets the qualifying criteria of, and is found to be an, existing land use as the Original Development Agreement was approved prior to adoption of the Airport Land Use Compatibility Plans for ONT and Chino Airports.

## **5. INTEGRATION.**

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

**IN WITNESS WHEREOF**, the parties hereto have executed this Second Amendment as of the Effective Date.

**SIGNATURE PAGE**  
**TO SECOND AMENDMENT TO DEVELOPMENT AGREEMENT BY AND BETWEEN**  
**THE CITY OF ONTARIO AND SC ONTARIO DEVELOPMENT CORPORATION L.L.C.**

**"OWNER"**

**SC ONTARIO DEVELOPMENT COMPANY**  
**L.L.C.,**  
a Delaware limited liability company

By: Lewis Operating Corp.,  
a California corporation

By:  
Name:  
Its:

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

**"CITY"**

CITY OF ONTARIO

By: \_\_\_\_\_  
Al Boling, City Manager

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

ATTEST:

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

APPROVED AS TO FORM:  
BEST, BEST & KRIEGER LLP

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

Exhibit "A"  
Legal Description

**Parcel 1**

Government Lots 3 and 4 and the Southeast One-Quarter of Section 15, Township 2 South, Range 7 West, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Plat thereof.

Excepting therefrom that portion lying within the land described in that certain easement in favor of the San Bernardino County Flood Control District recorded April 20, 1944, in book 1678 page 154 of Official Records.

Also excepting therefrom that portion conveyed to the San Bernardino County Flood Control District by deed recorded September 29, 1977, in book 9273 page 254 of Official Records.

Also excepting therefrom that portion conveyed to the County of San Bernardino by deed recorded August 29, 1990 as Instrument No. 90-344004 of Official Records.

Also excepting therefrom Lots 1 through 14 and lettered Lots A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P and Q of Tract No. 18048, in the City of Ontario, County of San Bernardino, State of California, as per Map recorded in 334 pages 10 through 15 of Miscellaneous Maps, on file in the Office of the County Recorder of said County.

Also except all County roads and highways

APN: 218-221-09 and 10  
218-231-06 and 08

**Parcel 2**

Lots 1 through 14 and lettered Lots A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P and Q of Tract No. 18048, in the City of Ontario, County of San Bernardino, State of California, as per Map recorded in 334 pages 10 through 15 of Miscellaneous Maps, on file in the Office of the County Recorder of said County.

APN: 218-231-09 through 39 inclusive

# Exhibit "B" Parkside Specific Plan

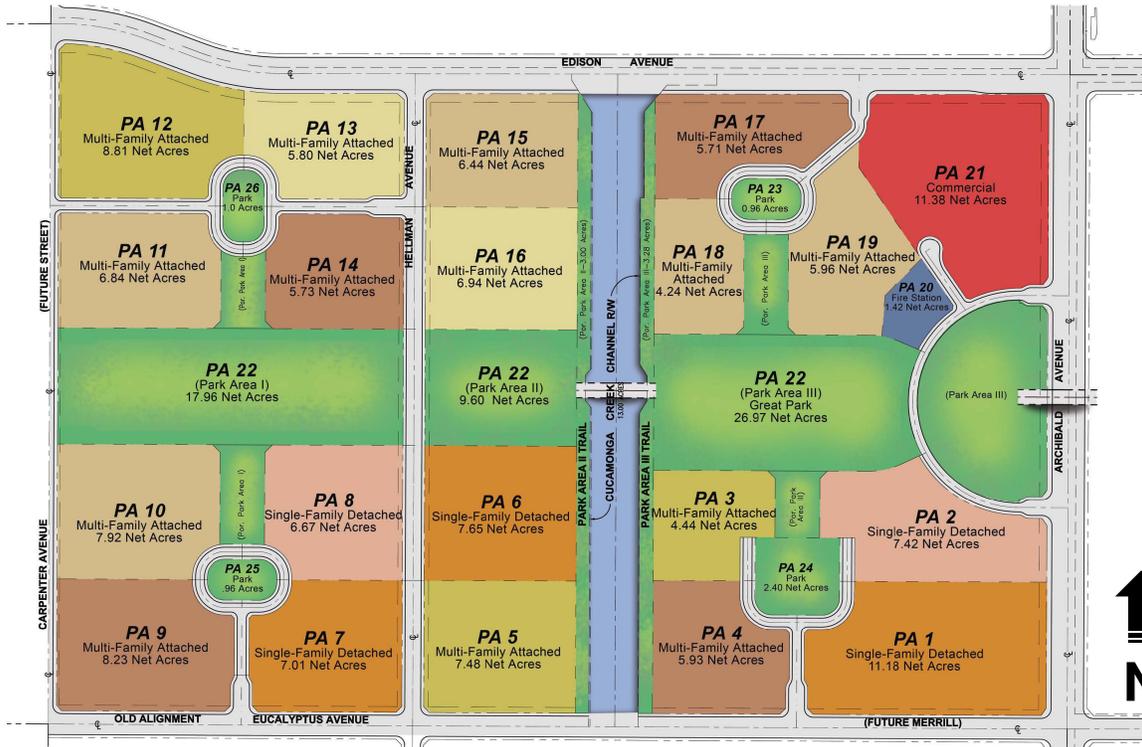


Exhibit "C-R"  
Existing Development Approvals

On July 25, 2006, the Planning Commission:

- a) Issued Resolution No. PC06-060 Recommending City Council Adopt and certify the Parkside Specific Plan Environmental Impact Report;
- b) Issued Resolution No. PC06-061 Recommending City Council approval of the General Plan Amendment (File No. PGPA04-003);
- c) Issued Resolution No. PC06-062 Recommending City Council approval of the Parkside Specific Plan (File No. PSP03-002); and
- d) Issued Resolution No. PC06-063 approving Tentative Tract Map No. 18048.
- e)

On August 15, 2006, the City Council:

- a) Adopted and certified the Parkside Specific Plan Environmental Impact Report and issued Resolution No. 2006-068;
- b) Approved General Plan Amendment (File No. PGPA04-003) and issued Resolution No. 2006-068A; and
- c) Adopted Ordinance No. 2838 approving the Parkside Specific Plan.

On June 16, 2009, the City Manager:

- a) Approved the First Amendment to the Development Agreement dated June 16, 2009, and recorded in San Bernardino County, California on September 14, 2009 as Instrument No. 2009-0403692 pursuant to Section 65864, et seq., of the Government Code, (hereinafter the "First Amendment").

On December 15, 2014, the Planning Commission:

- a) Adopted Resolution No. PC14-116 recommending City Council approval of the SC Ontario Development Company, L.L.C. Second Amendment Development Amendment (File No. PDA14-007); and
- b) Issued Resolution No. PC14-117 approving Tentative Tract Map No. 18999 (File No. PMTT14-021).

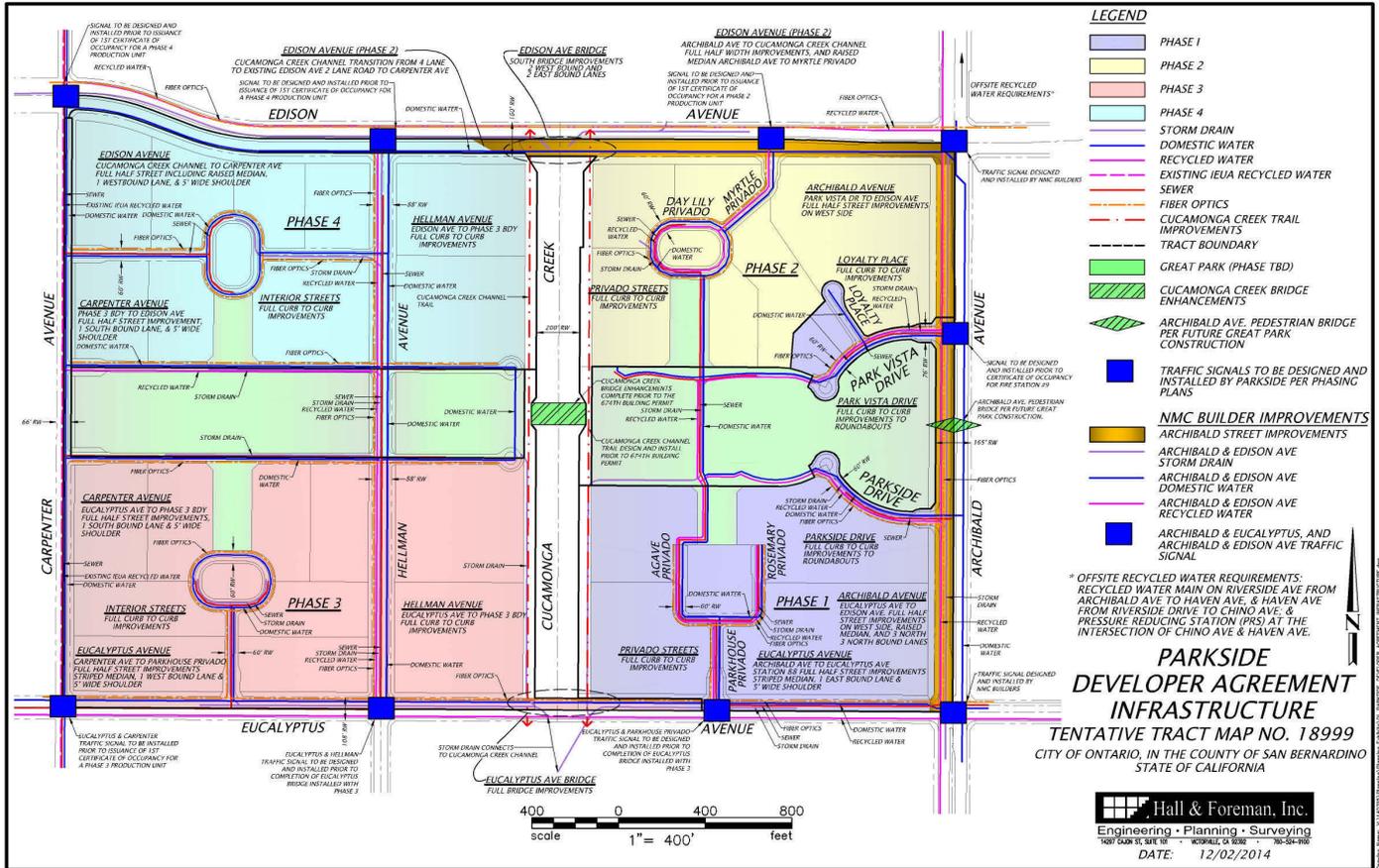
## Exhibit "D-R"

### Existing Land Use Regulations

These Documents are listed for reference only:

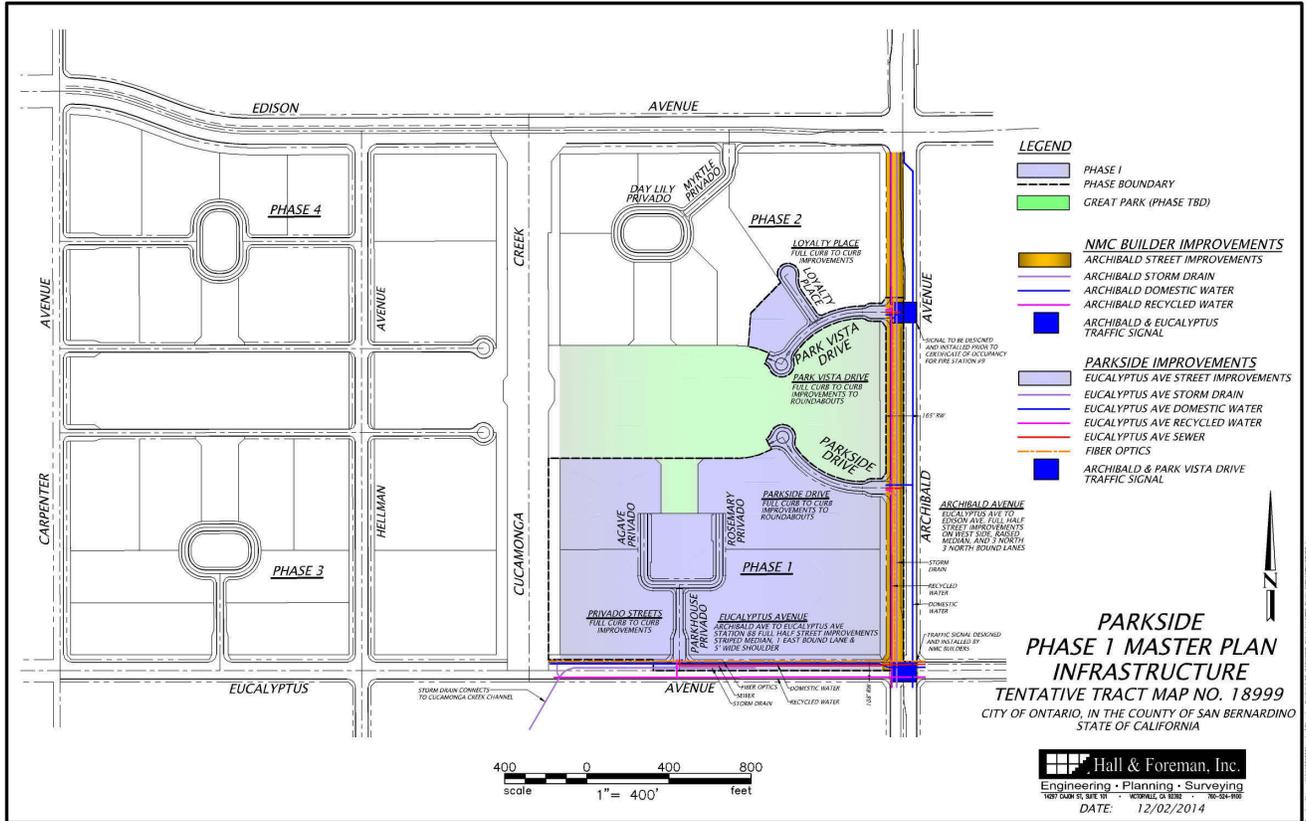
1. Parkside Specific Plan Environmental Impact Report, Resolution No. 2006-068.
2. General Plan Amendment (File No. PGPA04-003), Resolution No. 2006-068A.
3. Parkside Specific Plan (File No. PSP03-002), Ordinance No. 283.
4. City of Ontario Municipal Code
  - a. Six – Sanitation & Health
  - b. Seven – Public Works
  - c. Eight - Building Regulations
  - d. Nine – Development Code
  - e. Ten – Parks and Recreation

# Exhibit "E-R" Conceptual Phasing Plan



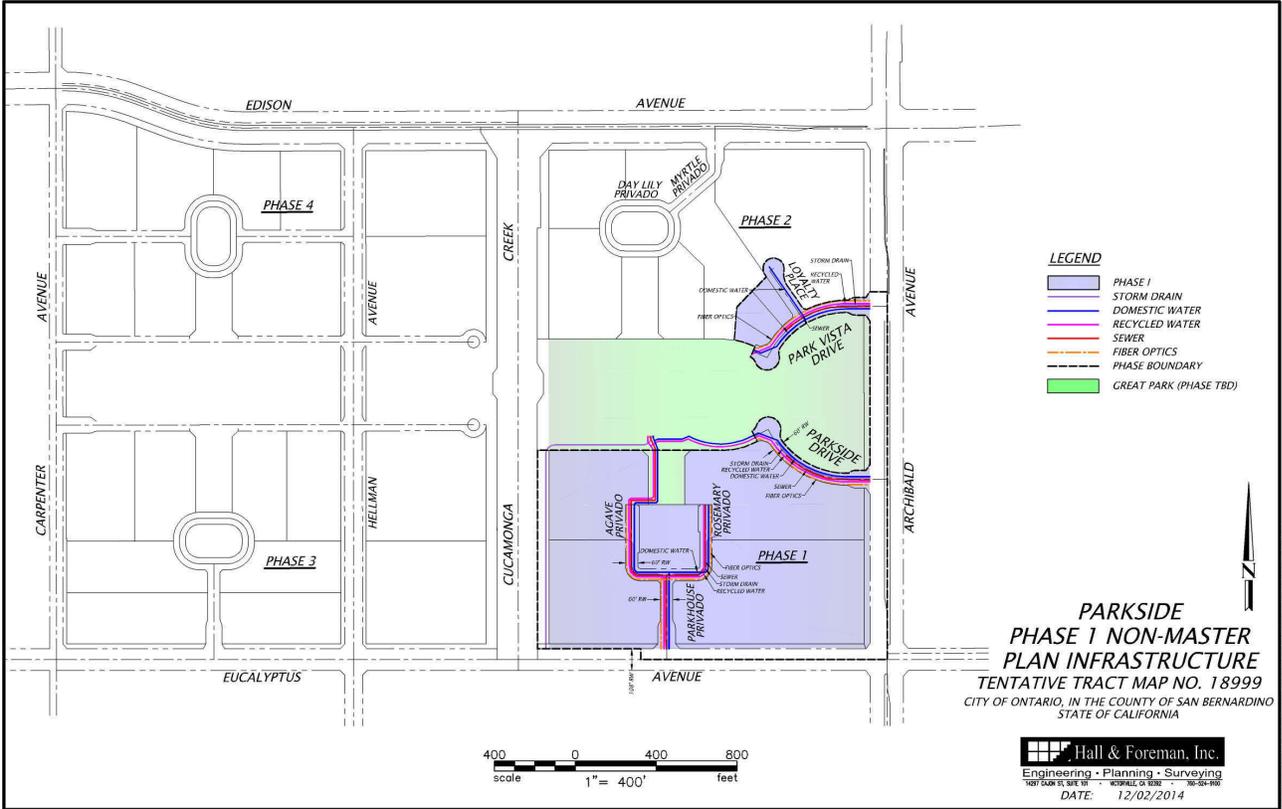
# Exhibit "F"

## Phase 1 Master Plan Improvements



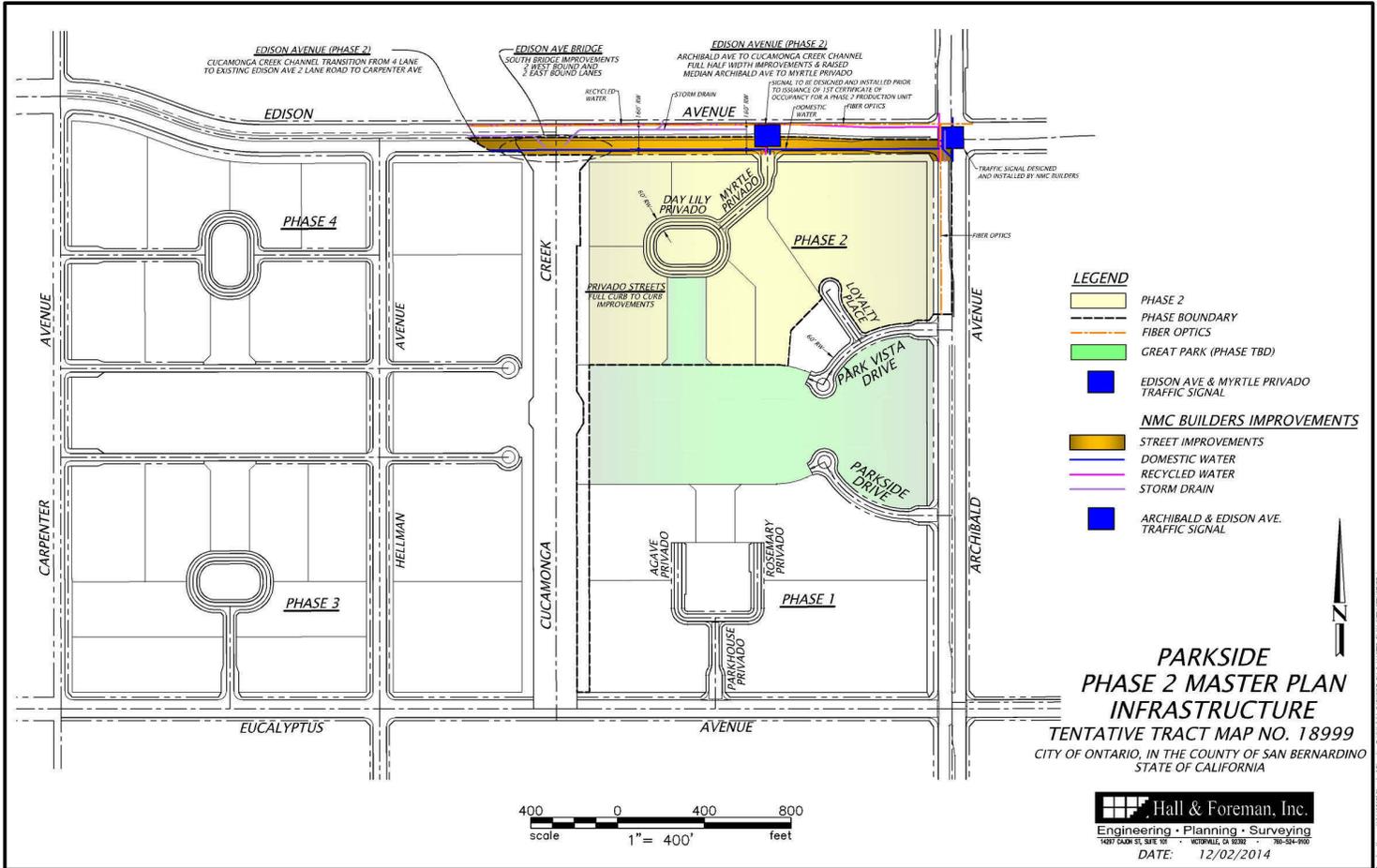
# Exhibit "F"

## Phase 1 Non-Master Plan Improvements



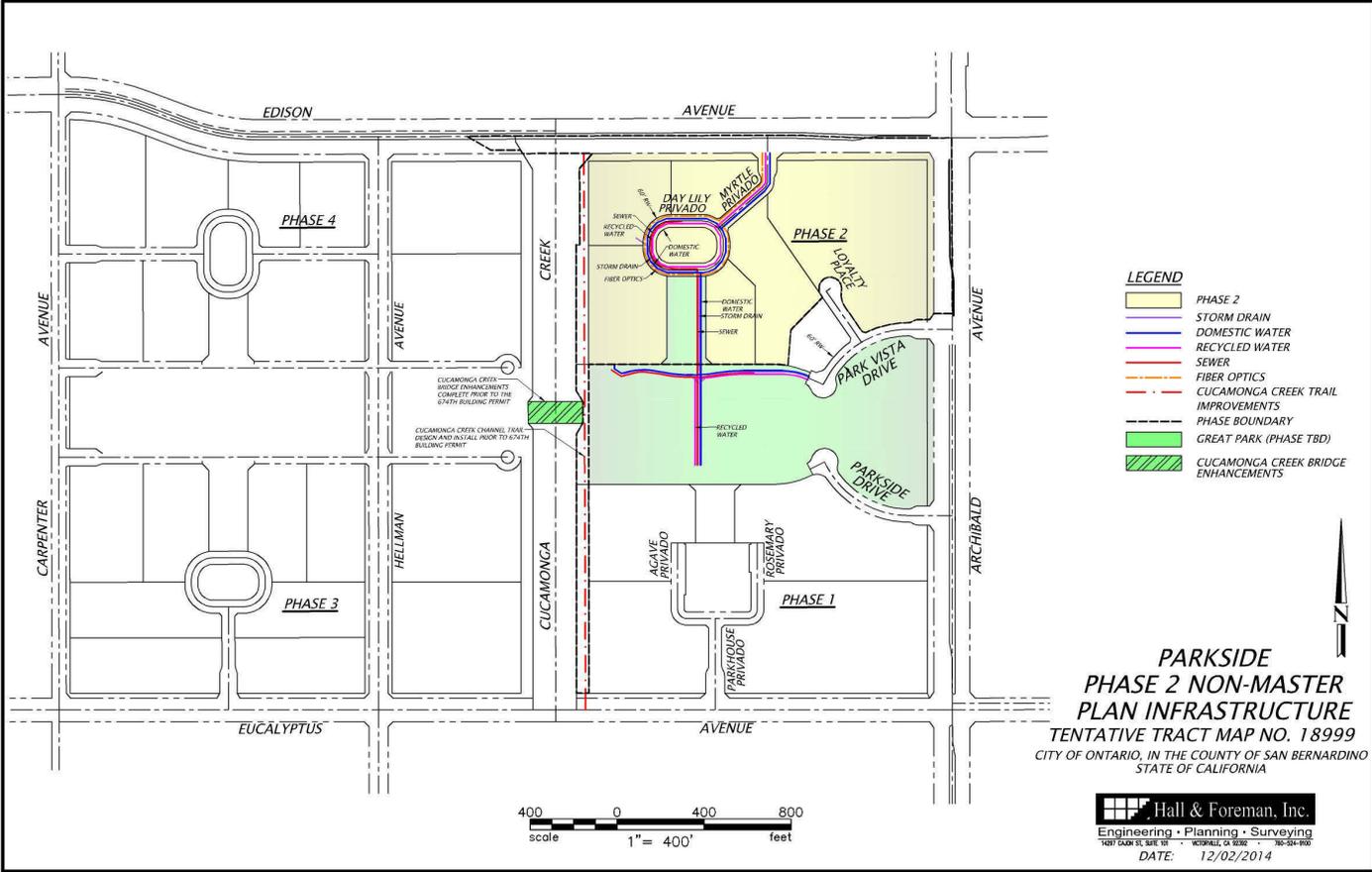
# Exhibit "F"

