CITY OF ONTARIO CITY COUNCIL AND HOUSING AUTHORITY AGENDA **FEBRUARY 5, 2013** Paul S. Leon **Chris Hughes** Mavor **City Manager** Jim W. Bowman John E. Brown Mayor pro Tem **City Attorney** Alan D. Wapner Mary E. Wirtes, MMC **Council Member City Clerk** Debra Dorst-Porada James R. Milhiser **Council Member** Treasurer **Paul Vincent Avila Council Member**

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

Bowman, Wapner, 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 1049-201-08; 431 South Campus Avenue; City/Authority Negotiator: Chris Hughes or his designee; Negotiating parties: Main Street Fibers, Inc.; Under negotiation: Price and terms of payment.
- GC 54956.9 (b), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION: One (1) or more cases: City of Los Angeles/Los Angeles World Airports (LAWA).

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

PLEDGE OF ALLEGIANCE

Council Member Avila

INVOCATION

Pastor Richard Bargas, First Fundamental Bible Church

City Attorney

PUBLIC COMMENTS

6:30 p.m.

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

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

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

CONSENT CALENDAR

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

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

1. BILLS/PAYROLL

Bills December 30, 2012 through January 12, 2013 and **Payroll** December 30, 2012 through January 12, 2013, when audited by the Finance Committee.

2. AWARD OF BIDS FOR THE PURCHASE OF REPLACEMENT FLEET VEHICLES AND EQUIPMENT

That the City Council take the following actions:

- (A) <u>Bid No. 289</u>
 - 1. Award Bid to Thorson Motor Center of Pasadena, California, in the amount of \$106,222 for the purchase and delivery of three (3) ³/₄ ton trucks with utility bodies;
 - 2. Award Bid to Frontier Ford of Santa Clara, California, in the amount of \$40,729 for the purchase and delivery of one (1) 1 ton truck with a utility body;
- (B) <u>Bid No. 291</u>
 - 1. Award Bid to Fairview Ford of San Bernardino, California, in the amount of \$49,684 for the purchase and delivery of one (1) sedan and one (1) mid size SUV;
 - 2. Award Bid to Rotolo Chevrolet of Fontana, California, in the amount of \$25,486 for the purchase and delivery of one (1) 12 passenger van;
 - 3. Award Bid to Fritts Ford of Riverside, California, in the amount of \$38,249 for the purchase and delivery of two (2) ¹/₂ ton trucks;
- (C) <u>Bid No. 292</u>
 - 1. Award Bid to Johnson Power Systems of Riverside, California, in the amount of \$24,710 for the purchase and delivery of one (1) forklift; and
 - 2. Award Bid to Volvo Construction Equipment and Service of Corona, California, in the amount of \$20,017 for the purchase and delivery one (1) trailer air compressor.

3. ACCEPTANCE OF GRANT AWARD FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY AND THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY PROVIDED THROUGH THE FY 2012 URBAN AREA SECURITY INITIATIVE (UASI) GRANT PROGRAM

That the City Council authorize the City Manager to execute all documents necessary to accept a three-year sub-grant award in the amount of \$263,486 from the U.S. Department of Homeland Security and the California Emergency Management Agency provided through the FY 2012 UASI 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.

4. CONSIDERATION OF A SPENDING PLAN FOR THE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND/CITIZEN'S OPTION FOR PUBLIC SAFETY GRANT PROGRAM

That the City Council receive public comment on the proposed spending plan for the Fiscal Year 2012-13 Supplemental Law Enforcement Services Fund (SLESF)/Citizen's Option for Public Safety (COPS) Grant; and approve the proposed spending plan.

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.

5. A RESOLUTION APPROVING AN ADDENDUM TO THE COUNTRYSIDE SPECIFIC PLAN FINAL ENVIRONMENTAL IMPACT REPORT, AN ORDINANCE AMENDING THE DEVELOPMENT AGREEMENT BETWEEN FORESTAR COUNTRYSIDE LLC., AND THE CITY OF ONTARIO TO INCLUDE THE CONSTRUCTION OF UP TO 39 RESIDENTIAL UNITS AND REQUIRED INFRASTRUCTURE ON 8.77 ACRES OF LAND WITHIN NEIGHBORHOOD 3 (RD-5,000) OF THE COUNTRYSIDE SPECIFIC PLAN, AND AUTHORIZATION FOR THE CITY MANAGER TO EXECUTE A DEVELOPMENT IMPACT FEE CREDIT AND REIMBURSEMENT AGREEMENT

That the City Council adopt a resolution approving an Addendum to the Countryside Specific Plan Final Environmental Impact Report pursuant to CEQA Section 15164; introduce and waive further reading of an ordinance approving an amendment (File No. PDA12-001) to the Development Agreement between Forestar Countryside, LLC, and the City of Ontario regarding the development of 39 residential units on 8.77 acres within the Countryside Specific Plan, generally located north of Chino Avenue, south of Riverside Drive, and west of Archibald Avenue (APN: 218-111-52); and authorize the City Manager to execute a Development Impact Fee Credit and Reimbursement Agreement for the construction of public infrastructure.