## Phase 2 Master Plan Improvements



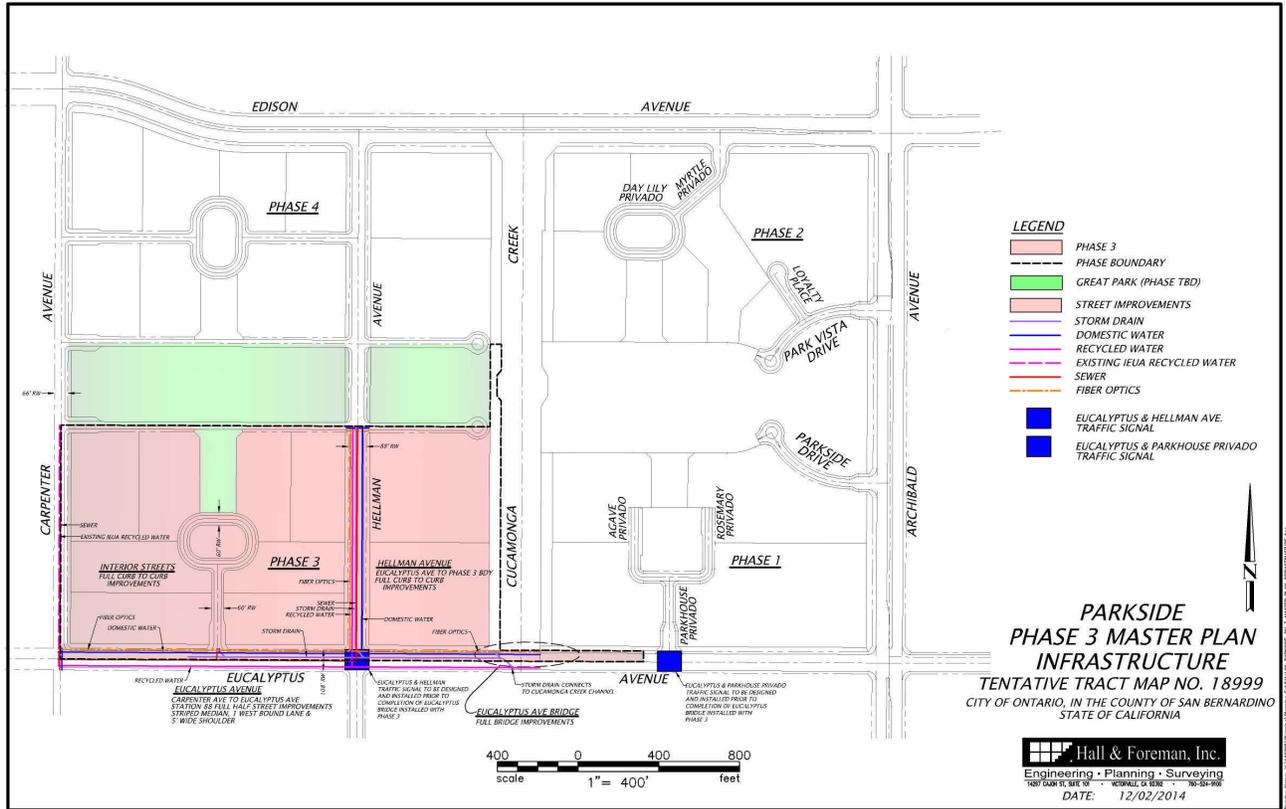
# Exhibit "F"

## Phase 2 Non- Master Plan Improvements



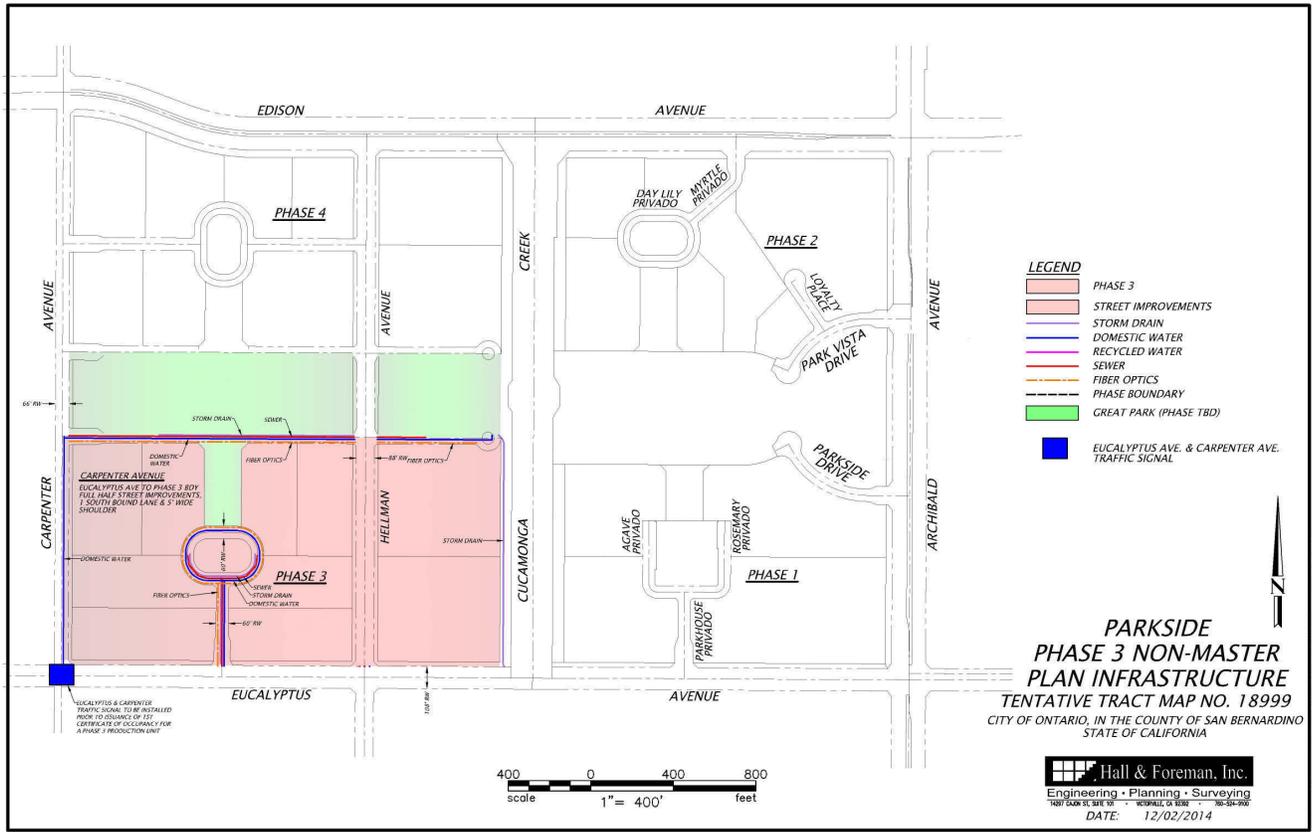
# Exhibit "F"

## Phase 3 Master Plan Improvements



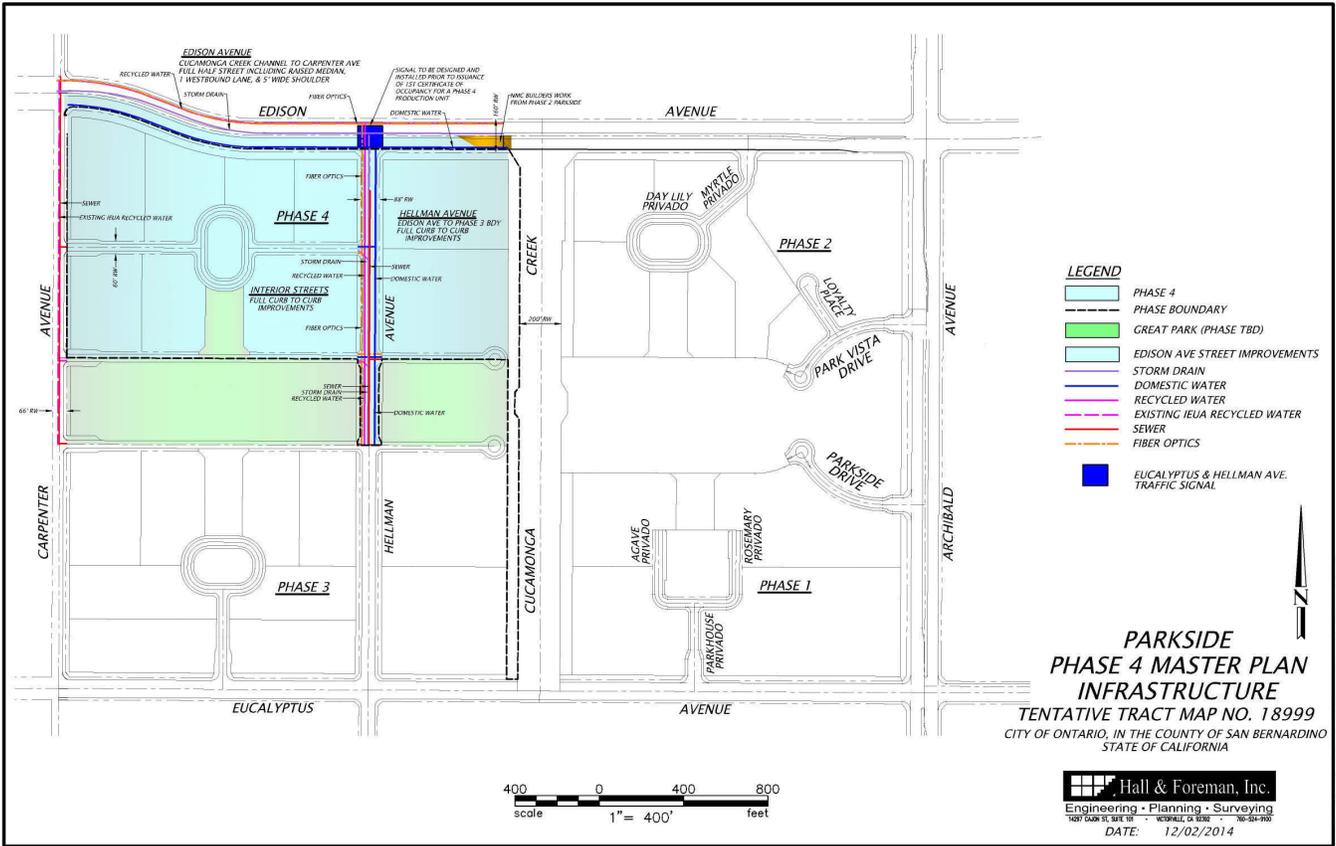
# Exhibit "F"

## Phase 3 Non-Master Plan Improvements



# Exhibit "F"

## Phase 4 Master Plan Improvements



# Exhibit "F"

## Phase 4 Non-Master Plan Improvements

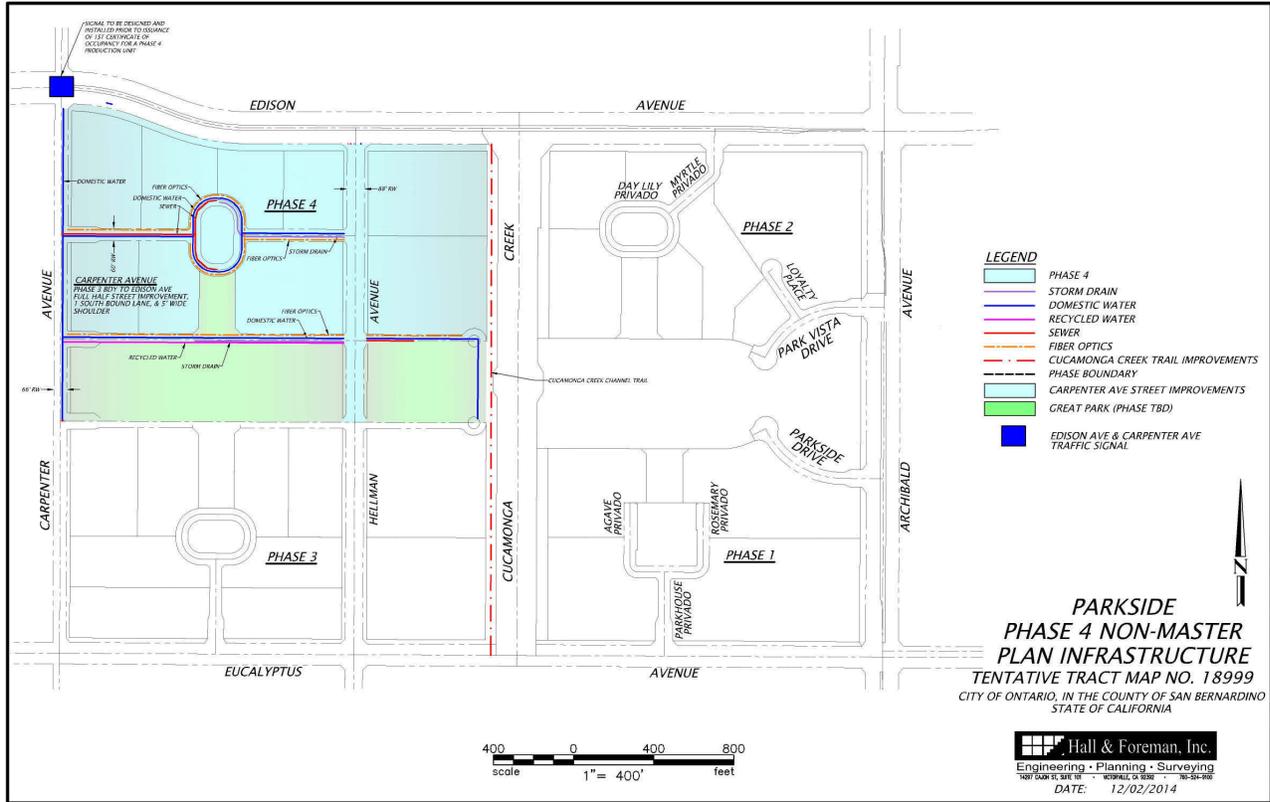


Exhibit "G"

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT**

This Partial Assignment and Assumption of Development Agreement ("**Agreement**") is dated for informational purposes only as of the \_\_\_\_ day of \_\_\_\_\_ 201\_, and is entered into by and between SC Ontario Development Company, LLC, a Delaware limited liability company ("**Assignor**"), and \_\_\_\_\_, a \_\_\_\_\_ ("**Assignee**").

RECITAL

- A. SC Ontario Development Corporation, a California corporation ("**Prior Owner**"), Assignor's predecessor-in-interest, and the City of Ontario, a California municipal corporation ("**City**"), are parties to that certain Development Agreement recorded on November 14, 2006 as Document Number 2006-0774531 in the Official Records of the County Recorder of San Bernardino County, California (the "**Official Records**"), as modified by (i) that certain First Amendment to the Development Agreement recorded in the Official Records on September 14, 2009 as Document Number 2009-0403692, and (ii) that certain Second Amendment to the Development Agreement (the "**Second Amendment**") recorded in the Official Records on \_\_\_\_\_, 201\_ as Document Number \_\_\_\_\_ (as so modified, the "**Development Agreement**").
- B. Assignee has or will purchase from Assignor that certain real property identified on **Exhibit "A"** attached hereto (the "**Property** ") in accordance with the terms of that certain Purchase and Sale Agreement dated \_\_\_\_\_, 201\_\_, between Assignor and Assignee (the "**Purchase Agreement**"). This Agreement shall be effective as of the later of (i) the date that the grant deed conveying the Property to Assignee is recorded in the Official Records and (ii) the date that this Agreement is recorded in the Official Records (the "**Effective Date**").

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Assignor and Assignee agree as follows:

- 1. Assignment of Rights. Except for the "**Excluded Rights and Obligations**" listed in **Schedule 1** which shall remain the rights and obligations of Assignor, Assignor

hereby sells, transfers, assigns, conveys and delivers to Assignee all of Assignor's rights, title, interests, and obligations to, in and under the Development Agreement arising from and after the Effective Date solely with respect to the Property. This Agreement is only intended to assign those rights and obligations of Assignor under the Development Agreement which concern the Property and does not assign any rights or obligations under the Development Agreement with regards to any of the other land described in the Development Agreement. Assignor makes no representation or warranties, express or implied, concerning the Development Agreement, except as provided herein.

2. Assumption of Responsibilities. Assignee does hereby expressly and unconditionally agree to assume all of Assignor's rights, title and interests to, in and under the Development Agreement as well as all responsibilities, liabilities and obligations under the Development Agreement, in each case solely to the extent arising from and after the Effective Date and solely to the extent relating to the Property, except for the Excluded Rights and Obligations. Assignee shall not be responsible for any default by Assignor with regards to the Property under the Development Agreement prior to the Effective Date.
3. Confirmatory Acts, Instruments. Each party hereby covenants to the other party that it will, at any time and from time to time, upon written request therefor, execute and deliver to such other party, its nominees, successors and/or assigns, any new or confirmatory instruments and do and perform any other acts which such party, its nominees, successors, and/or assigns may reasonably request in order to fully transfer to such other party all rights and obligations of Assignor intended to be transferred and assigned hereby.
4. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators, and assigns of all the parties.
5. Effectivity and Amendments. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors-in-interest. This Agreement shall be effective upon the Effective Date.
6. Severability. Any provision of this Agreement which shall prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof and such other provisions shall remain in full force and effect.
7. Indemnity of Assignee. Assignee shall indemnify, defend and hold harmless Assignor, its affiliated entities and persons, and their respective members, partners, officers, directors, shareholders and employees from any claims, demands, loss, liability, damages, costs or expenses (including attorneys' fees) made against or suffered by Assignor with regard to any breach by Assignee of the Development Agreement from and after the Effective Date.
8. Attorneys' Fees. In the event of any action or proceeding brought by either party against the other under this Agreement, the prevailing party shall be entitled to

recover all costs and expenses including the actual fees of its attorneys incurred for prosecution, defense, consultation, or advice in such action or proceeding.

9. Notice. The Notice Address described in the Development Agreement for the Assignee shall be:

If to Assignee:                      Attention: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: (\_\_\_\_) \_\_\_\_\_  
Telecopier: (\_\_\_\_) \_\_\_\_\_

With a copy to:                      Attention: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: (\_\_\_\_) \_\_\_\_\_  
Telecopier: (\_\_\_\_) \_\_\_\_\_

With a copy to:                      Attention: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: (\_\_\_\_) \_\_\_\_\_  
Telecopier: (\_\_\_\_) \_\_\_\_\_

10. Representation. Assignor represents and warrants to Assignee that the Development Agreement is in full force and effect, that Assignor is not in breach or default thereof, and that to the actual knowledge of Assignor, no event has occurred that with the passage of time or giving of notice would constitute a default or breach of the Development Agreement.

11. Counterparts. This Agreement may be executed in multiple counterparts which together shall constitute the Agreement.

**[Signatures Appear on Following Pages]**

**"Assignor"**

SC Ontario Development Company, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**"Assignee"**

\_\_\_\_\_  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Pursuant to Section 2.4.2 of the Development Agreement, City hereby approves of this Partial Assignment and Assumption of Development Agreement and acknowledges that Assignor, upon actual transfer of ownership, will have satisfied the conditions to the release of a transferring Owner set forth in Section 2.4.2 of the Development Agreement, shall be released from its obligations under the Development Agreement (other than the Excluded Rights and Obligations) arising from and after the Effective Date and solely with respect to the Property. The Assignor shall not be released from the obligations of the Development Agreement, including all amendments thereto, as listed in the Excluded Rights and Obligations.

READ AND APPROVED:

City of Ontario,  
a California municipal corporation

By: \_\_\_\_\_  
Name: Al Boling  
Title: City Manager

APPROVED AS TO LEGAL FORM:

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

ATTEST:

\_\_\_\_\_

## SCHEDULE 1

### EXCLUDED RIGHTS AND OBLIGATIONS

#### Excluded Obligations:

Sections 3.7, (Public Works; Utilities, as amended) 3.8 (Provision of Real Property Interests by CITY), 4.2.3 (Parkland and Quimby Act dedication and fees requirements), 4.2.4 and 4.2.5 (Development Impact Fees, as amended), 4.5 (Undergrounding) 4.7 (Maintenance of Open Space), 5.2 (School Impacts), Section 2.1 of the Second Amendment (Fire Station No. 9 funding requirements), Section 2.2 of the Second Amendment (Water Availability Credits) and Section 2.3 of the Second Amendment (Storm Water Capacity Availability Equivalents).

#### Excluded Rights:

Sections 3.11 (including all Regional Storm Drainage Impact Fee Credits), 3.13 (Specific Plan Charge); 4.2.3 (including all park dedication credits and park improvement credits), 4.2.4 (including all reimbursements for the cost of construction of improvements by NMC Builders), 4.2.5 (including all reimbursements for the cost of public improvements benefitting other property owners), 4.8 (regarding transfer of density rights), 5.1 (including all rights to CFD financing and reimbursements), and all other rights to any fee credits and/or reimbursements set forth or referenced in the Development Agreement.

EXHIBIT "A"  
TO  
PARTIAL ASSIGNMENT AGREEMENT – DEVELOPMENT AGREEMENT

**Legal Description of Property**

Lot(s) \_\_ of Tract \_\_\_\_\_, as shown on a map filed in Book \_\_\_\_\_, at Pages \_\_ to \_\_, inclusive, of Maps, filed in the Office of the San Bernardino County Recorder.

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_  
(here insert name and title of the officer)

personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person whose name is  
subscribed to the within instrument and acknowledged to me that he/she executed the same in  
his/her authorized capacity, and that by his/her signature on the instrument the person, or the  
entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

(SEAL)

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_  
(here insert name and title of the officer)

personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person whose name is  
subscribed to the within instrument and acknowledged to me that he/she executed the same in  
his/her authorized capacity, and that by his/her signature on the instrument the person, or the  
entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

(SEAL)

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_  
(here insert name and title of the officer)

personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person whose name is  
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I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

(SEAL)

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_  
(here insert name and title of the officer)

personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person whose name is  
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entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

(SEAL)

# CITY OF ONTARIO

Agenda Report  
February 3, 2015

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN ORDINANCE APPROVING A ZONE CHANGE REQUEST TO CHANGE 0.58 ACRES OF LAND FROM C1 (SHOPPING CENTER COMMERCIAL) TO R2 (MEDIUM DENSITY RESIDENTIAL) AND TO CHANGE 0.48 ACRES OF LAND FROM C1 (SHOPPING CENTER COMMERCIAL) TO NC (NEIGHBORHOOD COMMERCIAL), LOCATED ON THE WEST SIDE OF EUCLID AVENUE, NORTH OF ELM STREET**

**RECOMMENDATION:** That the City Council consider and adopt an ordinance approving a Zone Change (File No. PZC14-001) within the Euclid Avenue Overlay District to change the base zoning of 0.58 acres of land from C1 (Shopping Center Commercial) to R2 (Medium Density Residential) and to change the base zoning of 0.48 acres of land from C1 (Shopping Center Commercial) to NC (Neighborhood Commercial), located on the west side of Euclid Avenue, north of Elm Street from 1420 to 1442 South Euclid Avenue.

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

**FISCAL IMPACT:** None.

**BACKGROUND:** On January 20, 2015, the City Council introduced an ordinance approving a zone change within the Euclid Avenue Overlay District. The applicant, Johnathan Ma, requested a Zone Change for an undeveloped parcel located at 1420 South Euclid Avenue. The Ontario Plan ("TOP") land use designation for the property is Medium Density Residential (11.1-25 dwelling units per acre), which is not consistent with the existing zoning of C1 (Shopping Center Commercial). The applicant wishes to develop the property with a residential use. In order for the property to be developed, the zoning and land use designations need to be consistent.

In analyzing the Zone Change application, staff found that there are additional properties in close proximity to the applicant's property that also need changes in zoning to be consistent with the Medium Density Residential land use designation of TOP. The City expanded the Zone Change to include four

**STAFF MEMBER PRESENTING:** Scott Murphy, Planning Director

Prepared by: Clarice Burden  
Department: Planning

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/03/2015  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

10

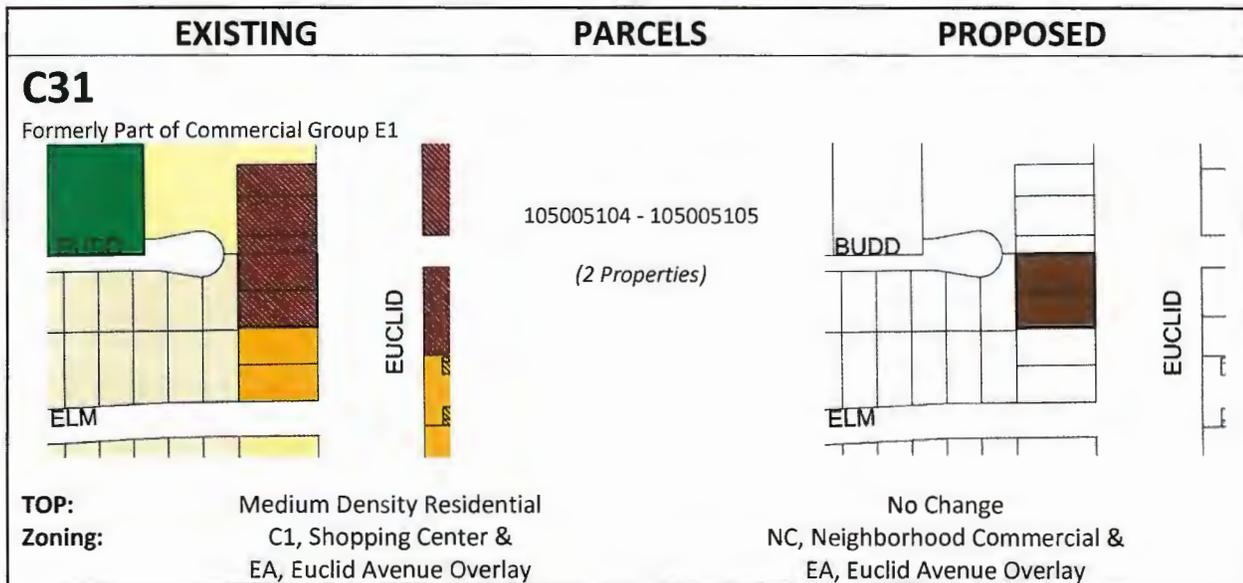
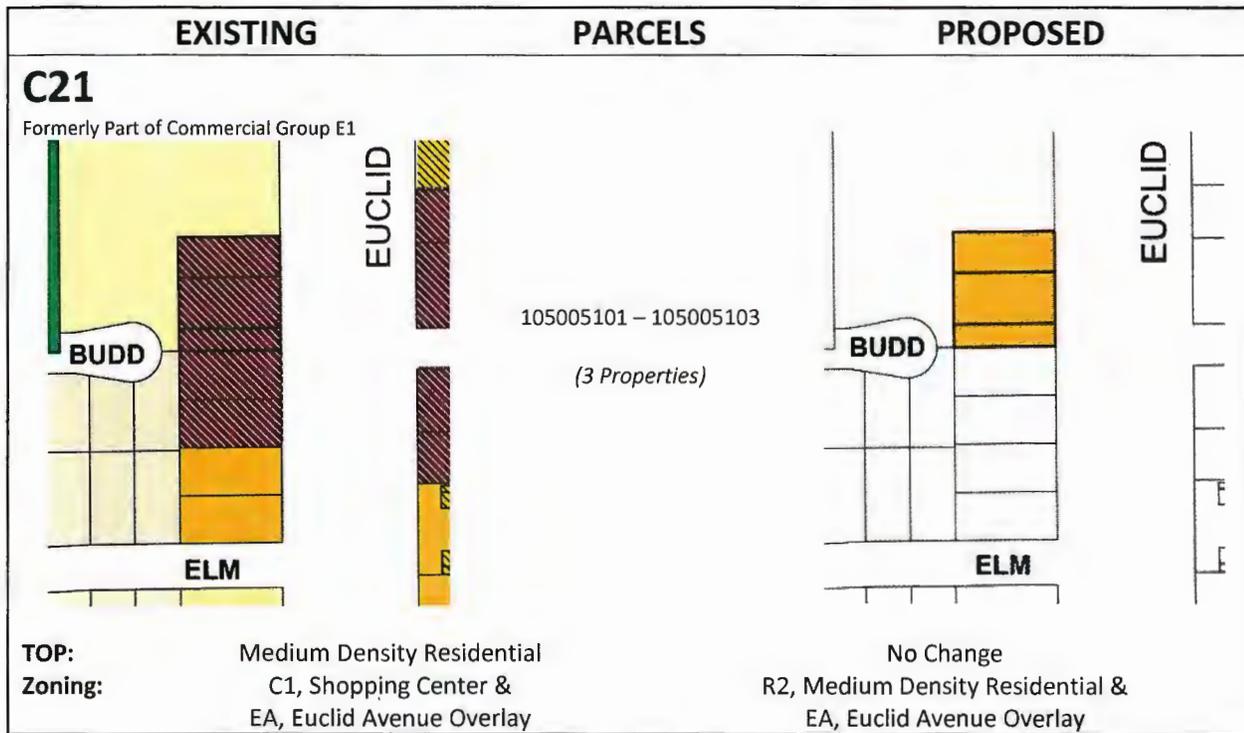
additional developed properties, for an overall project site of five properties totaling approximately one acre. The Zone Change was expanded as part of a citywide effort to ensure that the General Plan land use designations and zoning are consistent for all properties in the City.

The applicant's property is vacant and the applicant plans to develop the property with a residential use. The two properties immediately to the south of the applicant's property contain existing multi-family housing units. This application proposes to change the zoning of these three properties from C1 (Shopping Center Commercial) to R2 (Medium Density Residential). The two southerly properties contain a pizza restaurant and a convenience market. This application proposes to change the zoning on these properties from C1 (Shopping Center Commercial) to NC (Neighborhood Commercial) which is appropriate for these existing local serving businesses. TOP permits non-residential uses that are oriented toward the needs of residential neighborhoods within residential land use categories.

On December 15, 2014 the Planning Commission voted unanimously (6-0) to recommend that the City Council approve the Zone Change.

**ENVIRONMENTAL REVIEW:** The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"). The environmental impacts of this project were previously reviewed in conjunction with The Ontario Plan Environmental Impact Report (SCH #2008101140) adopted by the City Council on January 27, 2010 in conjunction with File No. PGPA06-001. 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.

## Exhibit A Existing and Proposed Zoning



**Legend:**





# PLANNING COMMISSION STAFF REPORT

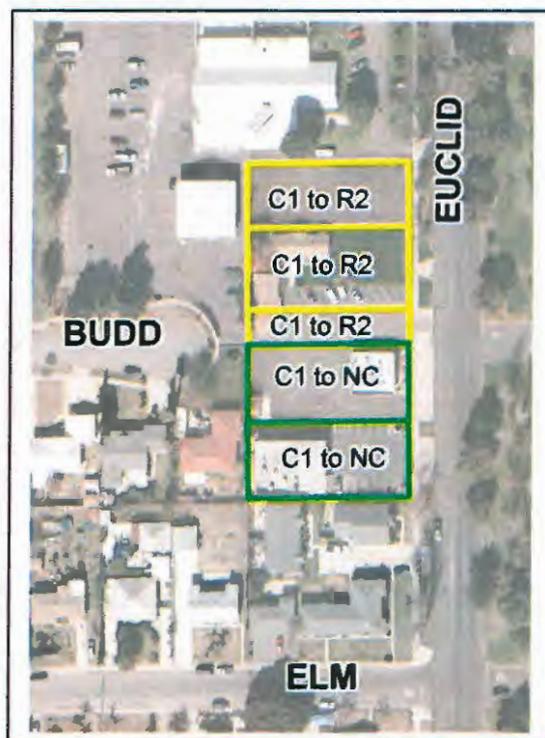
December 15, 2014

**SUBJECT:** A Zone Change request (File No. PZC14-001) within the Euclid Avenue Overlay District to change the base zoning of 0.58 acres of land from C1 (Shopping Center Commercial) to R2 (Medium Density Residential) and to change the base zoning of 0.48 acres of land from C1 (Shopping Center Commercial) to NC (Neighborhood Commercial), located on the west side of Euclid Avenue, north of Elm Street from 1420 to 1442 S. Euclid Avenue. APNs: 1050-051-01 thru 05. **Submitted by Johnathan Ma and City of Ontario.** City Council Action is required.

**PROPERTY OWNER:** Various

**RECOMMENDED ACTION:** That the Planning Commission recommend City Council approval of File No. PZC14-001, pursuant to the facts and reasons contained in the staff report and attached resolution.

**PROJECT SETTING:** The project site is comprised of five parcels totaling approximately one acre of land located on the west side of Euclid Avenue, north of Elm Street, from 1420 to 1442 S. Euclid Avenue. The site is currently zoned C1 (Shopping Center Commercial), and is depicted in **Figure 1: Project Site**. The three northern parcels consist of one undeveloped property and two properties with multi-family units, and the zoning is proposed to be changed to R2 (Medium Density Residential). The two southern parcels contain commercial uses, consisting of a restaurant and a convenience market, and the zoning is proposed to be changed to NC (Neighborhood Commercial). A Salvation Army facility and De Anza Park are north of the site. To the northeast, across Euclid, is a convenience market. The balance of the area around the site is characterized by residential development to the east, west, and south.



**Figure 1: Project Site**

| Case Planner:               | Clarice Burden | Hearing Body | Date     | Decision | Action    |
|-----------------------------|----------------|--------------|----------|----------|-----------|
| Planning Director Approval: |                | DAB          |          |          |           |
| Submittal Date:             | 9/18/14        | ZA           |          |          |           |
| Hearing Deadline:           | 2/18/15        | PC           | 11/25/14 | Approved | Recommend |
|                             |                | CC           | 1/20/15  |          | Final     |

## **PROJECT ANALYSIS:**

[1] Background — In January 2014, Johnathan Ma filed an application for a zone change for an undeveloped property on the west side of Euclid Avenue, north of Elm Street. The applicant intends to develop the property with a residential use and in order for the development to be approved, the zoning of the property must be in conformance with the General Plan land use designation. The C1 (Shopping Center Commercial) zoning of the property is in conflict with the Medium Density Residential General Plan land use designation.

In reviewing the request, staff analyzed the property and the surrounding area and found that there are additional properties in the immediate vicinity which also have a conflict between the zoning of the properties and the General Plan land use designation. The zone change has been expanded to incorporate four additional developed properties for a total of five properties, encompassing approximately one acre.

The zone change was expanded as part of a citywide effort to ensure that the General Plan land use designations and zoning are consistent for all properties in the City. After the adoption of The Ontario Plan (“TOP”) in 2010, the City launched a Zoning-General Plan consistency effort that included analyzing all the properties in the city with zoning conflicts. To align with the overall consistency strategy, the project was expanded from the applicant’s one property to include two additional developed properties to be changed from C1 (Shopping Center Commercial) to R2 (Medium Density Residential) and the two developed properties immediately to the south, to be changed from C1 (Shopping Center Commercial) to NC (Neighborhood Commercial).

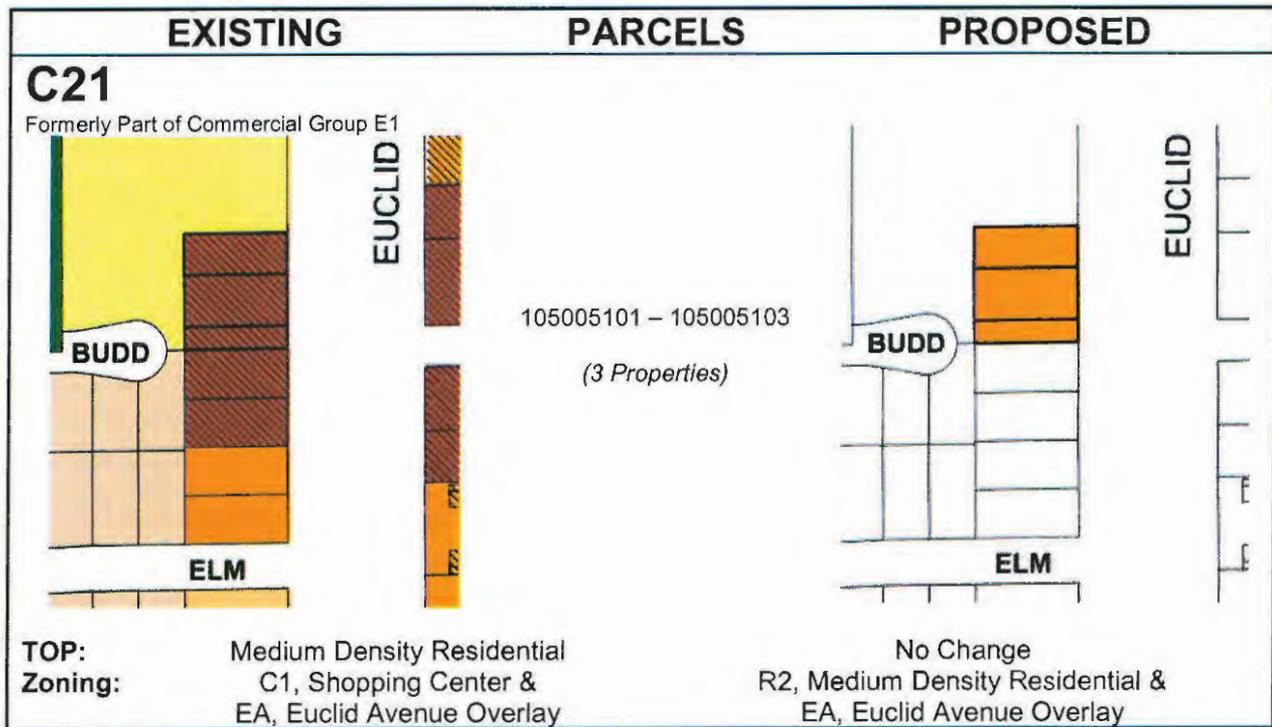
[2] Zone Change — The three northerly properties encompass the applicant’s undeveloped property and two properties developed with multi-family residences. It is appropriate that the zoning of these properties change to R2 (Medium Density Residential) to be in conformance with the General Plan land use designation of Medium Density Residential. The R2 (Medium Density Residential) zoning will guide the development of the one undeveloped property.

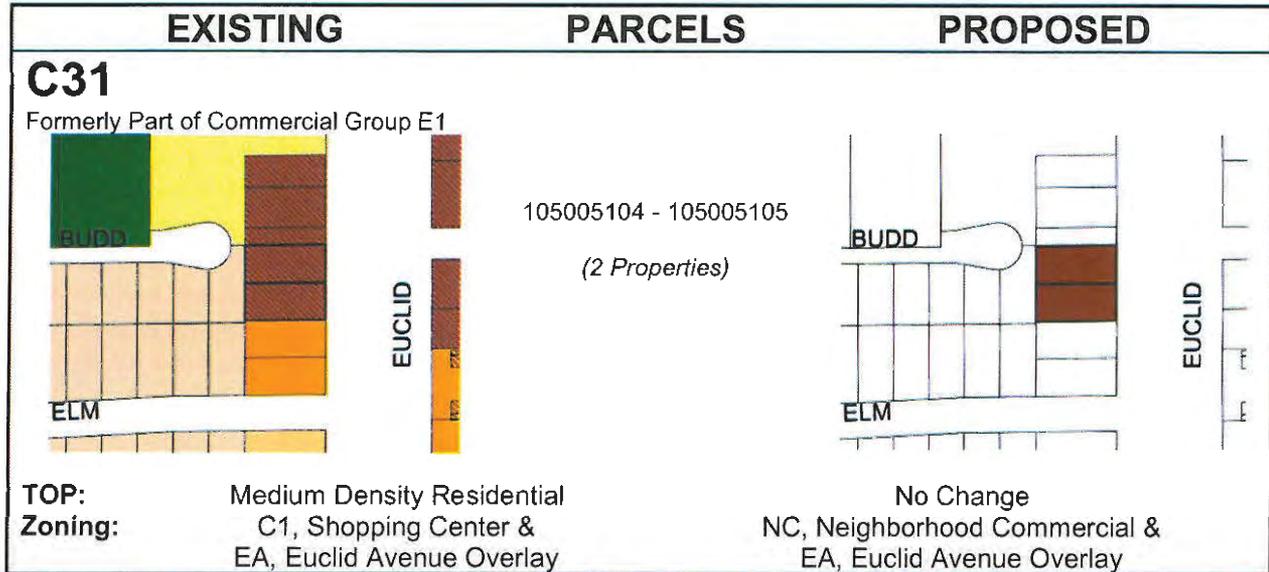
The two southerly properties contain a pizza restaurant and a convenience market. These are local serving business for which the NC (Neighborhood Commercial) zone is appropriate within the Medium Density land use designation. The Ontario Plan (TOP) permits non-residential land uses that are oriented toward the needs of residential neighborhoods within residential land use categories. Allowing the NC (Neighborhood Commercial) zone on these two properties will ensure that the uses of these properties are low intensity and have limited hours of operation. In this case, the pedestrian-oriented nature of these existing commercial uses have few impacts on the adjacent residential neighborhood due to their location on a major arterial street, the properties small sizes, and the existence of a pedestrian connection which promotes convenient, walkable access for the neighborhood to the west.

[3] Neighborhood Meeting — A neighborhood meeting was held on April 30, 2014. The applicant and one affected property owner attended as well as one owner of property from the opposite side of Euclid Avenue. All attendees were in favor of the change.

The existing and proposed zoning for groups C21 and C31 are shown below:

**Legend:**





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

[1] City Council Priorities

**Primary Goal:** Regain Local Control of the Ontario International Airport

**Supporting Goals:** Operate in a Businesslike Manner  
 Focus Resources in Ontario's Commercial and Residential Neighborhoods

[2] Policy Plan (General Plan)

**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 zone changes to bring consistency between the zoning and TOP land use designations brings the achievement of our Vision closer.

**LU3-3 Land Use Flexibility.** We consider uses not typically permitted within a land use category if doing so improves livability, reduces vehicular trips,

creates community gathering places and activity nodes, and helps create identity

Compliance: Allowing the local serving commercial uses on the two southern properties is compatible with the surrounding residential uses and is unlikely to negatively impact the neighborhood. Allowing the NC (Neighborhood Commercial) zone on the two southern properties will allow these sites to continue to support the adjacent neighborhoods through a pedestrian accessible path that will reduce local vehicle trips.

- 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 zone changes are consistent with the provisions contained within the Airport Land Use Compatibility Plan.

- H2-6 Infill Development.** We support the revitalization of neighborhoods through the construction of higher-density residential developments on underutilized residential and commercial sites.

Compliance: The zone changes to bring consistency between the zoning and TOP land use will allow for in-fill residential development on the only remaining vacant parcel within the project site.

- 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 proposed zone changes are consistent with the adopted Airport Land Use Compatibility Plan for both Ontario Airport and Chino Airport. The site is located in the 60-65 CNEL Noise Impact Zone. Interior noise level for any new residential units will be mitigated through the building permit process.

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

**ENVIRONMENTAL REVIEW:** The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"). The environmental impacts of this project were previously reviewed in conjunction 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. 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. PC14-110

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING CITY COUNCIL APPROVAL OF FILE NO. PZC14-001, A ZONE CHANGE REQUEST WITHIN THE EUCLID AVENUE OVERLAY DISTRICT TO CHANGE THE BASE ZONING OF 0.58 ACRES OF LAND FROM C1 (SHOPPING CENTER COMMERCIAL) TO R2 (MEDIUM DENSITY RESIDENTIAL) AND TO CHANGE THE BASE ZONING OF 0.48 ACRES OF LAND FROM C1 (SHOPPING CENTER COMMERCIAL) TO NC (NEIGHBORHOOD COMMERCIAL), LOCATED ON THE WEST SIDE OF EUCLID AVENUE, NORTH OF ELM STREET FROM 1420 TO 1442 S. EUCLID AVENUE. , AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 1050-051-01 THRU 05.

WHEREAS, Johnathan Ma ("Applicant") has filed an Application for the approval of a Zone Change, File No. PZC14-001, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Applicant's application requested a Zone Change for one parcel from C1 (Shopping Center Commercial) to R2 (Medium Density Residential); and

WHEREAS, the City of Ontario has expanded the application to include four additional parcels in the vicinity of the Applicant's parcel that are also in need of a zone change in order to be consistent with their use and The Ontario Plan ("TOP") land use designation; and

WHEREAS, the combination of the Applicant's application and the additional parcels added by the City of Ontario are hereinafter referred to as "Application" or "Project"; and

WHEREAS, the Application applies to five parcels, totaling approximately one acre of land, located on the west side of Euclid Avenue, north of Elm Street from 1420 to 1442 S. Euclid Avenue; and

WHEREAS, the current zoning of the properties is C1 (Shopping Center Commercial) and TOP land use designation of the properties is MDR (Medium Density Residential); and

WHEREAS, the zoning of the properties is inconsistent with TOP land use designations of the properties and the proposed zone changes will make the zoning consistent with TOP land use designation and use of the properties as shown in Exhibit A; and

WHEREAS, the zoning of the three northerly properties to R2 (Medium Density Residential) is consistent with the existing Medium Density Residential General Plan land use designation of the properties; and

WHEREAS, the zoning of the two southerly properties to NC (Neighborhood Commercial) is consistent with the existing Medium Density Residential General Plan land use designation of the properties since the properties are neighborhood serving and will not negatively impact the adjacent residential uses, and

WHEREAS, the City of Ontario held a Community Open House on April 30, 2014, to gain input from impacted property owners; and

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

WHEREAS, the 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, the environmental impacts of this project were previously reviewed in conjunction with The Ontario Plan (File No. PGPA06-001), for which an Environmental Impact Report (SCH#2008101140) was adopted by the Ontario City Council on January 27, 2010, and this Application introduces no new significant environmental impacts; and

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

WHEREAS, on November 25, 2014, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and continued the hearing to the December 15, 2014 hearing; and

WHEREAS, on December 15, 2014, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1. As the recommending body for the project, the Planning Commission finds that the environmental impacts of this project were reviewed in conjunction with the previously certified Environmental Impact Report for The Ontario Plan (SCH No. 2008101140), which was adopted by the City Council on January 27, 2010. This project introduces no new significant environmental impacts.

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

a. The proposed zone change is consistent with the goals and policies of the General Plan in that rezoning the properties to R2 (Medium Density Residential) and NC (Neighborhood Commercial) will make the zoning of the properties consistent with The Ontario Plan land use designation of Medium Density Residential and the use of the properties.

b. The proposed zone change is reasonable and beneficial, and in the interest of good zoning practice in that the parcels with proposed R2 (Medium Density Residential) zoning contain or will accommodate residential development at 11.1 to 25 units to the acre and the parcels with proposed NC (Neighborhood Commercial) zoning contain existing neighborhood serving commercial uses.

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 in that the zones reflect the existing uses of the properties and will be consistent with the General Plan landuse designation.

e. The proposed zone change will not have a significant adverse impact on the environment since any potential impacts associated with the zone change were previously analyzed with The Ontario Plan.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission recommends the City Council approve the Project as shown on the attached Exhibit A.

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.

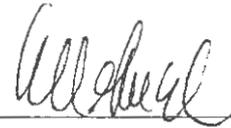
SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The Secretary shall certify to the adoption of the Resolution.

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

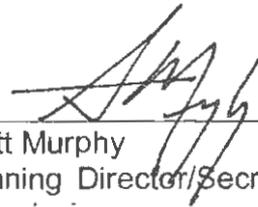
I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 15th day of December, 2014, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.