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, ADOPTING AN ADDENDUM TO THE COUNTRYSIDE SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT ADOPTED FOR FILE NO. PSP04-001, PREPARED FOR FILE NO. PMTT12-003 (TT18855), FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF (APN: 0218-111-52).

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND FORESTAR COUNTRYSIDE, LLC. FILE NO. PDA12-001, TO INCLUDE THE DEVELOPMENT OF UP TO 39 **RESIDENTIAL UNITS ON 8.77 ACRES WITHIN NEIGHBORHOOD 3** (RD-5,000) OF THE COUNTRYSIDE SPECIFIC PLAN, OF THE NEW MODEL COLONY, GENERALLY LOCATED NORTH OF CHINO AVENUE, SOUTH OF RIVERSIDE DRIVE, EAST OF THE CUCAMONGA CHANNEL. AND WEST OF ARCHIBALD AVENUE. FINDINGS **SUPPORT** AND MAKING IN THEREOF (APN: 0218-111-52).

COUNCIL MATTERS

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

STAFF MATTERS

City Manager Hughes

ADJOURNMENT

CITY OF ONTARIO CLOSED SESSION REPORT City Council / / Housing Authority / / (GC 54957.1) February 5, 2013

ROLL CALL: Bowman __, Wapner __, Dorst-Porada __, Avila __

 Mayor / Chairman Leon __.
 City Manager / Executive Director __, City Attorney __

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

 GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS Property: APN 1049-201-08; 431 South Campus Avenue; City/Authority Negotiator: Chris Hughes or his designee; Negotiating parties: Main Street Fibers, Inc.; Under negotiation: Price and terms of payment.

	No Reportable Action	Continue	Approved
	/ /	/ /	/ /
Disposition:			

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

• GC 54956.9 (b), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION: One (1) or more cases: City of Los Angeles/Los Angeles World Airports (LAWA).

	No Reportable Action	Continue	Approved
	/ /	/ /	/ /
-			

Disposition:

Reported by: _

City Attorney / City Manager / Executive Director

CITY OF ONTARIO

Agenda Report February 5, 2013 SECTION: CONSENT CALENDAR

SUBJECT: AWARD OF BIDS FOR THE PURCHASE OF REPLACEMENT FLEET VEHICLES AND EQUIPMENT

RECOMMENDATION: That the City Council take the following actions:

(A) **<u>Bid No. 289</u>**

- 1. Award Bid to Thorson Motor Center of Pasadena, California, in the amount of \$106,222 for the purchase and delivery of three (3) ³/₄ ton trucks with utility bodies;
- 2. Award Bid to Frontier Ford of Santa Clara, California, in the amount of \$40,729 for the purchase and delivery of one (1) 1 ton truck with a utility body;

(B) <u>Bid No. 291</u>

- 1. Award Bid to Fairview Ford of San Bernardino, California, in the amount of \$49,684 for the purchase and delivery of one (1) sedan and one (1) mid size SUV;
- 2. Award Bid to Rotolo Chevrolet of Fontana, California, in the amount of \$25,486 for the purchase and delivery of one (1) 12 passenger van;
- 3. Award Bid to Fritts Ford of Riverside, California, in the amount of \$38,249 for the purchase and delivery of two (2) ¹/₂ ton trucks;

(C) <u>Bid No. 292</u>

- 1. Award Bid to Johnson Power Systems of Riverside, California, in the amount of \$24,710 for the purchase and delivery of one (1) forklift; and
- 2. Award Bid to Volvo Construction Equipment and Service of Corona, California, in the amount of \$20,017 for the purchase and delivery one (1) trailer air compressor.