---

Rick Gage  
Planning Commission Chairman

ATTEST:



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Scott Murphy  
Planning Director/Secretary of Planning  
Commission

Planning Commission Resolution  
File No. PZC14-001  
December 15, 2014  
Page 5

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

I, Jeanina M. Romero, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC14-110 was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on December 15, 2014 by the following roll call vote, to wit:

AYES:            Delman, Gage, Gregorek, Mautz, Ricci, Willoughby

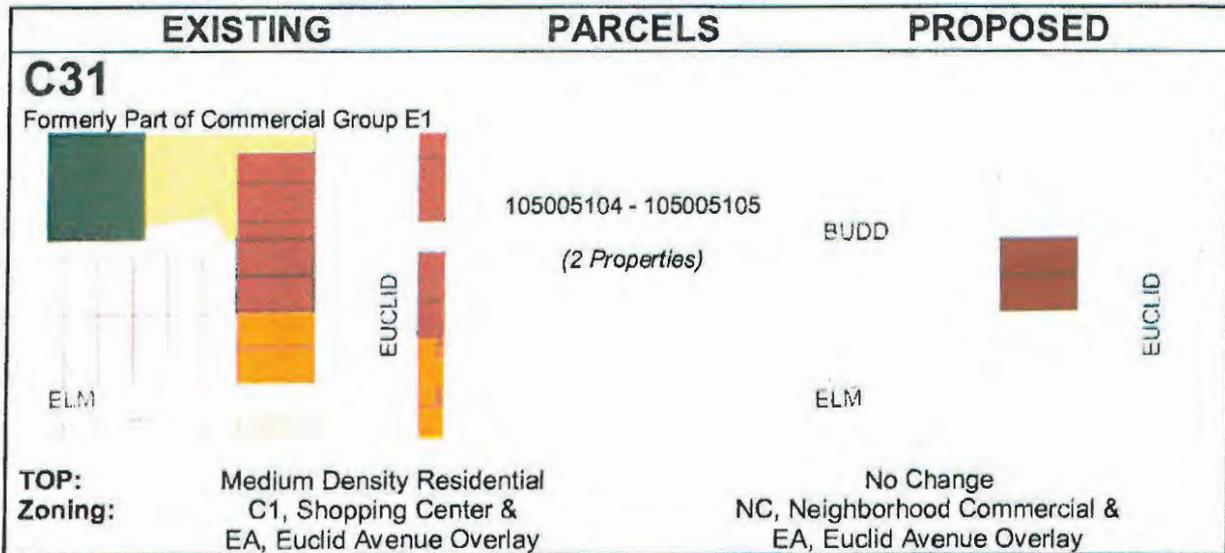
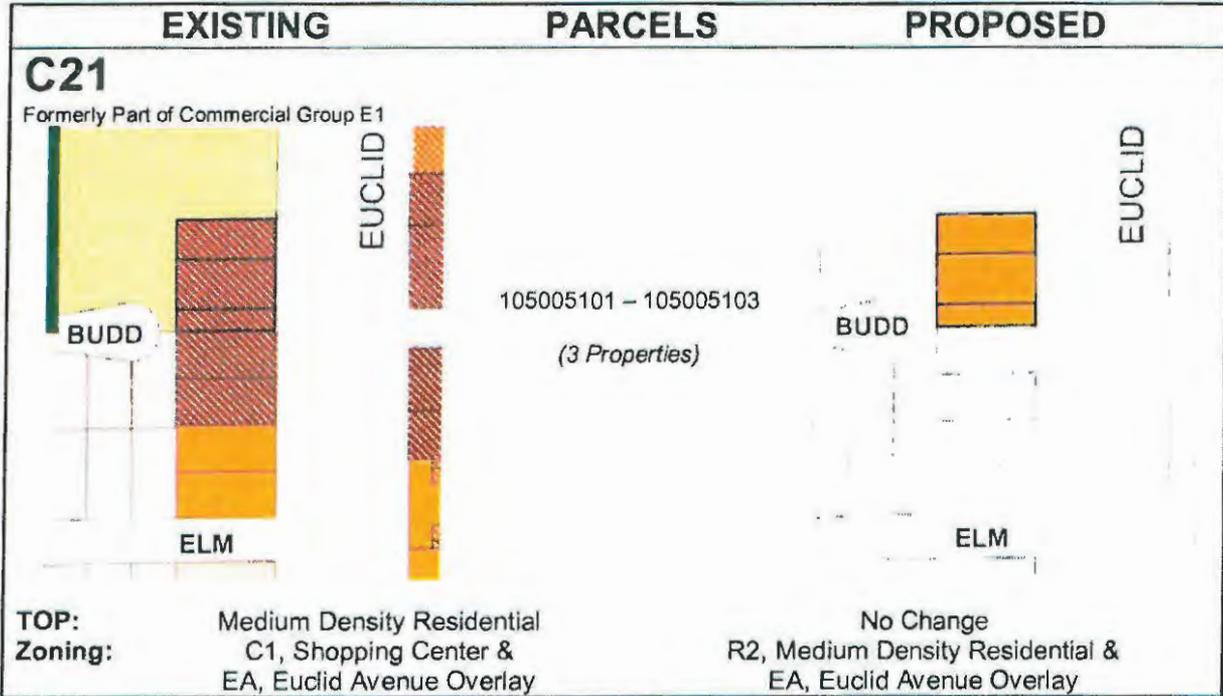
NOES:           None

ABSENT:       Downs

ABSTAIN:

  
\_\_\_\_\_  
Jeanina M. Romero  
Secretary Pro Tempore

## Exhibit A Existing and Proposed Zoning



**Legend:**



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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC14-001, A ZONE CHANGE REQUEST WITHIN THE EUCLID AVENUE OVERLAY DISTRICT TO CHANGE THE BASE ZONING OF 0.58 ACRES OF LAND FROM C1 (SHOPPING CENTER COMMERCIAL) TO R2 (MEDIUM DENSITY RESIDENTIAL) AND TO CHANGE THE BASE ZONING OF 0.48 ACRES OF LAND FROM C1 (SHOPPING CENTER COMMERCIAL) TO NC (NEIGHBORHOOD COMMERCIAL), LOCATED ON THE WEST SIDE OF EUCLID AVENUE, NORTH OF ELM STREET, FROM 1420 TO 1442 S. EUCLID AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 1050-051-01 THRU 05.

WHEREAS, Johnathan Ma ("Applicant") has filed an Application for the approval of a Zone Change, File No. PZC14-001, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Applicant's application requested a Zone Change for one parcel from C1 (Shopping Center Commercial) to R2 (Medium Density Residential); and

WHEREAS, the City of Ontario has expanded the application to include four additional parcels in the vicinity of the Applicant's parcel that are also in need of a Zone Change in order to be consistent with their use and The Ontario Plan ("TOP") land use designation; and

WHEREAS, the combination of the Applicant's application and the additional parcels added by the City of Ontario are hereinafter referred to as "Application" or "Project"; and

WHEREAS, the Application applies to five parcels, totaling approximately one acre of land, located on the west side of Euclid Avenue, north of Elm Street, from 1420 to 1442 S. Euclid Avenue; and

WHEREAS, the current zoning of the properties is C1 (Shopping Center Commercial) and TOP land use designation of the properties is Medium Density Residential; and

WHEREAS, the zoning of the properties is inconsistent with TOP land use designations of the properties and the proposed Zone Changes will make the zoning consistent with TOP land use designation and use of the properties as shown in Exhibit A; and

WHEREAS, changing the zoning of the three northerly properties to R2 (Medium Density Residential) is consistent with the existing Medium Density Residential TOP land use designation of the properties; and

WHEREAS, changing the zoning of the two southerly properties to NC (Neighborhood Commercial) is consistent with the existing Medium Density Residential TOP land use designation of the properties since the properties are neighborhood serving and will not negatively impact the adjacent residential uses, and

WHEREAS, the City of Ontario held a Community Open House on April 30, 2014, to gain input from impacted property owners; and

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

WHEREAS, the 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, the environmental impacts of this project were previously reviewed in conjunction with The Ontario Plan (File No. PGPA06-001), for which an Environmental Impact Report (SCH #2008101140) was adopted by the Ontario City Council on January 27, 2010, and this Application introduces no new significant environmental impacts; and

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

WHEREAS, on November 25, 2014, the Planning Commission of the City of Ontario continued the public hearing to the December 15, 2014 hearing; and

WHEREAS, on December 15, 2014, the Planning Commission of the City of Ontario conducted a public hearing to consider the Project and concluded said hearing on that date. After considering all public testimony, the Planning Commission issued Resolution No. PC14-110 recommending City Council approval of the application; and

WHEREAS, on January 20, 2015, the City Council of the City of Ontario conducted a public 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 decision-making body for the Project, the City Council has reviewed and considered the information contained in 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 environmental impacts of this project were reviewed in conjunction with the previously certified Environmental Impact Report for The Ontario Plan (SCH #2008101140), which was adopted by the City Council on January 27, 2010. This project introduces no new significant environmental impacts; and

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

c. The proposed project introduces no new significant environmental impacts beyond what was analyzed in the Environmental Impact Report (SCH #2008101140) adopted for PGPA06-001 (The Ontario Plan), and all previously adopted mitigation measures are incorporated into the Project by reference.

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 in that rezoning the properties to R2 (Medium Density Residential) and NC (Neighborhood Commercial) will make the zoning of the properties consistent with The Ontario Plan land use designation of Medium Density Residential and the use of the properties.

b. The proposed Zone Change is reasonable and beneficial, and in the interest of good zoning practice in that the parcels with proposed R2 (Medium Density Residential) zoning contain or will accommodate residential development at 11.1 to 18 units to the acre and the parcels with proposed NC (Neighborhood Commercial) zoning contain existing neighborhood serving commercial uses.

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 in that the zones reflect the existing uses of the properties and will be consistent with The Ontario Plan land use designation.

e. The proposed Zone Change will not have a significant adverse impact on the environment since any potential impacts associated with the Zone Change were previously analyzed with The Ontario Plan.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council approves the Project as shown on the attached Exhibit A.

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 jurisdiction, 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 thirty (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 3<sup>rd</sup> day of February, 2015.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3013 was duly introduced at a regular meeting of the City Council of the City of Ontario held January 20, 2015, and adopted at the regular meeting held February 3, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

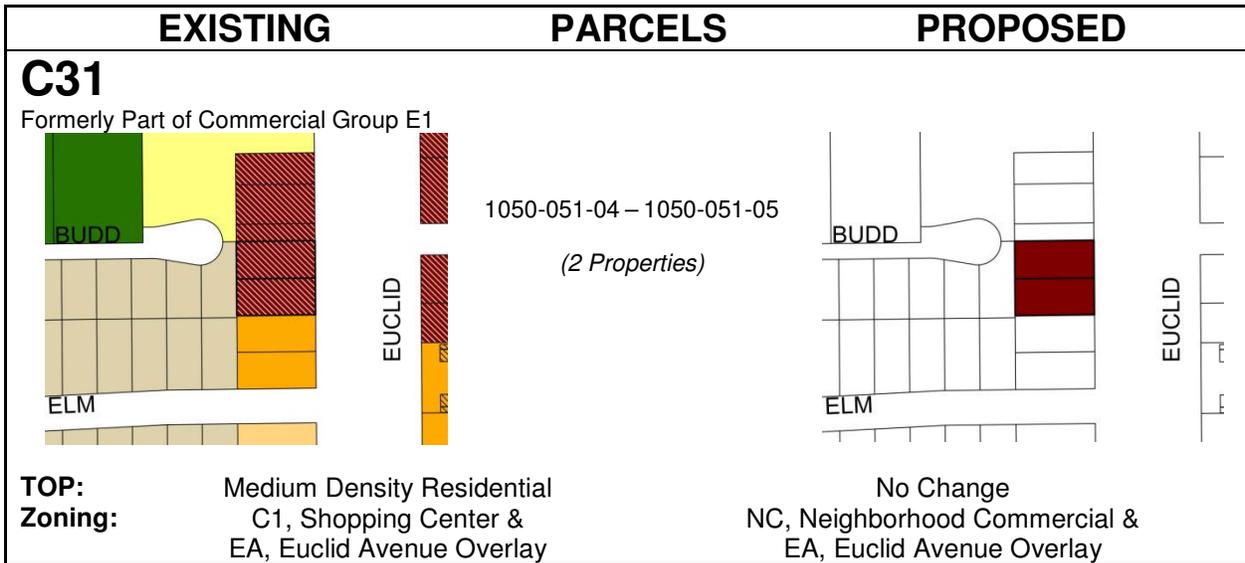
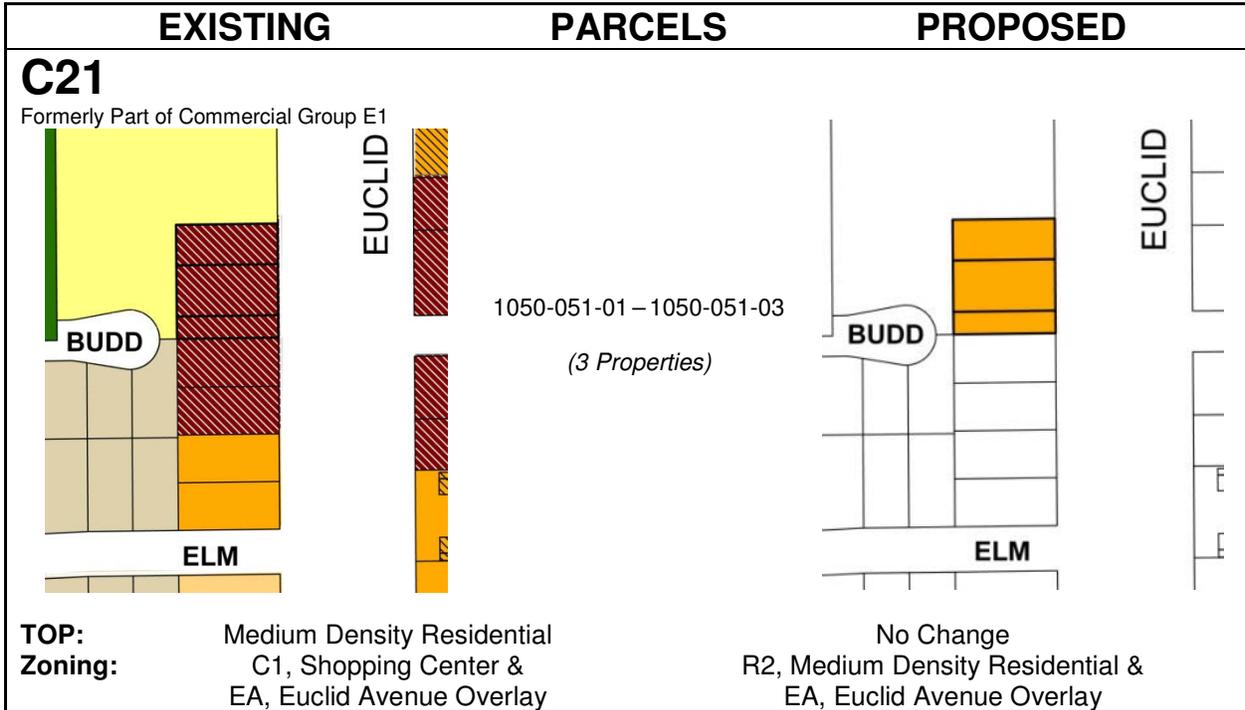
I hereby certify that the foregoing is the original of Ordinance No. 3013 duly passed and adopted by the Ontario City Council at their regular meeting held February 3, 2015 and that Summaries of the Ordinance were published on January 27, 2015 and February 10, 2015, in the Inland Valley Daily Bulletin newspaper.

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

## Exhibit A

### Existing and Proposed Zoning



**Legend:**



# CITY OF ONTARIO

Agenda Report

February 3, 2015

SECTION:  
CONSENT CALENDAR

**SUBJECT:** AN ORDINANCE APPROVING A ZONE CHANGE REQUEST ON 23.96 ACRES OF LAND TO CHANGE THE ZONING: (1) FROM AR (AGRICULTURAL-RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL 25.1 TO 45.0 DU/AC) FOR PROPERTIES GENERALLY LOCATED ON THE EAST SIDE OF BENSON AVENUE, SOUTH OF MISSION BOULEVARD; WEST SIDE OF OAKS AVENUE SOUTH OF MISSION BOULEVARD; AND WEST SIDE OF MAGNOLIA AVENUE, SOUTH OF MISSION BOULEVARD; (2) FROM R2 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 FOR PROPERTIES LOCATED NEAR THE SOUTHWEST CORNER OF MISSION BOULEVARD AND OAKS AVENUE; (3) FROM C1 (SHOPPING CENTER COMMERCIAL) TO HDR-45 FOR PROPERTIES LOCATED ON THE SOUTH SIDE OF MISSION BOULEVARD, WEST OF PALMETTO AVENUE; AND (4) FROM C3 (COMMERCIAL SERVICE) TO HDR-45 FOR PROPERTIES GENERALLY LOCATED ON THE SOUTH SIDE OF MISSION BOULEVARD, BETWEEN BENSON AVENUE AND OAKS AVENUE AND AT THE SOUTHWEST CORNER OF MISSION BOULEVARD AND MAGNOLIA AVENUE

**RECOMMENDATION:** The City Council consider and adopt an ordinance approving a Zone Change (File No. PZC14-005) from AR (Agricultural Residential), R2 (Medium Density Residential), C1 (Shopping Center) and C3 (Commercial Service) to HDR-45 (High Density Residential) to create consistency between the zoning and the existing High Density Residential General Plan land use designation.

**COUNCIL GOALS:** Regain Local Control of the Ontario International Airport  
Operate in a Businesslike Manner  
Focus Resources in Ontario's Commercial and Residential Neighborhoods

**FISCAL IMPACT:** None.

**STAFF MEMBER PRESENTING:** Scott Murphy, Planning Director

Prepared by: Melanie Mullis  
Department: Planning

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/03/2015  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

11

**BACKGROUND:** On January 20, 2015, the City Council introduced an ordinance approving a zone change from AR to R2. In September 2014, Linda Lui submitted a zone change application for the property on the southwest corner of Mission Boulevard and Palmetto Avenue to change the zoning of the property from C1 (Shopping Center Commercial) to HDR-45 (High Density Residential). This Zone Change was in conjunction with a development application to construct 70 multi-family residential units. In order to process the development application, the zoning of the property needs to be changed in order to be consistent with The Ontario Plan (“TOP”) land use designation of High Density Residential. Since other properties within close proximity had similar inconsistency between TOP and the current zoning, staff expanded this Zone Change application to include all the properties in the area that will need zoning of HDR-45 (High Density Residential), in order to be consistent with TOP.

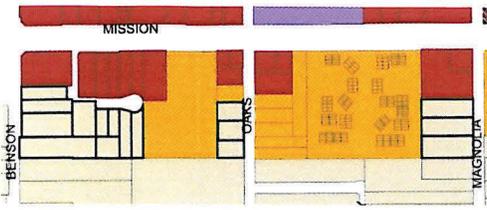
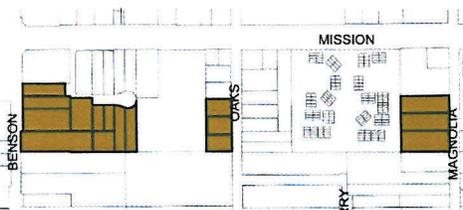
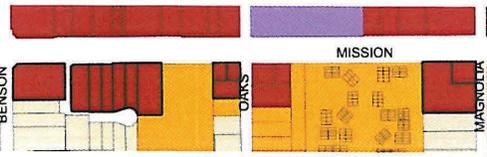
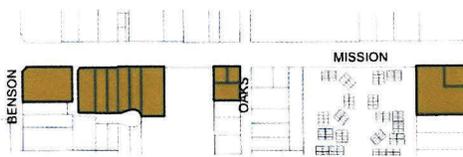
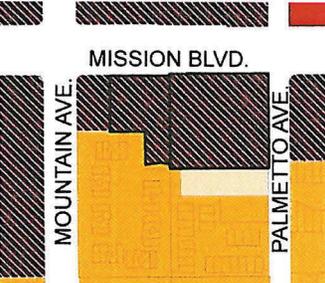
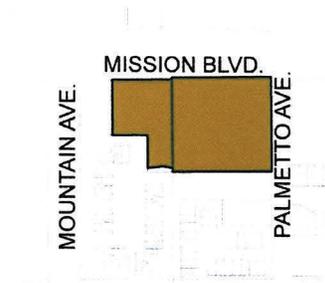
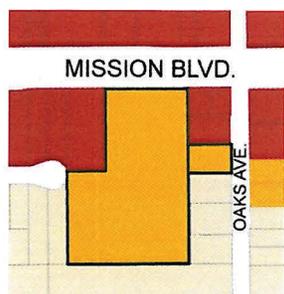
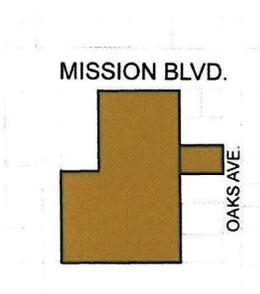
With TOP adoption in 2010, the subject properties were designated as High Density Residential (25.1 - 45 du/acre). The proposed Zone Change will make the zoning of the subject properties consistent with TOP. Twenty-five out of thirty-three of the properties are identified in the adopted Housing Element Available Land Inventory with an assumed density of 30 dwelling units per acre. These High Density Residential properties were necessary in order for the City’s Housing Element to be certified by the State.

Prior to the Planning Commission hearing, four letters/emails were received by nearby property owners expressing opposition to the proposed Zone Change. Representatives of REAL Ontario were contacted to inform them of the application. They expressed no concerns regarding the application.

The Planning Commission held a public hearing on December 15, 2014. Two persons spoke against the application, expressing concerns regarding traffic and street capacity, lack of adequate street lighting, school capacity and quality of any future development that might result from the Zone Change. The Planning Commission noted that any project proposed for the site would be required to provide necessary street improvements, including street lights, and that the City’s design guidelines identify the design and quality expectations for any new development. Further, this type of project does typically result in very low student generation and the school districts were made aware of the application and had no comment on the proposal. As a result, the Planning Commission voted unanimously (6-0) to recommend City Council approval of the Zone Change (File No. PZC14-005).

**ENVIRONMENTAL REVIEW:** The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (CEQA). The environmental impacts of this project were previously reviewed in conjunction with The Ontario Plan (PGPA06-001) for which an Environmental Impact Report (SCH #2008101140) was adopted by the Ontario City Council on January 27, 2010. This application introduces no new significant environmental impacts.

# EXHIBIT A

| Existing Zoning   | Assessor Parcel Numbers Involved   | Proposed Zone Changes   |
|---|--|---|
|    | 101136101 – 101136104<br>101136107<br>101136109<br>101136111 – 101136112<br>101136123 – 101136126<br>101136129<br>101136131<br>101137114 – 101137116 |     |
| AR, Agricultural-Residential  | (17 Properties)  | HDR-45, High Density Residential  |
|    | 101136105<br>101136108<br>101136110<br>101136115<br>101136119 – 101136121<br>101136127 – 101136128<br>101136130<br>101137112 – 101137113             |     |
| C3, Commercial Service  | (12 Properties)  | HDR-45, High Density Residential  |
|  | 101138204<br>101138265<br>(2 Properties)   |  |
| C1, Shopping Center   |  | HDR-45, High Density Residential  |
|  | 101136122<br>101136132<br>(2 Properties)   |  |
| R2, Medium Density Residential  |  | HDR-45, High Density Residential  |



# PLANNING COMMISSION STAFF REPORT

December 15, 2014

**SUBJECT:** A Zone Change request (File No. PCZ14-005) on 23.96 acres of land to change the zoning: 1) from AR (Agricultural-Residential) to HDR-45 (High Density Residential 25.1 to 45.0 du/ac) for properties generally located on the east side of Benson Avenue, south of Mission Boulevard and west side of Oaks Avenue south of Mission Boulevard and west side of Magnolia Avenue south of Mission Boulevard; 2) from R2 (Medium Density Residential) to HDR-45 for properties located near the southwest corner of Mission Boulevard and Oaks Avenue; 3) from C1 (Shopping Center Commercial) to HDR-45 for properties located on the south side of Mission Boulevard west of Palmetto Avenue; and 4) from C3 (Commercial Service) to HDR-45 for properties generally located on the south side of Mission Boulevard between Benson Avenue and Oaks Avenue and at the southwest corner of Mission Boulevard and Magnolia Avenue. (APN: 1011-361-01 thru 05, 07 thru 12, 15, 19 thru 32, 1011-371-12 thru 16, 1011-382-04 and 1011-382-65); **submitted by Linda Lui and expanded by City of Ontario.**

**PROPERTY OWNERS:** Various

**RECOMMENDED ACTION:** That the Planning Commission recommend City Council approval of File No. PZC14-005, pursuant to the facts and reasons contained in the staff report and attached resolution.

**PROJECT SETTING:** The project site is comprised of 23.96 acres of land located generally on the south side of Mission Boulevard between Benson Avenue and east of Palmetto Avenue, within the AR (Agricultural-Residential, C1 (Shopping Center Commercial), C3 (Commercial Service) and R2 (Medium Density Residential) zoning districts. The properties have a General Plan designation of High Density Residential. The area is comprised of single family and multi-family residential uses, commercial uses, a religious institution and underutilized and vacant properties as depicted in **Figure 1: Project Location**, below.



**Figure 1: Project Location**

| Case Planner:               | Melanie Mullis | Hearing Body | Date       | Decision | Action    |
|-----------------------------|----------------|--------------|------------|----------|-----------|
| Planning Director Approval: |                | DAB          | NA         | NA       | NA        |
| Submittal Date:             | 8/29/2014      | PC           | 12/15/2014 | Approved | Recommend |
| Hearing Deadline:           | 12/15/2014     | CC           |            |          |           |

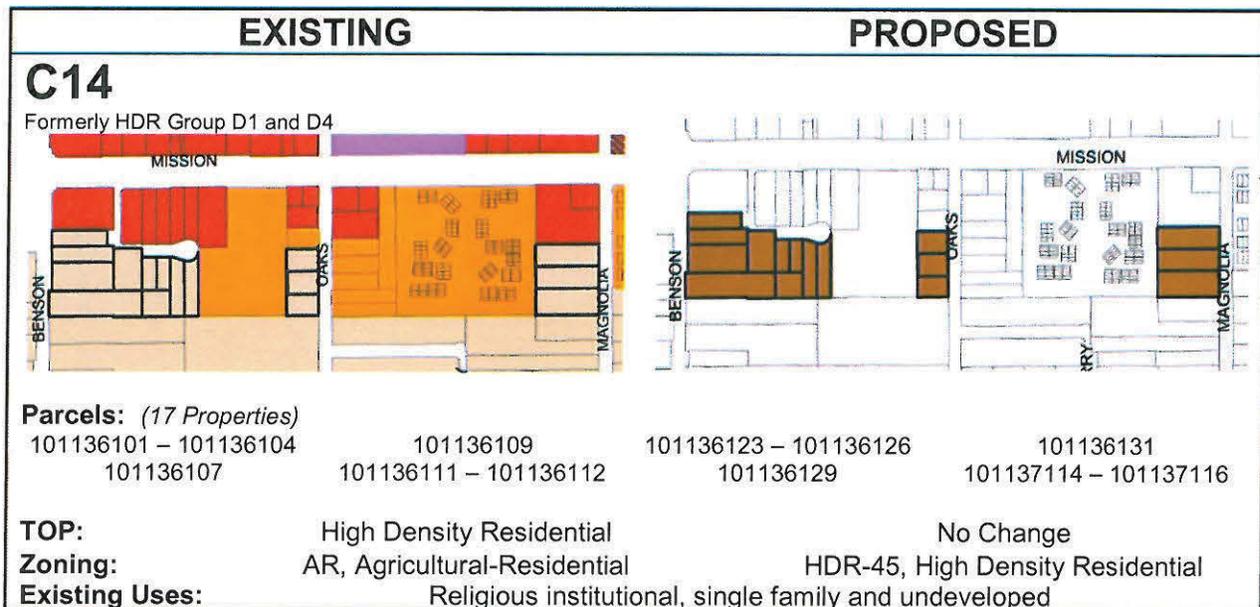
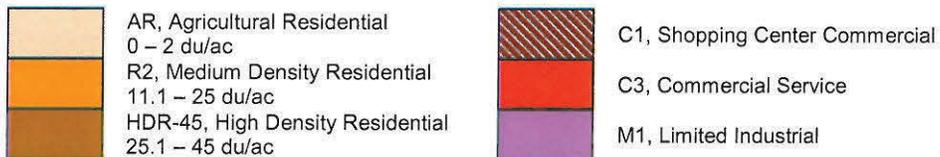
**Background** - In 2010, The Ontario Plan (“TOP”) was adopted that contains the Policy Plan (General Plan) which sets forth the land use pattern for the City to achieve its Vision. After the adoption of TOP, staff embarked on a two pronged effort to ensure that the zoning and TOP land use designations are consistent for all properties in the City and to update the Development Code. Staff worked to establish zones that will effectively implement the intent of TOP.

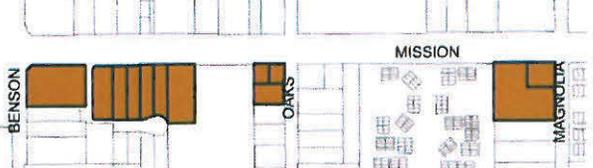
In August 2014, the property owner of one of the subject properties shown in Group C16 filed an application for a zone change. Staff expanded the application to include all the properties in the general vicinity needing a zone change to HDR-45. Not only will this application make the zoning and TOP land use designations of these properties consistent, it will also fulfill some of the zone change obligations defined in the adopted Housing Element.

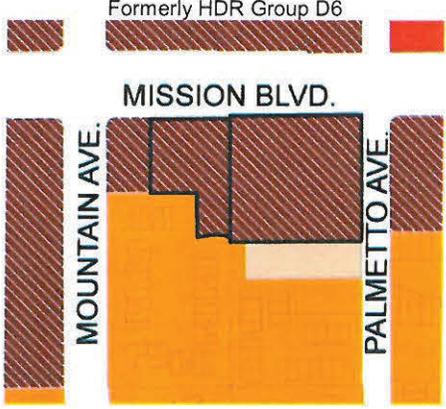
Owners of the subject properties were invited to a Community Open House on May 20, 2013. Approximately 11 persons attended. Four comment cards were submitted at the Open House, three were in support of the proposed zone change and one had additional questions regarding animal keeping and second units.

The properties included in this zone change application are itemized below:

**MAP LEGEND**



| EXISTING  | PROPOSED   |                                  |                       |
|---|--|----------------------------------|-----------------------|
| <b>C15</b>  |  |                                  |                       |
| Formerly HDR Groups D2 and D5   |  |                                  |                       |
|  |  |                                  |                       |
| <b>Parcels:</b> (12 Properties)   |  |                                  |                       |
| 101136105   | 101136110  | 101136119 – 101136121            | 101136130             |
| 101136108   | 101136115  | 101136127 – 101136128            | 101137112 – 101137113 |
| <b>TOP:</b>   | High Density Residential   | No Change                        |                       |
| <b>Zoning:</b>  | C3, Commercial Service   | HDR-45, High Density Residential |                       |
| <b>Existing Uses:</b>   | Miscellaneous retail uses, undeveloped, single family and multi-family             |                                  |                       |

| EXISTING  | PROPOSED  |                                  |  |
|---|---|----------------------------------|--|
| <b>C16</b>  |   |                                  |  |
| Formerly HDR Group D6   |   |                                  |  |
|  |  |                                  |  |
| <b>Parcels:</b> (2 Properties)  |   |                                  |  |
| 101138204   | 101138265   |                                  |  |
| <b>TOP:</b>   | High Density Residential  | No Change                        |  |
| <b>Zoning:</b>  | C1, Shopping Center   | HDR-45, High Density Residential |  |
| <b>Existing Uses:</b>   | Undeveloped and transient lodging   |                                  |  |

|                                     | EXISTING  | PROPOSED  |
|-------------------------------------|---|---|
| <b>C17</b><br>Formerly HDR Group D3 |  |  |
| <b>Parcels:</b> (2 Properties)      | 101136122   | 101136132   |
| <b>TOP:</b>                         | High Density Residential  | No Change   |
| <b>Zoning:</b>                      | R2, Medium Density Residential  | HDR-45, High Density Residential  |
| <b>Existing Uses:</b>               | Single and multi-family uses  |   |

Staff is recommending approval of these groups of zone changes, affecting 32 properties, in an on-going effort to achieve consistency between TOP and zoning. Changing the zoning of the property will provide the opportunity to increase the housing supply in the City and will encourage reinvestment in this corridor.

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

[1] City Council Priorities

**Primary Goal:** Regain Local Control of the Ontario International Airport

**Supporting Goals:** Operate in a Businesslike Manner

[2] Policy Plan (General Plan)

**LU1-1 Strategic Growth.** We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

Compliance: TOP identified strategic locations which will help achieve the sense of place and identity desired. Consistency between the zoning and TOP land use designations will allow growth to occur in these strategic locations. While Mission Blvd. is not designated as one of the growth areas, it is vital to meeting the City's Regional Housing Needs Assessment allocation obligations. The intensification in the density along this corridor has sparked the interest of several developers who wish to develop within this density range.

- 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: Undertaking zone changes to provide consistency between the zoning and TOP land use designations will further the City's intent of becoming a complete community which will result in a land use pattern that provides residents, employers, workers and visitors a wide spectrum of choices to live, work, shop and recreate within Ontario. The increased density along Mission Boulevard. will widen the spectrum of housing opportunities in this part of Ontario.

- 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 zone changes to bring consistency between the zoning and TOP land use bring the achievement of our Vision closer.

- 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 zone changes are consistent with the provisions contained within the Airport Land Use Compatibility Plan.

- H2-1 Corridor Housing.** We revitalize transportation corridors by encouraging the production of higher density residential and mixed-uses that are architecturally, functionally and aesthetically suited to corridors

Compliance: The proposed zone changes are located generally along the west Mission Boulevard corridor which is in need of revitalization.

Increasing the densities of these properties will help encourage this revitalization and help to stabilize the adjacent neighborhoods. In addition, changing the zones of these properties will make them available for development at a density that could accommodate affordable housing as defined in the Housing Element Available Land Inventory. Most of the subject properties are listed in the Available Land Inventory in the Housing Element as needing a zone change to HDR-45.

**H2-6 Infill Development.** We support the revitalization of neighborhoods through the construction of higher-density residential developments on underutilized residential and commercial sites.

Compliance: Most of the proposed zone change sites are either vacant, marginal commercial sites or underutilized properties. Allowing higher density residential zoning should encourage the revitalization of the properties and the corridor as a whole.

**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 proposed zone changes are consistent with the adopted Airport Land Use Compatibility Plan for both Ontario Airport and Chino Airport.

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

**ENVIRONMENTAL REVIEW:** The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"). The environmental impacts of this project were reviewed in conjunction with a previously certified Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010 for The Ontario Plan (File No. PGPA06-001). 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.

**CONDITIONS OF APPROVAL:** None.

**From:** [Karen Gallagher](#)  
**To:** [Melanie Mullis](#)  
**Subject:** Rezoning proposal  
**Date:** Monday, December 08, 2014 11:40:51 AM

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Hello Cousin Melanie!

My , but my neighborhood is buzzing about the proposed rezoning of Benson-Oaks and Magnolia from AR to HDR!

Although we actually live on the county side of Benson, we would be greatly impacted as would be our neighbors in the surrounding area. Previously a proposal to rezone the east side of Benson through to Philadelphia was defeated through the efforts of a group hoping to preserve our "agricultural or more rural" lifestyle but I see developers are attempting to change the zone again, this time in smaller increments which of course will creep gradually throughout.

We are aware that many of the properties on the east side of Benson- Oaks are held by a few families connected to one another and they undoubtedly are hoping to be able to sell all of their holdings to a developer. Clearly developers feel high density is the only way they can make a sizeable profit as building on half acre lots won't "pencil".

High density in that area will greatly impact enrollment at Mission Elementary on Howard St., the Middle School on Oaks, and the Elementary school on Oaks and the traffic to each. ( I must leave before 7:00am for work or I can't get out of my driveway now and choose a route away from these schools). Traffic at 5:00-6:00pm is heavy on Benson so retrieving our mail from our mailbox located on the east side of Benson is hazardous at that hour!

High density means an end to a lifestyle many in the area enjoy, surrounding the larger properties with lower income properties which bring down property values, traffic congestion, increased graffiti and crime, and school overcrowding.

The home owners in our area enjoy the equestrian ring in the Briggs Park and equestrian trails throughout the area. Those trails become quick access and escape for thieves when the population of the area increases.

As you can see, we are seriously opposed to this rezoning and do not feel it is in the best interest of this part of Ontario.

Karen Gallagher  
Ontario Christian High School  
Counselor, CSF Advisor  
931 W. Philadelphia St.  
Ontario, Calif. 91762  
909 984 1756

*Live simply, love intentionally, pray frequently, leave the rest to God  
Life is a journey, a process, not a destination*

**From:** [Reagan Evans](#)  
**To:** [Melanie Mullis](#)  
**Cc:** "[Kevin Evans](#)"; [Reagan Evans](#)  
**Subject:** Zoning change proposal.  
**Date:** Tuesday, December 09, 2014 9:33:10 AM

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Dear Ms. Mullis and Ontario City Council,

My husband and I are writing to express our desire that the area near our home NOT be changed from AR zoning to HDR zoning for high-density housing. This refers to the area from Mission south to Howard, and from Benson east to Magnolia.

Why go from one extreme to another right here within our city, near Chino where properties are already more valued due to the willingness of the citizens and policymakers of Chino to maintain a more desirable city to live in, with better schools and neighborhoods?

Please DO NOT pass this zoning change to high-density residential. Please KEEP this area for single-family residences for people who appreciate a little more room on their lots. There are plenty of people who do in the cramped locale of Southern California want larger lots. Please maintain a neighborly environment rather than a place for packing people in. The traffic will be worse on our residential streets. The vandalism has the potential for increasing. Please keep our neighborhoods from Mission south to Howard, and from Benson east to Magnolia, please keep this zoning as it is, as the area we sought out for NOT having the high-density zoning and apartments in the area.

Otherwise, it will be our choice to move to Chino rather than to stay where we do not prefer because of zoning changes, and where we chose because of the zoning all around us.

Sincerely,  
Kevin and Reagan Evans  
1439 W. Phillips Street  
Ontario, CA 91762  
909-615-5240

Reagan Evans, Founder, CA-TX CSR, RMR, CRR, CCRR, CLR  
NCRA Ethics First participant

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**From:** [Larry Lorenz](#)  
**To:** [Melanie Mullis](#)  
**Cc:** [Jeanina Romero](#)  
**Subject:** Zone change request(PZC14-005)  
**Date:** Tuesday, December 09, 2014 5:24:29 PM

---

Dear Planning Commission,

I have received the notice in the mail regarding the project description.

I live on the border of item "4)" on the project description of the southwest corner of Mission Blvd. and Magnolia Ave. at the Mission Woods condominiums.

I am totally against this project because these four zone changes are for High Density Residential(HDR) which will obviously cause more congestion on our streets,highways, and freeways by allowing more people to live in a smaller area.

Is not this planning exactly what So.Cal does not need?! More cars and people vying for the same space.

I live in a quiet spot in our complex, and I know these changes will only lead to a constant level of noise if high-density housing is built. The lot across from me has boats parked and they do not make any noise. This is one of the main reasons I bought this condo. After a long day at work I need as much silence as I can get!

Building residences there will only mean more noise and problems.

Do the members of the Planning Commission live in a nice "low"-density residential area with peace and quiet? Then please give to me the same as you have. How would you like an HDR project going up next to your house(s)?

Sincerely,

Larry

1309 W. Mission Blvd. #56

RESOLUTION NO. PC14-112

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMEND CITY COUNCIL APPROVAL OF FILE NO. PZC14-005, A ZONE CHANGE FROM AR (AGRICULTURAL RESIDENTIAL), R2 (MEDIUM DENSITY RESIDENTIAL), C1 (SHOPPING CENTER COMMERCIAL) AND C3 (COMMERCIAL SERVICE) ZONES TO HDR-45 (HIGH DENSITY RESIDENTIAL – 25.1 TO 45 DU/AC) ZONE ON 23.96 ACRES OF LAND, LOCATED GENERALLY ON THE SOUTH SIDE OF MISSION BOULEVARD BETWEEN BENSON AND PALMETTO AVENUES, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1011-361-01 THRU 05, 07 THRU 12, 15, 19 THRU 32, 1011-371-12 THRU 16, 1011-382-04 AND 1011-382-65.

WHEREAS, Linda Lui ("Applicant") has filed an Application for the approval of a Zone Change, File No.PZC14-005, as described in the title of this Resolution; and

WHEREAS, the City of Ontario has expanded the application to include other parcels in the vicinity of the Applicant's parcel that are also in need of a zone change to HDR-45 (High Density Residential – 45 du/ac) in order to be consistent with their TOP designation; and

WHEREAS, the combination of the Applicant's application and the additional parcels added by the City of Ontario are hereinafter referred to as "Application" or "Project";

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 as shown in Exhibit A; and

WHEREAS, the City of Ontario held a Community Open House on May 20, 2013, to gain input from impacted property owners; and

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

WHEREAS, the 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, the environmental impacts of this project were previously reviewed in conjunction with The Ontario Plan (PGPA06-001), for which an Environmental Impact Report (SCH#2008101140) was adopted by the Ontario City Council on January 27, 2010, and this Application introduces no new significant environmental impacts; and

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental

assessment in situations where the impacts of subsequent projects are adequately analyzed; and

WHEREAS, on December 15, 2014, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1. As the recommending body for the project, the Planning Commission finds that the environmental impacts of this project were reviewed in conjunction with the previously certified Environmental Impact Report for The Ontario Plan (SCH No. 2008101140), which was adopted by the City Council on January 27, 2010. This project introduces no new significant environmental impacts.

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

a. The proposed zone change is consistent with the goals and policies of the general plan in that rezoning the properties to HDR-45 will make the zoning of the properties consistent with the Policy Plan (General Plan) of The Ontario Plan. The proposed project is consistent with the adopted Housing Element as it is one of the properties listed in the Available Land Inventory and will be consistent with the minimum density of 30 dwelling units per acre specified in the Available Land Inventory.

b. The proposed zone change is reasonable and beneficial, and in the interest of good zoning practice in that it will encourage revitalization of West Mission Boulevard.

c. The project sites are physically suitable, including, but not limited to parcel size, shape, access, availability of utilities and compatibility with adjoining land uses, for the requested zoning designations and anticipated developments.

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 since any potential impacts associated with the zone change were previously analyzed with The Ontario Plan.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby recommends the City Council approve the Project as shown on the attached Exhibit "A".

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.

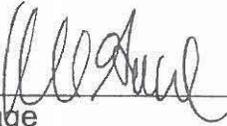
SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The Secretary shall certify to the adoption of the Resolution.

-----

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 15<sup>th</sup> day of December, 2014, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

  
\_\_\_\_\_  
Rick Gage  
Planning Commission Chairman

ATTEST:

  
\_\_\_\_\_  
Scott Murphy  
Planning Director/Secretary of Planning  
Commission

Planning Commission Resolution  
File No. PZC14-005  
December 15, 2014  
Page 4

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

I, Jeanina M. Romero, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC14-112 was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on December 15, 2014 by the following roll call vote, to wit:

AYES:           Delman, Gage, Gregorek, Mautz, Ricci, Willoughby

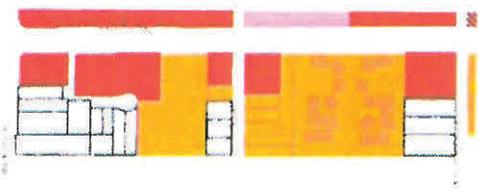
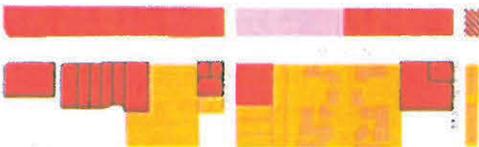
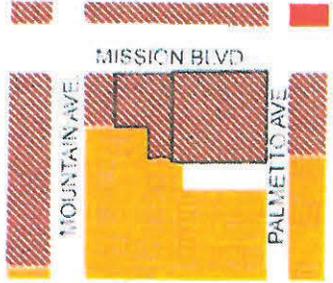
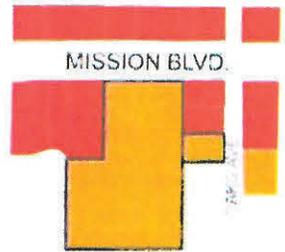
NOES:           None

ABSENT:       Downs

ABSTAIN:

  
\_\_\_\_\_  
Jeanina M. Romero  
Secretary Pro Tempore

## EXHIBIT A FOR PZC14-005

| Existing Zoning   | Assessor Parcel Numbers Involved   | Proposed Zone Changes   |
|---|--|---|
|    | 101136101 – 101136104<br>101136107<br>101136109<br>101136111 – 101136112<br>101136123 – 101136126<br>101136129<br>101136131<br>101137114 – 101137116 |    |
| AR, Agricultural-Residential  | (17 Properties)  | HDR-45, High Density Residential  |
|    | 101136105<br>101136108<br>101136110<br>101136115<br>101136119 – 101136121<br>101136127 – 101136128<br>101136130<br>101137112 – 101137113             |    |
| C3, Commercial Service  | (12 Properties)  | HDR-45, High Density Residential  |
|  | 101138204<br>101138265<br><br>(2 Properties)   |  |
| C1, Shopping Center   |  | HDR-45, High Density Residential  |
|  | 101136122<br>101136132<br><br>(2 Properties)   |  |
| R2, Medium Density Residential  |  | HDR-45, High Density Residential  |

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC14-005, A ZONE CHANGE REQUEST TO CHANGE THE ZONING DESIGNATION FROM AR (AGRICULTURAL RESIDENTIAL), R2 (MEDIUM DENSITY RESIDENTIAL), C1 (SHOPPING CENTER) AND C3 (COMMERCIAL SERVICE) TO HDR-45 (HIGH DENSITY RESIDENTIAL 25.1 – 45 DU/AC) FOR 33 PARCELS TOTALING APPROXIMATELY 24 ACRES OF LAND, GENERALLY LOCATED ON THE SOUTH SIDE OF MISSION BOULEVARD BETWEEN BENSON AND PALMETTO AVENUES, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1011-361-01 THRU 05, 07 THRU 12, 15, 19 THRU 32, 1011-371-12 THRU 16, 1011-382-04 AND 1011-382-65.

WHEREAS, Linda Lui ("Applicant") has filed an Application for the approval of a Zone Change, File No. PZC14-005, to change the zoning of 1 parcel from C1 (Shopping Center) to HDR-45 (High Density Residential); and

WHEREAS, the City has expanded the Zone Change to include all 33 parcels in the area needing a zone change to HDR-45 totaling approximately 24 acres and the zone change request, as expanded, constitutes the Project (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to property generally located on the south side of Mission Boulevard between Benson and Palmetto Avenues; and

WHEREAS, the City held a Community Open House on May 20, 2013 to gain input from impacted property owners; and

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

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with The Ontario Plan (PGPA06-001), for which an Environmental Impact Report (SCH #2008101140) was adopted by the Ontario City Council on January 27, 2010, and this Application introduces no new significant 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 15, 2014, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and concluded said hearing on that date. After considering all public testimony, the Planning Commission adopted a resolution recommending City Council approval of the application; and

WHEREAS, on January 20, 2015, the City Council of the City of Ontario conducted a public 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 decision-making body for the Project, the City Council has reviewed and considered the information contained in 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 environmental impacts of this project were reviewed in conjunction with the previously certified Environmental Impact Report for The Ontario Plan (SCH #2008101140), which was adopted by the City Council on January 27, 2010. This project introduces no new significant environmental impacts; and

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

c. The proposed project introduces no new significant environmental impacts beyond what was analyzed in the Environmental Impact Report (SCH #2008101140) adopted for PGPA06-001 (The Ontario Plan), and all previously adopted mitigation measures are incorporated into the Project by reference.

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. The proposed zone change will make the zoning of the properties consistent with the Policy Plan (General Plan) of The Ontario Plan. The proposed project is consistent with the adopted Housing Element as 25 of the subject properties are listed in the Available Land Inventory and will be consistent with the minimum density of 30 dwelling units per acre specified in the Available Land Inventory.

b. The proposed zone change is reasonable and beneficial, and in the interest of good zoning practice in that it will encourage revitalization of West Mission Boulevard.