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> <u>the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial</u> <u>Downturn on Ontario's Economy and the City's Fiscal Health</u>

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by:	Victor Moraga	_ Submitted to Council/O.H.A.	02/05/2013
Department:	MU/Fleet,Services	Approved:	
City Manager		Continued to:	
City Manager Approval:	Chiff		2

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

FISCAL IMPACT: The Fiscal Year 2012-13 Adopted Budget includes appropriations in the amount of \$336,750 for the purchase of the replacement vehicles and equipment listed above. The total cost of the vehicles and equipment recommended for purchase is \$305,097.

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

(A) **Bid No. 289:** In December 2012, the City solicited bids for Specialty Utility Trucks and received five (5) responses. The results are as follows:

I on I rucks with Utility Bodies for Utilities Department			
Three (3) ³ / ₄ Ton Ford F-250			
<u>Supplier</u>	Location	Bid Amount	
Thorson Motor Center	Pasadena, CA	\$106,222	
Fairview Ford	San Bernardino, CA	\$112,334	
Raceway Ford	Riverside, CA	\$117,940	
Fritts Ford	Riverside, CA	\$123,804	
Frontier Ford	Santa Clara	\$154,380	

1. Three ³/₄ Ton Trucks with Utility Bodies for Utilities Department

Staff recommends award to Thorson Motor Center, located in Pasadena, California, in the amount of \$106,222.

2. One (1) Ton Truck with Utility Body for Parks and Maintenance Department

One (1) One Ton Ford F-350			
Supplier	Location	Bid Amount	
Frontier Ford	Santa Clara, CA	\$40,729	
Fairview Ford	San Bernardino, CA	\$42,128	
Thorson Motor Center	Pasadena, CA	\$42,553	
Raceway Ford	Riverside, CA	\$44,873	
Fritts Ford	Riverside, CA	\$45,151	

Staff recommends award to Frontier Ford, located in Santa Clara, California, in the amount of \$40,729.

(B) Bid No. 291: In December 2012, the City solicited bids for various replacement vehicles and received four (4) responses. The results are as follows:

1. One (1) Mid Size Sedan and One (1) Mid Size SUV for Police Department

	Ford Taurus SE	
<u>Supplier</u>	Location	Bid Amount
Fairview Ford	San Bernardino, CA	\$23,007
Fritts Ford	Riverside, CA	\$23,074
Raceway Ford	Riverside, CA	\$23,434

Ford Edge SE			
Supplier	Location	Bid Amount	
Fairview Ford	San Bernardino, CA	\$26,677	
Fritts Ford	Riverside, CA	\$26,726	
Raceway Ford	Riverside, CA	\$27,125	

Staff recommends award of bid to Fairview Ford of San Bernardino, California, in the amount of \$49,684.

2. One (1) 12 Passenger Van for Police Department

Chevrolet Express Van 2500		
<u>Supplier</u>	Location	Bid Amount
Rotolo Chevrolet	Fontana, CA	\$25,486
Fritts Ford	Riverside, CA	\$25,687
Fairview Ford	San Bernardino, CA	\$25,720
Raceway Ford	Riverside, CA	\$26,403

Staff recommends award of bid to Rotolo Chevrolet of Fontana, California, in the amount of \$25,486.

3. Two (2) ¹/₂ Ton Pick-Up Trucks for Parks and Maintenance Department

Two (2) ½ Ton Ford F-150			
<u>Supplier</u>	Location	Bid Amount	
Fritts Ford	Riverside , CA	\$38,249	
Fairview Ford	San Bernardino, CA	\$38,367	
Raceway Ford	Riverside, CA	\$38,822	
Rotolo Chevrolet	Fontana, CA	\$43,412	

Staff recommends award of bid to Fritts Ford of Riverside, California, in the amount of \$38,249.

(C) **Bid No. 292** In December 2012, the City solicited bids for replacement equipment and received one (1) response for each piece of equipment. The results are as follows:

1. One (1) Forklift for Solid Waste Department			
Johnson Lift/Hyster Forklift			
<u>Supplier</u>	Location	Bid Amount	
Johnson Power Systems	Riverside , CA	\$24,710	

Staff recommends award of bid to Johnson Power Systems of Riverside, California, in the amount of \$24,710.

2. One (1) Trailer Compressor for Parks and Maintenance Department			
Trailer Compressor			
<u>Supplier</u>	Location	Bid Amount	
Volvo Construction Equipment & Services	Corona, CA	\$20,017	

Staff recommends award of bid to Volvo Construction Equipment & Services of Corona, California, in the amount of \$20,017.