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 existing 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 since any potential impacts associated with the zone change were previously analyzed with The Ontario Plan.

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 jurisdiction, 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 thirty (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 3<sup>rd</sup> day of February, 2015.

---

PAUL S. LEON, MAYOR

ATTEST:

---

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

---

BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3014 was duly introduced at a regular meeting of the City Council of the City of Ontario held January 20, 2015, and adopted at the regular meeting held February 3, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

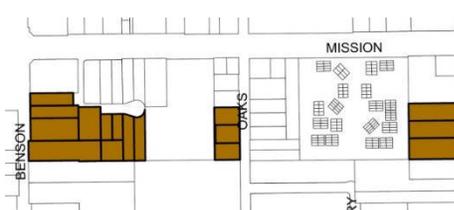
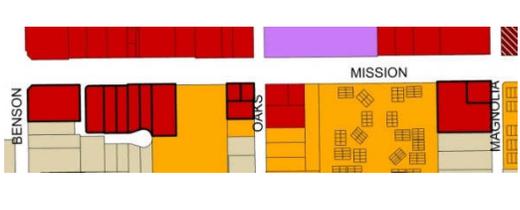
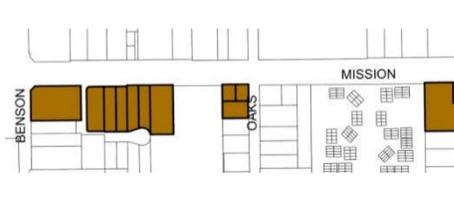
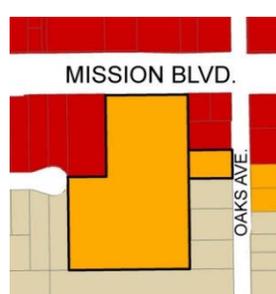
(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3014 duly passed and adopted by the Ontario City Council at their regular meeting held February 3, 2015 and that Summaries of the Ordinance were published on January 27, 2015 and February 10, 2015, in the Inland Valley Daily Bulletin newspaper.

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

# EXHIBIT A

| Existing Zoning   | Assessor Parcel Numbers Involved  | Proposed Zone Changes   |
|---|---|---|
|    | <p>1011-361-01 – 1011-361-04<br/>           1011-361-07<br/>           1011-361-09<br/>           1011-361-11 – 1011-361-12<br/>           1011-361-23 – 1011-361-26<br/>           1011-361-29<br/>           1011-361-31<br/>           1011-371-14 – 1011-371-16</p> |    |
| AR, Agricultural-Residential  | (17 Properties)   | HDR-45, High Density Residential  |
|    | <p>1011-361-05<br/>           1011-361-08<br/>           1011-361-10<br/>           1011-361-15<br/>           1011-361-19 – 1011-361-21<br/>           1011-361-27 – 1011-361-28<br/>           1011-361-30<br/>           1011-371-12 – 1011-371-13</p>               |    |
| C3, Commercial Service  | (12 Properties)   | HDR-45, High Density Residential  |
|  | <p>1011-382-04<br/>           1011-382-65</p> <p>(2 Properties)</p>   |  |
| C1, Shopping Center   | (2 Properties)  | HDR-45, High Density Residential  |
|  | <p>1011-361-22<br/>           1011-361-32</p> <p>(2 Properties)</p>   |  |
| R2, Medium Density Residential  | (2 Properties)  | HDR-45, High Density Residential  |

# CITY OF ONTARIO

Agenda Report  
February 3, 2015

SECTION:  
CONSENT CALENDAR

**SUBJECT: APPLICATION FOR GRANTS FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY FY2016 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM / AVOID LEAD AGENCY 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 \$750,000 from the California Office of Traffic Safety (OTS) for participation in the FY2016 Selective Traffic Enforcement Program (STEP)/ Avoid Lead Agency 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 2015 and the grant period is October 1, 2015 – September 30, 2016. 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 \$750,000. The STEP/Avoid Lead Agency 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 2015-16 First Quarter Budget Report.

**BACKGROUND:** The California Office of Traffic Safety, through the National Highway Traffic Safety Administration, 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 11, 2015 through January 1, 2016; and Labor Day period is from August 12, 2016 through September 5, 2016. 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. 02/03/2015  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

12

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 3, 2015

SECTION:  
PUBLIC HEARINGS

**SUBJECT: A PUBLIC HEARING TO CONSIDER A REIMBURSEMENT AGREEMENT BY AND BETWEEN THE CITY OF ONTARIO AND SEC EUCLID & HOLT AVENUE PROPERTY L.P.**

**RECOMMENDATION:** That the City Council adopt resolutions authorizing the City Manager to execute a Reimbursement Agreement (on file with the Records Management Department), which will provide up to \$700,000 in General Fund appropriations, and all other necessary documentation by and between the City of Ontario and SEC Euclid & Holt Avenue Property L.P. of Corona, California, related to the development of parking and related infrastructure improvements in the Ontario Downtown Euclid Avenue District.

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

**FISCAL IMPACT:** The Reimbursement Agreement will provide up to \$700,000 in General Fund appropriations to offset actual and documented unanticipated infrastructure-related costs associated with the construction of a 211-space parking facility to be available for public parking on evenings and weekends.

**BACKGROUND:** The City of Ontario ("City") and Westates de Oro, LLC ("Developer") entered into a Disposition and Development Agreement ("DDA") dated January 30, 2012 for Westates de Oro to acquire certain City-owned property located at the southeast corner of Holt Boulevard and Euclid Avenue, and to develop an approximately 60,000 square foot office building with related improvements. The office building is complete and is now fully occupied by the County of San Bernardino Department of Public Health.

Westates De Oro subsequently sold its interest in the DDA to SEC Euclid & Holt Avenue Property L.P. ("SEC Euclid"). In connection with and pursuant to the DDA, the City granted a non-exclusive easement to the Developer on certain other City-owned property generally located at the southeast corner of Lemon Avenue and Transit Street to construct an off-site parking lot to be used by the

**STAFF MEMBER PRESENTING:** John Andrews, Economic Development Director

Prepared by: John Andrews  
Department: Economic Development

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/03/2015

Approved: \_\_\_\_\_

Continued to: \_\_\_\_\_

Denied: \_\_\_\_\_

13

Developer and any tenants and visitors of the Developer's commercial office building ("Easement Property"). The terms governing the Easement Property were memorialized by the parties in a Parking Easement Agreement ("Parking Agreement") attached to the DDA. The subject Reimbursement Agreement is subject to the terms and conditions of the Parking Agreement.

The City and the Developer mutually agree that the surface parking originally contemplated by the DDA and the Parking Agreement provides insufficient parking capacity. The Parking Lot was subsequently redesigned to include a second story to accommodate additional parking ("Parking Structure") anticipated to be necessary for future needs in the area. As construction proceeded the Developer encountered infrastructure, both on and off-site, that was in need of upgrade and/or replacement.

The additional parking provided by the Parking Structure will benefit the broader Ontario Downtown Euclid Avenue District parking needs pursuant to the Scope of Development attached to the DDA. In addition to the benefits described in the DDA, the expansion of the parking provides additional development and joint parking opportunities, is consistent with the City goals to provide additional parking in the downtown civic, business and shopping areas and will result in increased pedestrian activity in the surrounding area which will benefit the local community. Further, the parking improvement project will include improvements to infrastructure in the immediately adjacent area including utility undergrounding, new sidewalks, and street improvements.

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 A REIMBURSEMENT AGREEMENT FOR COSTS ASSOCIATED WITH THE CONSTRUCTION OF A PARKING STRUCTURE IN THE ONTARIO DOWNTOWN EUCLID AVENUE DISTRICT.

WHEREAS, the City of Ontario (“City”) and Westates De Oro, LLC previously entered into a Disposition and Development Agreement (Westates De Oro), dated January 30, 2012 (“DDA”), for Westates De Oro to acquire certain City-owned property and construct a commercial office building on such property; and

WHEREAS, Westates De Oro subsequently sold its interest in the DDA to SEC Euclid & Holt Avenue Property L.P., a California Limited Partnership (“Developer”); and

WHEREAS, in connection with and pursuant to the DDA, City granted a non-exclusive easement to Developer on certain other City-owned property to construct an off-site parking lot (“Parking Lot”) to be used by Developer and any tenants and visitors of Developer’s commercial office building, with the terms governing the Parking Lot memorialized by the City and Developer in a Parking Easement Agreement (“Parking Agreement”); and

WHEREAS, City and Developer subsequently determined that the Parking Lot originally contemplated by the DDA and Parking Agreement provides insufficient parking capacity and, as such, redesigned the Parking Lot to include a second story to accommodate additional parking; and

WHEREAS, Developer has incurred additional unanticipated costs associated with the inclusion of the additional parking to the Parking Lot; and

WHEREAS, City has determined that the additional parking provided at the Parking Lot will benefit the Ontario Downtown Euclid Avenue District parking needs because the expansion of the Parking Lot provides additional development and joint parking opportunities, is consistent with the City goals to provide additional parking in the downtown civic, business and shopping areas, will result in increased pedestrian activity in the surrounding area which will benefit the local community, and the expanded Parking Lot will include improvements to infrastructure in the immediately adjacent area including utility undergrounding, new sidewalks, and street improvements; and

WHEREAS, City and Developer have negotiated a reimbursement agreement to reimburse Developer for an amount of up to Seven Hundred Thousand Dollars (\$700,000) in general funds to offset actual documented unanticipated infrastructure-related costs associated with construction of the additional parking in the Parking Lot (the “Reimbursement Agreement”); 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 Developer pursuant to the Reimbursement Agreement is reasonably related to a legitimate governmental purpose in that the additional parking to the Parking Lot will assist the City for the reasons set forth above and in furtherance of the City's goal of revitalizing the Ontario Downtown Euclid Avenue District and increasing local businesses; 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 3, 2015 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, CALIFORNIA, 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 Reimbursement 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. 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.), City staff has determined that the proposed Parking Lot may be subject to CEQA. This Agreement in no way commits the City to the approval on any project or CEQA determination related to the proposed Parking Lot. The initial study and other appropriate environmental documents shall be prepared in accordance with the Parking Agreement.

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 3<sup>rd</sup> day of February 2015.

---

PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 3, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

---

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015- duly passed and adopted by the Ontario City Council at their regular meeting held February 3, 2015.

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MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

# **EXHIBIT A**

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

### **FOR A REIMBURSEMENT AGREEMENT BY AND BETWEEN CITY OF ONTARIO AND SEC Euclid & Holt Avenue Property L.P.**

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 a Reimbursement Agreement by and between the City of Ontario and SEC Euclid & Holt Avenue Property L.P. ("Agreement"). Notice was published in the local newspaper for a public hearing to be held on February 3, 2015.

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 SEC Euclid & Holt Avenue Property L.P. who will construct a parking structure located on the property generally bounded by Transit Street on the north, Plum Avenue on the east, Emporia Street on the south, and Lemon Avenue on the west to accommodate increased parking adjacent to its three-story office building located at the southeast corner of Holt Boulevard and Euclid Avenue in the Ontario Downtown Euclid Avenue District.

Corporate Address:  
SEC Euclid & Holt Avenue Property L.P.  
988 Villa Montes Circle  
Corona, California 92879

**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 will be on or around February, 2015 and the end date will be no later than six months after the state date, on or around July, 2015. The end date may occur earlier than 2 months from the effective date upon payment of the economic development subsidy in the aggregate amount of \$700,000.

The economic development subsidy will be paid monthly, within thirty (30) days of the submission of Request for Payment, as that term is defined in the Agreement.

**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 local agency anticipates an increase in both property and sales tax revenues over time as a result of the subsidy and associated economic development project. Specifically, the project will provide necessary parking for both daytime and evening uses in the Downtown and Civic Center area. Further, the parking facility will be available to both the City-owned museum as well as an adjacent museum operated by a local non-profit arts organization. The additional traffic and associated activity will bring new businesses to the Downtown area thereby creating demand for commercial and office space. Those improvements and new businesses will bring about new revenues to the local agency. The cost to the local agency shall not exceed \$700,000. The actual increase in revenue through increased development and activity in the area as a result of the subsidy cannot be estimated at this time. However, without the subsidy the increased parking would not be available and the adjacent office building and surrounding businesses would suffer thus resulting in a loss of revenue to the local agency.

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

Westates De Oro, LLC acquired property from the City of Ontario located at the southeast corner of Holt Boulevard and Euclid Avenue in the Ontario Downtown Euclid Avenue District to construct a three-story office building. In connection with the purchase, the City of Ontario granted Westates De Oro, LLC a non-exclusive easement to adjacent City-owned property to be used as a parking lot. The surface parking originally contemplated is insufficient to meet the needs of the office building and the Downtown Euclid Avenue District generally. Westates De Oro, LLC conveyed all its rights, duties, and obligations to the property to SEC Euclid & Holt Avenue Property L.P.

SEC Euclid & Holt Avenue Property L.P. is in the process of constructing a parking structure on its City-owned easement to facilitate additional parking for its tenants, visitors and the District. In doing such, it has encountered unanticipated infrastructure-related costs. In order to promote public safety and to facilitate additional parking at the District, City intends to provide a reimbursement to SEC Euclid & Holt Avenue Property L.P. to offset a portion of the actual documented unanticipated costs.

If SEC Euclid & Holt Avenue Property L.P. is able to provide additional parking spaces for the Downtown Euclid Avenue District, the City has determined that this would result in substantial benefits to the City and its citizens including, without limitation, the creation of significant new numbers of employment opportunities by attracting new business to the Downtown Euclid Avenue District, the potential for additional property tax revenues, sales tax revenues and other ancillary benefits.

Further, the additional public parking may assist in 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 construction of the parking structure will result in an approximate increase of sales tax revenue by approximately 10-15%, and property tax revenue by approximately 10% over and above the current revenues generated in the historic commercial core area of the City.

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

The construction of a parking structure at the corner of Holt Boulevard and Euclid Avenue in the Ontario Downtown Euclid Avenue District is anticipated to result in approximately 250-300 new jobs, including 200 full-time positions, 25-50 part-time positions, and 25-50 temporary positions.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND SEC EUCLID & HOLT AVENUE PROPERTY L.P. FOR COSTS ASSOCIATED WITH THE CONSTRUCTION OF A PARKING STRUCTURE IN THE ONTARIO DOWNTOWN EUCLID AVENUE DISTRICT.

WHEREAS, the City of Ontario (“City”) and Westates De Oro, LLC previously entered into a Disposition and Development Agreement (Westates De Oro), dated January 30, 2012 (“DDA”), for Westates De Oro to acquire certain City-owned property and construct a commercial office building on such property; and

WHEREAS, Westates De Oro subsequently sold its interest in the DDA to SEC Euclid & Holt Avenue Property L.P., a California Limited Partnership (“Developer”); and

WHEREAS, in connection with and pursuant to the DDA, City granted a non-exclusive easement to Developer on certain other City-owned property to construct an off-site parking lot (“Parking Lot”) to be used by Developer and any tenants and visitors of Developer’s commercial office building, with the terms governing the Parking Lot memorialized by the City and Developer in a Parking Easement Agreement (“Parking Agreement”); and

WHEREAS, City and Developer subsequently determined that the Parking Lot originally contemplated by the DDA and Parking Agreement provides insufficient parking capacity and, as such, redesigned the Parking Lot to include a second story to accommodate additional parking; and

WHEREAS, Developer has incurred additional unanticipated costs associated with the inclusion of the additional parking to the Parking Lot; and

WHEREAS, City has determined that the additional parking provided at the Parking Lot will benefit the Ontario Downtown Euclid Avenue District parking needs because the expansion of the Parking Lot provides additional development and joint parking opportunities, is consistent with the City goals to provide additional parking in the downtown civic, business and shopping areas, will result in increased pedestrian activity in the surrounding area which will benefit the local community, and the expanded Parking Lot will include improvements to infrastructure in the immediately adjacent area including utility undergrounding, new sidewalks, and street improvements; and

WHEREAS, City and Developer have negotiated a reimbursement agreement to reimburse Developer for an amount of up to Seven Hundred Thousand Dollars (\$700,000) in general funds to offset actual documented unanticipated infrastructure-related costs associated with construction of the additional parking in the Parking Lot, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference (the “Reimbursement Agreement”); 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 Developer pursuant to the Reimbursement Agreement is reasonably related to a legitimate governmental purpose in that the additional parking to the Parking Lot will assist the City for the reasons set forth above and in furtherance of the City's goal of revitalizing the Ontario Downtown Euclid Avenue District and increasing local businesses; and

WHEREAS, in accordance with Government Code Section 53083, the City prepared an Economic Development Subsidy Report which it made available to the public and on its website, and held a noticed public hearing on February 3, 2015 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, CALIFORNIA, 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. CEQA. 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.), City staff has determined that the proposed Parking Lot may be subject to CEQA. This Agreement in no way commits the City to the approval on any project or CEQA determination related to the proposed Parking Lot. The initial study and other appropriate environmental documents shall be prepared in accordance with the Parking Agreement.

SECTION 3. Approval of Reimbursement Agreement. The City Council hereby approves the Reimbursement Agreement, in substantially the form attached to this Resolution as Exhibit "A," and authorizes and directs the City Manager to sign and enter into the Reimbursement Agreement and perform all obligations of the City pursuant to the Reimbursement Agreement.

SECTION 4. 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 5. 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 3<sup>rd</sup> day of February 2015.

---

PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 3, 2015 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:            COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015-        duly passed and adopted by the Ontario City Council at their regular meeting held February 3, 2015.

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

# EXHIBIT A

## REIMBURSEMENT AGREEMENT (SEC Euclid & Holt Avenue Property L.P.)

This Reimbursement Agreement (“**Agreement**”) is made this \_\_\_\_th day of \_\_\_\_, 2015, by and between the CITY OF ONTARIO, a California municipal corporation (“**City**”), and SEC Euclid & Holt Avenue Property L.P., a California limited liability company (“**Developer**”). City and Developer are sometimes referred to herein as the “**Parties**” or individually as a “**Party**”. City and Developer enter into this Agreement with reference to the following recitals of fact (each, a “**Recital**”):

### RECITALS

A. City and Westates De Oro, LLC entered into a Disposition and Development Agreement (Westates De Oro), dated January 30, 2012, for Westates De Oro to acquire certain City-owned property (“**DDA Property**”) and construct a commercial office building on such DDA property, in accordance with the DDA’s terms. Westates De Oro subsequently sold its interest in the DDA to Developer. This Agreement is subject to the terms and conditions of the DDA.

B. In connection with and pursuant to the DDA, City granted a non-exclusive easement to Developer on certain other City-owned property to construct an off-site parking lot (“**Parking Lot**”) to be used by Developer and any tenants and visitors of Developer’s commercial office building (“**Easement Property**”). The terms governing the Easement Property were memorialized by the Parties in a Parking Easement Agreement (“**Parking Agreement**”) attached to the DDA as Exhibit “H,” as may have been amended from time to time. This Agreement is subject to the terms and conditions of the Parking Agreement.

C. It has come to the attention of City and Developer that the surface parking originally contemplated by the DDA and the Parking Agreement provides insufficient parking capacity. The Parking Lot was subsequently redesigned to include a second story to accommodate additional parking (“**Parking Structure**”).

D. The additional parking provided by the Parking Structure will also benefit the broader Ontario Downtown Euclid Avenue District (“**District**”) parking needs pursuant to the Scope of Development attached to the DDA as Exhibit “B.” In addition to the benefits described in the DDA, the expansion of the parking provides additional development and joint parking opportunities, is consistent with the City goals to provide additional parking in the downtown civic, business and shopping areas and will result in increased pedestrian activity in the surrounding area which will benefit the local community. Further, the parking improvement project will include improvements to infrastructure in the immediately adjacent area including utility undergrounding, new sidewalks, and street improvements.

NOW THEREFORE, in consideration of the mutual covenants set forth herein and the mutual benefits to be derived therefrom, the Parties agree as follows:

### **TERMS**

1. **Incorporation of Recitals.** The Parties agree that the Recitals constitute the factual basis upon which City and Developer have entered into this Agreement. City and Developer each acknowledge the accuracy of the Recitals and agree that the Recitals are incorporated into this Agreement as though fully set forth at length.

2. **Reimbursement of Unanticipated Costs.** In light of the insufficient parking capacity and City's desire to accommodate additional District parking, City intends to provide, through this Reimbursement Agreement, funding of up to \$700,000 ("City Financial Consideration") in general funds to offset actual documented unanticipated infrastructure-related costs associated with construction of the Parking Structure.

2.1 In order to receive the City Financial Consideration Developer shall submit to the City a written request for funds up to the amount of the City Financial Consideration ("Payment Request"). The City shall review the Payment Requests, and if approved, the City shall authorize and pay such Payment Request to Developer within thirty (30) days thereafter. The City's approval shall be given if the City determines, in the exercise of its judgment, reasonably exercised, that the costs set forth on the Payment Request are reasonable and customary. The City's obligation to approve a Payment Request shall be contingent upon the City's receipt and approval, which shall not be unreasonably withheld or delayed, of the following, if applicable:

(a) The Payment Request, which shall include a description of the work performed, material supplied and cost associated therewith;

(b) Conditional waivers and releases of mechanics' liens, stop notice claims or other lien claim rights;

(c) Bills, invoices, vouchers, statements, contract, bid specifications and responses and all other documents evidencing the amount paid by Developer for the preceding month;

(d) Evidence of inspection and acceptance by the City's Building Department of the Improvements to which the Payment Request pertains or evidence of approval of all required plans by the City's Building Department for the Improvements; and

(e) Any other document, requirement, evidence or information in Developers' possession or under Developers' control that City may reasonably request.

2.2 The City may, at its cost, cause an inspection of the work and a verification of the work completed. Developers', or Developers' lender as applicable, shall inspect the Parking Structure regularly and confirm the Payment Request and conditional waivers and

releases (described in subsection (b) above) are accurate and submitted timely.

3. Prevailing Wage Obligation. Developer acknowledges that the use of public funding for the Parking Structure triggers prevailing wage obligations for the construction of the Parking Structure and that Developer will comply with the applicable prevailing wage requirements and indemnify City for any prevailing wage obligations associated with the Parking Structure's construction.

4. Developer's Obligation to Construct Parking Structure. In complete satisfaction of Developer's obligations under the DDA and this Agreement and in consideration for City's reimbursement obligations under this Agreement, Developer shall, at its sole cost, expense and liability, construct the Parking Structure. Developer shall construct the Parking Structure in accordance with plans and specifications to be approved by the City, in accordance with then-current City standards and policies pursuant to Section 7.1.2 herein.

5. Project Description. City and Developer agree the project is envisioned as a 211-space multi-level parking facility to include improvements to nearby infrastructure include utility undergrounding, new sidewalks, and street improvements.

6. Property Ownership. The Easement Property is owned by the City of Ontario and the Parties intend for the City to remain the fee title owner of the Property, subject to Developer's easement as described in the Parking Agreement.

7. Developer to Obtain all Approvals for the Parking Structure.

7.1.1 California Environmental Quality Act (CEQA) Compliance. The City and Developer acknowledge that the proposed Parking Structure may be subject to CEQA and that this Agreement in no way commits the City to the approval on any project or CEQA determination related to the proposed Parking Structure. Developer agrees that an initial study will be prepared pursuant to CEQA and the appropriate environmental documents shall be prepared prior to project commencement of the proposed Parking Structure. Developer shall be responsible for all costs associated with the preparation of the CEQA documents.

7.1.2 City Reservation of Discretion and Compliance with Applicable Law. It is understood that the City reserves the right to exercise their discretion as to all matters, which the City is by law entitled to or required to exercise its discretion. The City's zoning, building and land use regulations (whether contained in ordinances, the City's municipal code, conditions of approval or elsewhere), shall be applicable to the construction of the Parking Structure by Developer. In addition, any agreements, amendments or approvals processed for City Council approval will be subject to and brought to City Council for consideration in accordance with applicable legal requirements.

8. Assignability. This Agreement may not be assigned by either Party without the prior and express written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Any attempted assignment of this Agreement not in compliance with the terms of this Agreement shall be null and void and shall confer no rights or benefits upon the assignee.



With courtesy copy to: Best Best & Krieger, LLP  
18101 Von Karman Avenue, Suite 1000  
Irvine, California 92612  
Attention: Elizabeth Hull

12. No Oral Modifications. This Agreement may be modified, only in writing signed by the authorized representatives of both City and Developer.

13. Binding Upon Successors. This Agreement and each of its terms shall be binding upon City and Developer and their respective officers, elected officials, employees, agents, contractors, and permitted successors and assigns.

14. No Third Party Beneficiaries. This Agreement is entered into solely for the benefit of the Parties. No person or entity has any rights or remedies under this Agreement.

15. Attorneys' Fees. In the event that any action or proceeding, including arbitration, is commenced by either City or Developer against the other to establish the validity of this Agreement or to enforce any one or more of its terms, the prevailing party in any such action or proceeding shall be entitled to recover from the other, in addition to all other legal and equitable remedies available to it, its actual attorneys' fees and costs of litigation, including, without limitation, filing fees, service fees, deposition costs, arbitration costs and expert witness fees, including actual costs and attorneys' fees on appeal.

16. Indemnification. Developer hereby agrees to indemnify, defend and save City harmless from any and all liability, damage, expense, causes of action, suits, claims or judgments of any nature, including attorneys' fees, arising from injury or death to persons, or damage to property arising out of or in any way connected with the negligent acts, errors or omissions or willful misconduct by Developer or Developer's officers, agents, employees, independent contractors or subcontractors relating in any manner to this Agreement occurring on the Easement Property, except if caused by the sole negligence or willful misconduct of City.

17. Jurisdiction and Venue. This Agreement is executed and is to be performed in San Bernardino County, California, and any action or proceeding brought relative to this Agreement shall be heard in the appropriate court in the County of San Bernardino, California. City and Developer each consent to the personal jurisdiction of the court in any such action or proceeding.

18. Severability. If any term or provision of this Agreement is found to be invalid or unenforceable, City and Developer both agree that they would have executed this Agreement notwithstanding the invalidity of such term or provision. The invalid term or provision may be severed from the Agreement and the remainder of the Agreement may be enforced in its entirety.

19. Headings. The headings of each Section of this Agreement are for the purposes of convenience only and shall not be construed to either expand or limit the express terms and language of each Section.

20. Representations of the Parties. Each person signing this Agreement on behalf of a Party which is not a natural person hereby represents and warrants to the other Party that all necessary legal prerequisites to that Party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the Party on whose behalf he or she signs.

**DEVELOPER:**

SEC Euclid & Holt Avenue Property L.P., a California limited partnership

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**CITY:**

CITY OF ONTARIO, a California municipal corporation

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: Al C. Boling

Its: City Manager

ATTEST:

By: \_\_\_\_\_

City Clerk

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: \_\_\_\_\_

City Attorney

# CITY OF ONTARIO

*Agenda Report*

February 3, 2015

SECTION:  
PUBLIC HEARINGS

**SUBJECT: A PUBLIC HEARING TO CONSIDER ADOPTION OF A RESOLUTION TO UPDATE AND MODIFY DEVELOPMENT IMPACT FEES**

**RECOMMENDATION:** That the City Council adopt a resolution to update and modify the City's Development Impact Fees (DIF).

**COUNCIL GOALS:** Regain Local Control of the Ontario International Airport

Invest in Growth and Evolution of the City's Economy

Focus Resources in Ontario's Commercial and Residential Neighborhoods

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

Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

**FISCAL IMPACT:** The proposed update of the DIF amounts primarily reflects modifications to the underlying land acquisition cost assumptions. Based on a recent appraisal of land acquisition costs and basic improvement costs in the New Model Colony area, the land acquisition cost assumption is being modified from \$120,983 per acre to \$400,000 per acre; and the cost assumption for grading and basic public improvements is proposed to be modified from \$40,000 per acre to \$168,678 per acre. The resulting proposed changes to the land acquisition cost assumptions primarily impact the fees for the Parkland Facilities Development category. This category of fees only applies to residential land use categories. This proposed update of the Development Impact Fees continues to reflect the City Council's goal that development pay its fair share of the costs for infrastructure; and that development in the New Model Colony should not have a negative fiscal impact on current residents.

**BACKGROUND:** On July 1, 2003, the City Council adopted Ordinance Nos. 2779 and 2780 to approve Development Impact Fees for the City. Comprehensive updates of the DIF Program, including the application of various indices to DIF project costs estimates, were approved in 2005, 2007, 2011 and 2012. The regular and periodic review of the DIF Program helps ensure that the resulting fees reflect market trends. The Development Impact Fees were most recently updated in 2012 to reflect land use

**STAFF MEMBER PRESENTING:** Otto Kroutil, Development Director

Prepared by: Bob Chandler  
Department: Management Services

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/03/2015  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

14

changes and related changes to infrastructure Master Plans as a result of the adoption of The Ontario Plan.

Since the adoption of The Ontario Plan and the comprehensive DIF Program review in 2012, there have been minimal changes in the scope of DIF Program projects or the estimated costs of DIF Program projects. While these DIF Program cost factors have remained relatively stable, the land acquisition costs have fluctuated significantly during the same period. In 2011, the City Council approved a **reduction** in the estimated land acquisition costs used in the DIF Program from \$450,000 per acre to the current estimated land acquisition costs of \$120,983 per acre, resulting in decreases in several DIF categories. Staff is now recommending an upward adjustment of those same estimated land acquisition costs to \$400,000 per acre; but short of the \$450,000 amount which was in place just a few years ago.

The proposed modification in the land acquisition costs primarily impacts the DIF in the Parkland Facilities Development category. However, the proposed increase in the land acquisition costs also has minor impacts in a few other DIF categories, including: Fire Suppression/Medic Facilities, Vehicles and Equipment (Fire Station site costs); Water System Source, Storage and Distribution Systems (well site costs); Library Facilities and Collection; and Public Meeting Facilities.

This DIF Program update also reflects minor changes to the DIF in the Circulation (Streets, Bridges, and Signals) System to reflect modifications by SANBAG pertaining to several projects in SANBAG’s Nexus Study as well as the addition of a DIF Project for provision of Bus Shelters in the New Model Colony area. Other DIF Program categories for the New Model Colony also included minor modifications to reflect the costs of several design studies that were required for the initial design of the public infrastructure in the New Model Colony area.

Exhibit A of the recommended resolution contains the proposed updated DIF amounts for the New Model Colony area and the balance of the City (Old Model Colony). The following is a summary of the current and proposed updated DIF amounts for the New and Old Model Colonies (Residential Categories are per unit fees and Non-residential Categories are per square foot fees):

| Category                  | Current*<br>Old Model Colony | Proposed*<br>Old Model Colony | Percent<br>Change | Current<br>New Model Colony | Proposed<br>New Model Colony | Percent<br>Change |
|---------------------------|------------------------------|-------------------------------|-------------------|-----------------------------|------------------------------|-------------------|
| Residential, Detached     | \$22,945                     | \$27,873                      | 21.5%             | \$30,740                    | \$35,734                     | 16.2%             |
| Residential, Attached     | \$16,353                     | \$20,688                      | 26.5%             | \$18,983                    | \$23,354                     | 23.0%             |
| Residential, High Density | \$11,952                     | \$15,365                      | 28.6%             | \$13,579                    | \$17,022                     | 25.4%             |
| Mobile Homes              | \$15,875                     | \$19,941                      | 25.6%             | Not Applicable              | Not Applicable               | N/A               |
| Commercial Lodging        | \$3,929                      | \$4,010                       | 2.1%              | \$7,338                     | \$7,443                      | 1.4%              |
| Retail/Service Uses       | \$7.185                      | \$7.491                       | 4.3%              | \$14.759                    | \$15.143                     | 2.6%              |
| Office Uses               | \$5.700                      | \$5.887                       | 3.3%              | \$10.545                    | \$10.823                     | 2.6%              |
| Business Park Uses        | \$5.960                      | \$6.143                       | 3.1%              | \$10.199                    | \$10.431                     | 2.3%              |
| Industrial Uses           | \$3.188                      | \$3.281                       | 2.9%              | \$6.374                     | \$6.490                      | 1.8%              |
| Institutional Uses        | \$5.905                      | \$6.104                       | 3.4%              | \$9.968                     | \$10.215                     | 2.5%              |

\*Maximum Fee amounts are shown for comparison; Old Model Colony Development Impact Fees may be reduced by specified percentages, depending on development category and type of development to encourage affordable housing, multi-story development and construction of structured parking facilities.

It should be noted that during the most recent DIF update in 2012, Development Impact Fees for all residential land use categories were reduced by approximately 5% to 7%, due primarily to the increases in the projected number of residential dwelling units included in The Ontario Plan.

Staff has worked cooperatively with representatives of NMC Builders, regarding the modification to the land acquisition costs and the resulting impact on the Parkland Acquisition and Development category fees. Several of the NMC Builders' member developers currently own property which must be acquired for development of the planned Great Park to be constructed in the New Model Colony. Correspondence received from developers are attached to this report. Additionally, staff has notified the Building Industry Association (BIA) of the proposed update to the DIF.

All supporting information for the proposed fee amounts have been incorporated in an update to the Nexus Schedules and Master Facilities Plan prepared by Revenue and Cost Specialists, LLC. The resolution updating the DIF will be effective upon adoption, and the updated fees will go into effect after 60 days, on April 6, 2015, if approved.

# Lewis Operating Corp.

A Member of the Lewis Group of Companies  
1156 North Mountain Avenue • P.O. Box 670 • Upland, California 91785-0670  
Phone 909.985.0971 • Fax 909.931.5516 • www.lewisop.com

**Writer's E-mail: [leon.swails@lewisop.com](mailto:leon.swails@lewisop.com)**  
**Writer's Direct Phone: 909.946.7529**

January 30, 2015

**Mr. Al Boling**  
**City Manager**  
City of Ontario  
303 E. B Street  
Ontario, CA 91764

## **Regarding: City of Ontario Master Plan and Development Impact Fee Program 2015 Update**

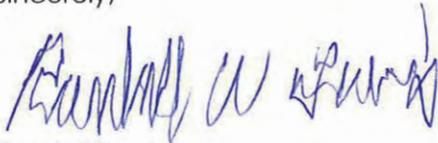
Dear Mr. Boling:

The purpose of this letter is to state the Lewis Companies position on the proposed 2015 Development Impact Fee Program to be considered at the City Council meeting on the February 3 agenda.

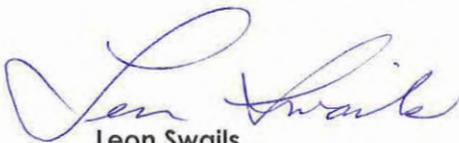
While no one likes fees to increase, there are times when an increase is necessary and appropriate when considering the type of community that is being developed over a very long period of time. As a large owner of property in Ontario's New Model Colony and a developer who takes a very long view of our communities we develop, we firmly believe that 2015 DIFs being proposed are both fair and appropriate and therefore are fully supportive of the proposed changes.

We also very much appreciate the time you and your staff have spent with us, as well as others in the development community as the new fee program was being formulated. It was a collaborative effort and has resulted in what we at Lewis believe is a correct result.

Sincerely,



**Randall Lewis**  
**Executive Vice-President**



**Leon Swails**  
**Chief Operating Officer**  
**Lewis Planned Communities**

LCS/omd

# RCCD, Inc.

---

January 30, 2015

**Mr. Al Boling**  
**City Manager**  
City of Ontario  
303 E. B Street  
Ontario, CA 91764

**Regarding: City of Ontario Master Plan and Development Impact Fee Program 2015 Update**

Dear Al:

The purpose of this letter is to express our support for the City's updated Development Impact Fee (DIF) programs as proposed.

We have spent a significant amount of time evaluating the updated fees and have worked in cooperation with the City staff to gain an understanding of the components and justifications for the increased fees.

While any increase in fees negatively impacts our property values, we understand that a certain level of fees is necessary to support the improvements and related program costs that the City of Ontario is planning and that our future residents will enjoy. After evaluation, we have concluded that the fee increases are reasonable and we support the updated DIF fee schedule as proposed.

Please feel free to contact me at (714) 637-4405 x107 with any questions or concerns you may have.

Sincerely,



Richard Cisakowski  
President  
RCCD, Inc.  
A California Corporation

January 29, 2015

City of Ontario  
303 East B Street  
Ontario, CA 90764

**Re: Proposed DIF Increase**

Dear City Manager and Members of the City Council,

The proposed City DIF increase comes at the infancy of our industry's recovery for the region and is not good timing. Although the larger factors at work (employment, interest rates, housing starts, etc.) are showing signs of a recovery in Southern California, in our geographic area (the Western IE), we are still seeing the home building industry struggle.

As an example, please consider the following five factors:

1. According to Hanley-Wood, the overall sales rate over the last 13 weeks for the SW-NW San Bernardino CMA is .32 per community per week. This ranks as one of the lowest sales rates in the greater Los Angeles area. A healthy market is considered 1 per week.
2. John Burns Real Estate Consulting (JBRC) is forecasting new home pricing in the RIV-SB area will go down 1.9% in 2015 and then down another 0.2% in 2016.
3. JBRC also reported last month that in RIV-SB pre-foreclosure notices as a percentage of total sales (rolling 12-month) are still hovering around 20%. This continues to put downward pressure on new home sales volume and price growth.
4. Park Place Ontario has been open for 10-11 weeks now and has only sold 4 homes. Anywhere between 40 and 60 would be considered a success.
5. Some NMC Builders members have been trying to sell property to builders to build homes but transactions cannot be made because of the existing uncertainties of this specific market.

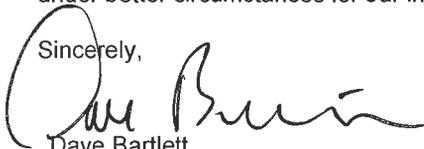
Brookfield's own business plan for 2015 is reacting to these market dynamics and the additional fees certainly weighs into this evaluation and our investment. The potential exposure to our company is approximately \$25 million.

The merchant builders in Park Place Ontario will only be subject to a \$750 increase of the \$4,994 proposed increase on single-family detached homes apparently because of park improvements that were made as part of the project. Therefore, this increase is di minimis to that particular group. However, the other builders pulling building permits in the NMC will be carrying the full burden of the 16% increase for SFD and 23%-25% increase for the attached programs. In addition, builders in the OMC will be carrying even a bigger burden at a 21% increase for detached and a 26% for attached.

The attached programs, especially first time buyer programs and apartments are critical to the success of the home building industry's complete recovery in this region. First, the existing attached DIF fees and the CFD O&M in the NMC make land value for apartments a negative value. Therefore, layering on this additional fee at this time only exacerbates the existing adverse situation. Second, the first time buyer program for a new home can typically involve an attached product; and by adding another 23-26% to the purchase price through the fee increase, is in direct conflict with the basic objective of the home building industry... which to get the first time buyers into the market again so our industry can fully recover.

Just as the Federal Bank has not raised interest rates due to the sensitivity of our nation's recovery, we would recommend the City to do the same and defer a fee increase at this time and perhaps reconsider next year, hopefully under better circumstances for our industry.

Sincerely,



Dave Bartlett  
Vice President of Land – Brookfield Residential  
D: 714.200.1533 C: 714.329.3203 F: 714.200.1833  
[Dave.Bartlett@brookfieldrp.com](mailto:Dave.Bartlett@brookfieldrp.com)

Copies to: BIA – Southern California and Baldy View Chapter

January 23, 2015

City of Ontario  
303 East "B" Street  
Ontario, CA 91764



*Baldy View Chapter*

8711 Monroe Court, Suite B  
Rancho Cucamonga,  
California 91730  
ph 909.945.1884  
fx 909.948.9631  
[www.biabuild.com](http://www.biabuild.com)

**RE: Development Impact Fees**

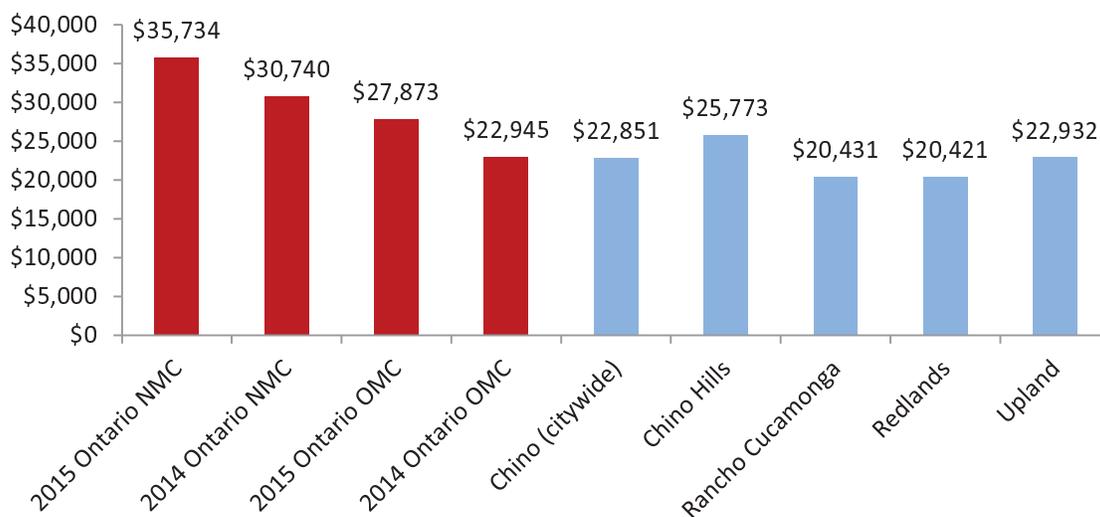
Dear Mayor Leon and fellow City Council Members,

The BIA Baldy View Chapter (BIA) appreciates the time city staff has taken to discuss the proposed updates to the Development Impact Fee (DIF) schedule. **We respectfully request the City Council consider instituting a Phase-In approach to the proposed DIF increases over the next 12 months and establishing a permanent DIF payment Deferral Program.**

**Observations:**

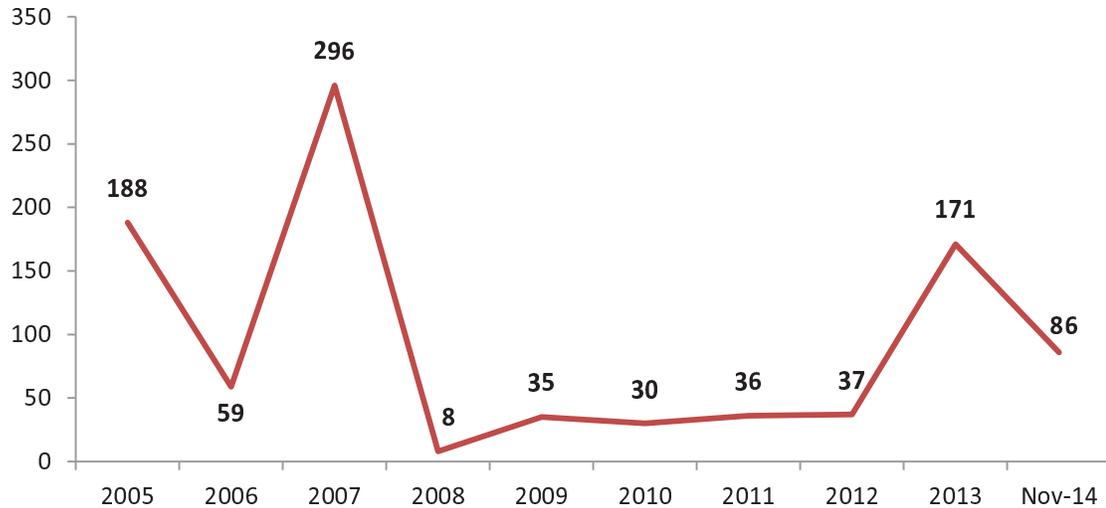
1. The proposed update to the DIF represents a significant increase per single-family detached dwelling unit in both the Old Model Colony and New Model Colony (21.5% and 16.2% respectively). The approximate \$5,000 increase per SFD unit will give Ontario the highest DIFs in the area when compared to adjacent cities (see chart below).

**Development Impact Fees per EDU**  
(Single-Family Residential)



2. Ontario, like many other Southern California cities, has seen a sharp decline in building permit activity over the past several years. Residential permit activity is still well below that of a healthy market and is down almost 50% from 2013 to 2014. Below is a chart detailing single-family home permits in Ontario since 2005.

### City of Ontario Permits History (Single-Family)



3. The proposed DIF increases range from \$4,994 to \$3,413 per unit. The table below compares the current and proposed development impact fees totals by residential land-use category.

| NEW MODEL COLONEY   |                   |                    |             |            |
|---------------------|-------------------|--------------------|-------------|------------|
| Land-Use Category   | Current DIF /unit | Proposed DIF/ unit | \$ Increase | % Increase |
| Detached Dwelling   | \$30,740          | \$35,734           | \$4,994     | 16.2%      |
| Attached Dwelling   | \$18,983          | \$23,354           | \$4,371     | 23.0%      |
| Hi-Density Dwelling | \$13,579          | \$17,022           | \$3,443     | 25.4%      |
| OLD MODEL COLONEY   |                   |                    |             |            |
| Land-Use Category   | Current DIF /unit | Proposed DIF/ unit | \$ Increase | % Increase |
| Detached Dwelling   | \$22,945          | \$27,873           | \$4,928     | 21.5%      |
| Attached Dwelling   | \$16,353          | \$20,688           | \$4,335     | 26.5%      |
| Hi-Density Dwelling | \$11,952          | \$15,365           | \$3,413     | 28.6%      |

4. Other local cities have taken a bold pro-business policy approach to encourage a sustained economic recovery in their respective housing markets. Below is a list of cities who recently chose to phase-in, reduce or forego DIF increases.

**Best Practices: Development Impact Fee**

| City             | Program                             |
|------------------|-------------------------------------|
| Rancho Cucamonga | 18 month Phase-In of new DIFs       |
| Hesperia         | 25% Temporary DIF reduction         |
| San Bernardino   | 50% Temporary DIF reduction         |
| Redlands         | 7% DIF reduction from annual review |
| Fontana          | DIF freeze in 2013 and 2014         |
| Chino            | DIF freeze in 2013 and 2014         |

**Recommendations:**

1. **Phase-In the DIF increases:** BIA recommends that the residential DIF increases in both the NMC and OMC be phased for all residential development types (detached, attached and high-density) over the next 12 months.
  - a. Immediate 100% implementation of all DIF increases excluding Parks (Fire, Streets, Storm Drainage, Water, Library and Public Meetings)
  - b. 50% implementation of Park fee 6 months from adoption
  - c. 100% implementation of Park fee 12 months from adoption
2. **Grandfather Exemption:** Grandfather all approved projects in OMC under the current DIF schedule to ensure the progress and viability of existing residential entitlements are not threatened.

**Permanent DIF Payment Deferral Program:** Establish a permanent DIF payment Deferral Program throughout the city that has been successfully implemented since 2008. As stated in the City staff report dated Dec. 17, 2013 (see attached), a DIF payment Deferral Program is in line with the Council Goals to: *“Minimize the negative impacts of the global financial downturn in Ontario’s economy and the City’s fiscal health. Invest in the growth and evolution of the City’s economy. Invest in the City’s Infrastructure.”*

We oppose the current DIF proposal as submitted to the City Council due to the adverse impact it would have on projects that are anticipated in the next 12-months. However, the three aforementioned BIA recommendations represent a balanced approach to implementing a significant fee increase at a time where the Ontario housing market continues to struggle.

Furthermore, our three recommendations enables the City to capture the revenue needed for future infrastructure while also taking steps to protect job creation and economic activity resulting from future home construction. Please note, the National Association of Home Builders (NAHB) estimates that just 100 new homes creates 377 full time jobs, \$13 million in local tax revenues for a city and a net benefit of \$4 million over a 15 year period (see attached).

**In conclusion, we urge the City Council to adopt our three recommendations regarding the proposed significant DIF increase.** BIA remains committed to working with you to ensure a high standard of quality of life for families in the great City of Ontario. Please feel free to contact me if you have any questions or comments regarding this letter.

Respectfully,

A handwritten signature in black ink that reads "Carlos Rodriguez". The signature is written in a cursive, flowing style.

Carlos Rodriguez, CEO

CC: Al C. Boling, City Manager

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, UPDATING AND MODIFYING DEVELOPMENT IMPACT  
FEES.

WHEREAS, on July 1, 2003, the City Council of the City of Ontario (the "City Council") adopted Ordinance Nos. 2779 and 2780 to implement new and modified Development Impact Fees in recognition of the need to finance adequate infrastructure and other public improvements and facilities made necessary by new development in the City of Ontario ("City"); and

WHEREAS, the City Council previously adopted Resolution No. 2003-039 to establish policies for the implementation of the new and modified Development Impact Fees; Resolution No. 2003-070 to establish additional definitions and policies for the application of Development Impact Fees; and Resolution Nos. 2005-005, 2005-099, 2007-023, 2007-150, 2011-011, and 2012-092 to update and modify Development Impact Fee amounts; and

WHEREAS, City staff and Revenue and Costs Specialists LLC, have reviewed the Development Impact Fees program and the updated infrastructure Master Plans and Revenue and Costs Specialists LLC has produced an updated Development Impact Fees report, entitled "Development Impact Fee Calculation and Nexus Report for the City of Ontario, California," dated November 12, 2014, which includes recommendations and support for updated Development Impact Fee amounts; and

WHEREAS, the Development Impact Fees Calculation and Nexus Report, referenced above, complies with Government Code Section 66001 by establishing the basis for the imposition of fees, and the fee amounts for new development. In particular, the Development Impact Fee Calculation and Nexus Report:

1. Identifies the purpose of each development fee;
2. Identifies the use to which the fee will be put;
3. Shows a reasonable relationship between the fees use and the type of development project upon which the fee is imposed;
4. Shows a reasonable relationship between the need for the public facility and the type of development project upon which the fee is imposed; and
5. Shows a reasonable relationship between the amount of the fee and the costs of the public facility or portion of the public facility that is attributed to the development upon which the fee is imposed; and

WHEREAS, in accordance with Government Code Section 66000, et seq., a copy of the above referenced Development Impact Fees Calculation and Nexus Report has been made available for inspection by the public at Ontario City Hall for 10 days prior to the adoption of this Resolution; and

WHEREAS, the previously-adopted Ordinance No. 2779 stated that “The Fee Schedule may be amended from time to time by resolution of the City Council, in compliance with the Mitigation Fee Act, Government Code Section 66000, et seq.”

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

SECTION 1. The above recitals are true and correct.

SECTION 2. The Development Impact Fee amounts contained in “Exhibit A” of the previous Resolution are hereby updated and modified in accordance with “Exhibit A” of this Resolution. The provisions of this Resolution are supplemental to the provisions of previous Resolution Nos. 2003-039, 2003-070, 2005-005, 2005-099, 2007-023, 2007-150, 2011-011 and 2012-092. The “Exhibit A” of previous Resolution No. 2012-092 shall be repealed and replaced by “Exhibit A” of this Resolution.

SECTION 3. This Resolution, including the updated fee amounts contained in “Exhibit A” attached hereto and incorporated herein, shall be effective for all building permits, and grading permits, when applicable, on April 6, 2015.

SECTION 4. The remaining provisions of Resolution No. 2003-039 and previous resolutions shall not be affected and shall remain in effect to the extent not inconsistent herewith.

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

PASSED, APPROVED, AND ADOPTED this 3<sup>rd</sup> day of February 2015.

---

PAUL S. LEON, MAYOR

ATTEST:

---

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

---

BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 3, 2015 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:            COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015-        duly passed and adopted by the Ontario City Council at their regular meeting held February 3, 2015.

\_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

## EXHIBIT A

### *City of Ontario* *Development Impact Fee Schedule*

#### **Old Model Colony – Maximum Law Enforcement Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee Per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$373/Unit                  |
| Attached Dwellings       | \$334/Unit                  |
| High Density Dwellings   | \$334/Unit                  |
| Mobile Home Dwellings    | \$179/Unit                  |
| Commercial Lodging Units | \$138/Unit                  |
| Retail/Services Uses     | \$.517/S.F.                 |
| Office Uses              | \$.690/S.F.                 |
| Business Park Uses       | \$.221/S.F.                 |
| Industrial Uses          | \$.013/S.F.                 |
| Institutional Uses       | \$.094/S.F.                 |

#### **Old Model Colony – Maximum Fire Suppression Facilities, Vehicles and Equipment Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee Per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$262/Unit                  |
| Attached Dwellings       | \$219/Unit                  |
| High Density Dwellings   | \$219/Unit                  |
| Mobile Home Dwellings    | \$230/Unit                  |
| Commercial Lodging Units | \$112/Unit                  |
| Retail/Services Uses     | \$.230/S.F.                 |
| Office Uses              | \$.936/Unit                 |
| Business Park Uses       | \$.143/S.F.                 |
| Industrial Uses          | \$.010/S.F.                 |
| Institutional Uses       | \$.069/S.F.                 |

#### **Old Model Colony – Maximum Regional Streets, Signals and Bridges Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$1,922/Unit                |
| Attached Dwellings       | \$1,284/Unit                |
| High Density Dwellings   | \$794/Unit                  |
| Mobile Home Dwellings    | \$1,001/Unit                |
| Commercial Lodging Units | \$1,014/Unit                |
| Retail/Services Uses     | \$3.884/S.F.                |
| Office Uses              | \$2.220/S.F.                |
| Business Park Uses       | \$2.310/S.F.                |
| Industrial Uses          | \$1.190/S.F.                |
| Institutional Uses       | \$2.537/S.F.                |

**Old Model Colony – Maximum Local Adjacent Streets, Signals and Bridges  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$641/Unit                  |
| Attached Dwellings       | \$428/Unit                  |
| High Density Dwellings   | \$265/Unit                  |
| Mobile Home Dwellings    | \$334/Unit                  |
| Commercial Lodging Units | \$338/Unit                  |
| Retail/Services Uses     | \$1.295/S.F.                |
| Office Uses              | \$.740/S.F.                 |
| Business Park Uses       | \$.770/S.F.                 |
| Industrial Uses          | \$.397/S.F.                 |
| Institutional Uses       | \$.846/S.F.                 |

**Old Model Colony – Maximum Regional Storm Drainage Facilities  
Development Impact Fees by Land Use**

| Proposed Land Use        | Fee Per Unit or S.F. | Fee Per Acre (NOTE) |
|--------------------------|----------------------|---------------------|
| Detached Dwellings       | \$169/Unit           | -                   |
| Attached Dwellings       | \$54/Unit            | -                   |
| High Density Dwellings   | \$25/Unit            | -                   |
| Mobile Home Dwellings    | \$72/Unit            | -                   |
| Commercial Lodging Units | \$10/Unit            | -                   |
| Retail/Services Uses     | \$.053/S.F.          | \$1,054/Acre        |
| Office Uses              | \$.020/S.F.          | \$1,054/Acre        |
| Business Park Uses       | \$.054/S.F.          | \$1,025/Acre        |
| Industrial Uses          | \$.050/S.F.          | \$1,113/Acre        |
| Institutional Uses       | \$.051/S.F.          | \$1,113/Acre        |

**NOTE: The fee will be based on the per acre amount when the square footage is less than 19,965 for Retail/Service Uses; 53,648 for Office Uses; 18,892 for Business Park Uses; 22,344 for Industrial Uses; and 21,775 for Institutional Uses.**

**Old Model Colony – Maximum Local Adjacent Storm Drainage Facilities  
Development Impact Fees by Land Use**

| Proposed Land Use        | Fee Per Unit or S.F. | Fee Per Acre (NOTE) |
|--------------------------|----------------------|---------------------|
| Detached Dwellings       | \$3,215/Unit         | -                   |
| Attached Dwellings       | \$1,033/Unit         | -                   |
| High Density Dwellings   | \$480/Unit           | -                   |
| Mobile Home Dwellings    | \$1,368/Unit         | -                   |
| Commercial Lodging Units | \$180/Unit           | -                   |
| Retail/Services Uses     | \$1.003/S.F.         | \$20,030/Acre       |
| Office Uses              | \$.373/S.F.          | \$20,030/Acre       |
| Business Park Uses       | \$1.031/S.F.         | \$19,473/Acre       |
| Industrial Uses          | \$.946/S.F.          | \$21,142/Acre       |
| Institutional Uses       | \$.971/S.F.          | \$21,142/Acre       |

**NOTE: The fee will be based on the per acre amount when the square footage is less than 19,965 for Retail/Service Uses; 53,648 for Office Uses; 18,892 for Business Park Uses; 22,344 for Industrial Uses; and 21,775 for Institutional Uses.**

**Old Model Colony – Maximum Regional Water Distribution  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$3,990/Unit                |
| Attached Dwellings       | \$2,728/Unit                |
| High Density Dwellings   | \$1,841/Unit                |
| Mobile Home Dwellings    | \$2,728/Unit                |
| Commercial Lodging Units | \$1,100/Unit                |
| Retail/Services Uses     | \$.202/S.F.                 |
| Office Uses              | \$.426/S.F.                 |
| Business Park Uses       | \$.793/S.F.                 |
| Industrial Uses          | \$.294/S.F.                 |
| Institutional Uses       | \$.741/S.F.                 |

**Old Model Colony – Maximum Local Adjacent Water Distribution  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$998/Unit                  |
| Attached Dwellings       | \$682/Unit                  |
| High Density Dwellings   | \$460/Unit                  |
| Mobile Home Dwellings    | \$682/Unit                  |
| Commercial Lodging Units | \$275/Unit                  |
| Retail/Services Uses     | \$.051/S.F.                 |
| Office Uses              | \$.106/S.F.                 |
| Business Park Uses       | \$.198/S.F.                 |
| Industrial Uses          | \$.074/S.F.                 |
| Institutional Uses       | \$.185/S.F.                 |

**Old Model Colony – Maximum Regional Sewer Collection  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$423/Unit                  |
| Attached Dwellings       | \$370/Unit                  |
| High Density Dwellings   | \$318/Unit                  |
| Mobile Home Dwellings    | \$371/Unit                  |
| Commercial Lodging Units | \$247/Unit                  |
| Retail/Services Uses     | \$.020/S.F.                 |
| Office Uses              | \$.090/S.F.                 |
| Business Park Uses       | \$.104/S.F.                 |
| Industrial Uses          | \$.057/S.F.                 |
| Institutional Uses       | \$.120/S.F.                 |

**Old Model Colony - Maximum Local Adjacent Sewer Collection  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$635/Unit                  |
| Attached Dwellings       | \$556/Unit                  |
| High Density Dwellings   | \$476/Unit                  |
| Mobile Home Dwellings    | \$556/Unit                  |
| Commercial Lodging Units | \$370/Unit                  |
| Retail/Services Uses     | \$.030/S.F.                 |
| Office Uses              | \$.136/S.F.                 |
| Business Park Uses       | \$.156/S.F.                 |
| Industrial Uses          | \$.085/S.F.                 |
| Institutional Uses       | \$.179/S.F.                 |

**Old Model Colony - Maximum Solid Waste Collection  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$630/Unit                  |
| Attached Dwellings       | \$434/Unit                  |
| High Density Dwellings   | \$217/Unit                  |
| Mobile Home Dwellings    | \$434/Unit                  |
| Commercial Lodging Units | \$145/Unit                  |
| Retail/Services Uses     | \$.107/S.F.                 |
| Office Uses              | \$.072/S.F.                 |
| Commercial/Restaurants   | \$.495/S.F.                 |
| Business Park Uses       | \$.188/S.F.                 |
| Industrial Uses          | \$.085/S.F.                 |
| Institutional Uses       | \$.150/S.F.                 |

**Old Model Colony - Maximum General Facilities, Vehicles  
and Equipment Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee Per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$572/Unit                  |
| Attached Dwellings       | \$119/Unit                  |
| High Density Dwellings   | \$87/Unit                   |
| Mobile Home Dwellings    | \$271/Unit                  |
| Commercial Lodging Units | \$81/Unit                   |
| Retail/Services Uses     | \$.099/S.F.                 |
| Office Uses              | \$.078/S.F.                 |
| Business Park Uses       | \$.175/S.F.                 |
| Industrial Uses          | \$.080/S.F.                 |
| Institutional Uses       | \$.162/S.F.                 |

**Old Model Colony - Maximum Library Facilities and Collection  
Development Impact Fees by Land Use**

| Proposed Residential Land Use | Impact Fee Per Unit |
|-------------------------------|---------------------|
| Detached Dwellings            | \$1,092/Unit        |
| Attached Dwellings            | \$969/Unit          |
| High Density Dwellings        | \$766/Unit          |
| Mobile Home Dwellings         | \$911/Unit          |

**Old Model Colony - Maximum Public Meeting  
Facilities Development Impact Fees by Land Use**

| Proposed Residential Land Use | Impact Fee Per Unit |
|-------------------------------|---------------------|
| Detached Dwellings            | \$1,180/Unit        |
| Attached Dwellings            | \$1,046/Unit        |
| High Density Dwellings        | \$828/Unit          |
| Mobile Home Dwellings         | \$985/Unit          |

**Old Model Colony - Maximum Aquatics Facilities  
Development Impact Fees by Land Use**

| Proposed Residential Land Use | Impact Fee Per Unit |
|-------------------------------|---------------------|
| Detached Dwellings            | \$77/Unit           |
| Attached Dwellings            | \$69/Unit           |
| High Density Dwellings        | \$55/Unit           |
| Mobile Home Dwellings         | \$65/Unit           |

**Old Model Colony - Maximum Park  
Development Impact Fees by Land Use**

| Residential Land Use   | Impact Fee Per Unit |
|------------------------|---------------------|
| Detached Dwellings     | \$11,694/Unit       |
| Attached Dwellings     | \$10,363/Unit       |
| High Density Dwellings | \$8,200/Unit        |
| Mobile Home Dwellings  | \$9,755/Unit        |

**New Model Colony - Law Enforcement  
Development Impact Fees by Land Use**

| Land Use                 | Impact Fee Per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$373/Unit                  |
| Attached Dwellings       | \$334/Unit                  |
| High Density Dwellings   | \$334/Unit                  |
| Commercial Lodging Units | \$138/Unit                  |
| Retail/Services Uses     | \$.517/S.F.                 |
| Office Uses              | \$.690/S.F.                 |
| Business Park Uses       | \$.221/S.F.                 |
| Industrial Uses          | \$.013/S.F.                 |
| Institutional Uses       | \$.094/S.F.                 |

**New Model Colony - Fire Suppression Facilities, Vehicles  
and Equipment Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$559/Unit                  |
| Attached Dwellings       | \$470/Unit                  |
| High Density Dwellings   | \$470/Unit                  |
| Commercial Lodging Units | \$234/Unit                  |
| Retail/Services Uses     | \$.492/S.F.                 |
| Office Uses              | \$2.005/S.F.                |
| Business Park Uses       | \$.307/S.F.                 |
| Industrial Uses          | \$.022/S.F.                 |
| Institutional Uses       | \$.147/S.F.                 |

**New Model Colony – Regional Streets, Signals and Bridges  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$2,220/Unit                |
| Attached Dwellings       | \$1,482/Unit                |
| High Density Dwellings   | \$917/Unit                  |
| Commercial Lodging Units | \$1,170/Unit                |
| Retail/Services Uses     | \$4.485/S.F.                |
| Office Uses              | \$2.563/S.F.                |
| Business Park Uses       | \$2.667/S.F.                |
| Industrial Uses          | \$1.374/S.F.                |
| Institutional Uses       | \$2.929/S.F.                |

**New Model Colony – Local Adjacent Streets, Signals and Bridges  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$1,816/Unit                |
| Attached Dwellings       | \$1,213/Unit                |
| High Density Dwellings   | \$750/Unit                  |
| Commercial Lodging Units | \$958/Unit                  |
| Retail/Services Uses     | \$3.669/S.F.                |
| Office Uses              | \$2.097/S.F.                |
| Business Park Uses       | \$2.182/S.F.                |
| Industrial Uses          | \$1.125/S.F.                |
| Institutional Uses       | \$2.396/S.F.                |

**New Model Colony – Regional Storm Drainage Impact Fees by Land Use**

| Proposed Land Use        | Fee Per Unit or S.F. | Fee Per Acre (NOTE) |
|--------------------------|----------------------|---------------------|
| Detached Dwellings       | \$2,040/Unit         | -                   |
| Attached Dwellings       | \$463/Unit           | -                   |
| High Density Dwellings   | \$378/Unit           | -                   |
| Commercial Lodging Units | \$330/Unit           | -                   |
| Retail/Services Uses     | \$.830/S.F.          | \$14,509/Acre       |
| Office Uses              | \$.436/S.F.          | \$14,509/Acre       |
| Business Park Uses       | \$.702/S.F.          | \$14,106/Acre       |
| Industrial Uses          | \$.555/S.F.          | \$15,315/Acre       |
| Institutional Uses       | \$.703/S.F.          | \$15,315/Acre       |

**NOTE: The fee will be based on the per acre amount when the square footage is less than 17,476 for Retail/Service Uses; 33,296 for Office Uses; 20,090 for Business Park Uses; 27,606 for Industrial Uses; and 21,780 for Institutional Uses.**

**New Model Colony – Local Adjacent Storm Drainage Impact Fees by Land Use**

| Proposed Land Use        | Fee Per Unit or S.F. | Fee Per Acre (NOTE) |
|--------------------------|----------------------|---------------------|
| Detached Dwellings       | \$3,790/Unit         | -                   |
| Attached Dwellings       | \$860/Unit           | -                   |
| High Density Dwellings   | \$702/Unit           | -                   |
| Commercial Lodging Units | \$612/Unit           | -                   |
| Retail/Services Uses     | \$1.542/S.F.         | \$26,945/Acre       |
| Office Uses              | \$.809/S.F.          | \$26,945/Acre       |
| Business Park Uses       | \$1.304/S.F.         | \$26,196/Acre       |
| Industrial Uses          | \$1.030/S.F.         | \$28,442/Acre       |
| Institutional Uses       | \$1.306/S.F.         | \$28,442/Acre       |

**NOTE: The fee will be based on the per acre amount when the square footage is less than 17,476 for Retail/Service Uses; 33,296 for Office Uses; 20,090 for Business Park Uses; 27,606 for Industrial Uses; and 21,780 for Institutional Uses.**

**New Model Colony – Regional Water Distribution  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$5,333/Unit                |
| Attached Dwellings       | \$2,928/Unit                |
| High Density Dwellings   | \$1,554/Unit                |
| Commercial Lodging Units | \$2,241/Unit                |
| Retail/Services Uses     | \$2.066/S.F.                |
| Office Uses              | \$1.114/S.F.                |
| Business Park Uses       | \$1.578/S.F.                |
| Industrial Uses          | \$1.297/S.F.                |
| Institutional Uses       | \$1.285/S.F.                |

**New Model Colony – Local Adjacent Water Distribution  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$2,286/Unit                |
| Attached Dwellings       | \$1,255/Unit                |
| High Density Dwellings   | \$666/Unit                  |
| Commercial Lodging Units | \$960/Unit                  |
| Retail/Services Uses     | \$.885/S.F.                 |
| Office Uses              | \$.477/S.F.                 |
| Business Park Uses       | \$.676/S.F.                 |
| Industrial Uses          | \$.556/S.F.                 |
| Institutional Uses       | \$.551/S.F.                 |

**New Model Colony – Regional Sewer Collection  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$281/Unit                  |
| Attached Dwellings       | \$213/Unit                  |
| High Density Dwellings   | \$129/Unit                  |
| Commercial Lodging Units | \$164/Unit                  |
| Retail/Services Uses     | \$.060/S.F.                 |
| Office Uses              | \$.106/S.F.                 |
| Business Park Uses       | \$.070/S.F.                 |
| Industrial Uses          | \$.068/S.F.                 |
| Institutional Uses       | \$.082/S.F.                 |

**New Model Colony – Local Adjacent Sewer Collection  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$422/Unit                  |
| Attached Dwellings       | \$320/Unit                  |
| High Density Dwellings   | \$193/Unit                  |
| Commercial Lodging Units | \$246/Unit                  |
| Retail/Services Uses     | \$.091/S.F.                 |
| Office Uses              | \$.158/S.F.                 |
| Business Park Uses       | \$.105/S.F.                 |
| Industrial Uses          | \$.102/S.F.                 |
| Institutional Uses       | \$.122/S.F.                 |

**New Model Colony - Solid Waste Collection  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$630/Unit                  |
| Attached Dwellings       | \$434/Unit                  |
| High Density Dwellings   | \$217/Unit                  |
| Commercial Lodging Units | \$145/Unit                  |
| Retail/Services Uses     | \$.107/S.F.                 |
| Office Uses              | \$.072/S.F.                 |
| Commercial/Restaurants   | \$.495/S.F.                 |
| Business Park Uses       | \$.188/S.F.                 |
| Industrial Uses          | \$.085/S.F.                 |
| Institutional Uses       | \$.150/S.F.                 |

**New Model Colony - General Facilities, Vehicles and Equipment  
Development Impact Fees by Land Use**

| Proposed Land Use        | Impact Fee Per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$572/Unit                  |
| Attached Dwellings       | \$119/Unit                  |
| High Density Dwellings   | \$87/Unit                   |
| Commercial Lodging Units | \$81/Unit                   |
| Retail/Services Uses     | \$.099/S.F.                 |
| Office Uses              | \$.078/S.F.                 |
| Business Park Uses       | \$.175/S.F.                 |
| Industrial Uses          | \$.080/S.F.                 |
| Institutional Uses       | \$.162/S.F.                 |

**New Model Colony - Library Facilities and Collection  
Development Impact Fees by Land Use**

| Residential Land Use   | Impact Fee Per Unit |
|------------------------|---------------------|
| Detached Dwellings     | \$1,092/Unit        |
| Attached Dwellings     | \$969/Unit          |
| High Density Dwellings | \$766/Unit          |

**New Model Colony - Public Meeting Facilities  
Development Impact Fees by Land Use**

| Residential Land Use   | Impact Fee Per Unit |
|------------------------|---------------------|
| Detached Dwellings     | \$1,180/Unit        |
| Attached Dwellings     | \$1,046/Unit        |
| High Density Dwellings | \$828/Unit          |

**New Model Colony - Aquatics Facilities  
Development Impact Fees by Land Use**

| Residential Land Use   | Impact Fee Per Unit |
|------------------------|---------------------|
| Detached Dwellings     | \$77/Unit           |
| Attached Dwellings     | \$69/Unit           |
| High Density Dwellings | \$55/Unit           |

**New Model Colony - Park Development Impact Fees by Land Use**

| Residential Land Use   | Impact Fee Per Unit |
|------------------------|---------------------|
| Detached Dwellings     | \$11,694/Unit       |
| Attached Dwellings     | \$10,363/Unit       |
| High Density Dwellings | \$8,200/Unit        |

**New Model Colony Only – Species, Habitat Conservation and Open Space  
Mitigation**

**Development Impact Fees, per Acre  
(TO BE PAID BY DEVELOPER AS A CONDITION OF  
ISSUANCE OF GRADING PERMIT)**

| Proposed Land Use        | Mitigation Impact Fee per Acre |
|--------------------------|--------------------------------|
| Detached Dwellings       | \$4,320/Acre                   |
| Attached Dwellings       | \$4,320/Acre                   |
| High Density Dwellings   | \$4,320/Acre                   |
| Commercial Lodging Units | \$4,320/Acre                   |
| Retail/Services Uses     | \$4,320/Acre                   |
| Office Uses              | \$4,320/Acre                   |
| Business Park Uses       | \$4,320/Acre                   |
| Industrial Uses          | \$4,320/Acre                   |
| Institutional Uses       | \$4,320/Acre                   |

**New Model Colony Only – Regional Fiber Optic Communication System  
Development Impact Fees**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$199/Unit                  |
| Attached Dwellings       | \$199/Unit                  |
| High Density Dwellings   | \$199/Unit                  |
| Commercial Lodging Units | \$20/Unit                   |
| Retail/Services Uses     | \$.016/S.F.                 |
| Office Uses              | \$.026/S.F.                 |
| Business Park Uses       | \$.012/S.F.                 |
| Industrial Uses          | \$.008/S.F.                 |
| Institutional Uses       | \$.027/S.F.                 |

**New Model Colony Only – Local Adjacent Fiber Optic Communication System  
Development Impact Fees**

| Proposed Land Use        | Impact Fee per Unit or S.F. |
|--------------------------|-----------------------------|
| Detached Dwellings       | \$464/Unit                  |
| Attached Dwellings       | \$464/Unit                  |
| High Density Dwellings   | \$464/Unit                  |
| Commercial Lodging Units | \$46/Unit                   |
| Retail/Services Uses     | \$.037/S.F.                 |
| Office Uses              | \$.062/S.F.                 |
| Business Park Uses       | \$.029/S.F.                 |
| Industrial Uses          | \$.019/S.F.                 |
| Institutional Uses       | \$.064/S.F.                 |