CITY OF ONTARIO

Agenda Report February 5, 2013 SECTION: CONSENT CALENDAR

SUBJECT: ACCEPTANCE OF GRANT AWARD FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY AND THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY PROVIDED THROUGH THE FY 2012 URBAN AREA SECURITY INITIATIVE (UASI) GRANT PROGRAM

RECOMMENDATION: That the City Council authorize the City Manager to execute all documents necessary to accept a three-year sub-grant award in the amount of \$263,486 from the U.S. Department of Homeland Security and the California Emergency Management Agency provided through the FY 2012 UASI Grant Program.

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> <u>the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial</u> <u>Downturn on Ontario's Economy and the City's Fiscal Health</u> <u>Maintain the Current High Level of Public Safety</u> <u>Pursue City's Goals and Objectives by Working with Other Governmental Agencies</u>

FISCAL IMPACT: The City, through the Riverside Urban Area Security Initiative (RUASI) grant, has been awarded \$263,486 in support of the Regional Aviation Downlink project to enhance the City of Ontario's regional emergency response capabilities through the procurement of portable and vehicle mounted ground video receivers and accessories. The associated grant revenue and expenditure adjustments will be presented in the Fiscal Year 2012-2013 Mid-Year Budget Report to the City Council. The City is not required to provide matching funds for this reimbursable grant.

BACKGROUND: The UASI program provides financial assistance to address multi-discipline planning, operations, equipment, training, and exercise needs unique to high-threat, high density urban areas, and to assist them in building and sustaining capabilities to prevent, protect against, respond to, and recover from threats or acts of terrorism and weapons of mass destruction. The intent of the UASI program is to enhance regional preparedness and expand collaboration efforts.

STAFF MEMBER PRESENTING: Eric Hopley, Chief of Police

Prepared by: Donna B	ailey	Submitted to Council/O.H.A.	02/05/2013
Department: Police		Approved:	
	11	Continued to:	
City Manager		Denied:	
City Manager Approval:	//		3
			<u> </u>

The RUASI includes the cities of Riverside, San Bernardino and Ontario, and the counties of Riverside and San Bernardino. Projects are recommended for consideration by the RUASI Steering Group and local Approval Authority which are comprised of staff from the five cities and two counties. Recommendations are made based upon the ability to match project benefits to the UASI program guidelines, which include a focus on regional coordination and collaboration. The Riverside Regional UASI's recommended projects are then subject to review and approval at the State and Federal levels.

The City of Ontario, as a sub-recipient of the FY 2012 RUASI Grant, has been approved to receive \$263,486 to provide continued investment in the Regional Aviation Downlink program through equipment enhancement. Following is the recommended spending plan:

٠	(10) Mobile Commander Ground Video Receivers	<u>\$</u>	263,486
	TOTAL	\$	263,486

Two of the receivers acquired under this grant will be deployed in the City of Ontario with the remainder distributed among the remaining stakeholder agencies in the RUASI.

The Regional Aviation Video Downlink is an extension and of the FY 2009 RUASI Regional Aviation Downlink System to provide real-time aerial imagery from law enforcement aviation assets. The investments made under the FY2012 project will continue to expand accessibility to the downlink system for first responders throughout the Riverside Urban Area, enhancing inter-agency coordination efforts during critical incidents.

The City is not obligated to continue with these grant programs beyond the equipment's operational life. Upon termination of the programs, staff will work with the City of Riverside Office of Emergency Services (the designated Riverside Regional UASI Administrative Entity) and the Department of Homeland Security to properly demobilize and surplus the equipment.

CITY OF ONTARIO

Agenda Report February 5, 2013 SECTION: PUBLIC HEARINGS

SUBJECT: CONSIDERATION OF A SPENDING PLAN FOR THE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND/CITIZEN'S OPTION FOR PUBLIC SAFETY GRANT PROGRAM

RECOMMENDATION: That the City Council receive public comment on the proposed spending plan for the Fiscal Year 2012-13 Supplemental Law Enforcement Services Fund (SLESF)/Citizen's Option for Public Safety (COPS) Grant; and approve the proposed spending plan.

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> <u>the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial</u> <u>Downturn on Ontario's Economy and the City's Fiscal Health</u> <u>Maintain the Current High Level of Public Safety</u> <u>Pursue City's Goals and Objectives by Working with Other Governmental Agencies</u>

FISCAL IMPACT: On September 19, 2012, the County of San Bernardino announced the estimated funding allocation amounts to be awarded to each participating agency under the SLESF/COPS grant program. The City of Ontario is eligible to receive a maximum grant award of \$267,149. Since this amount is based on an estimation of the FY2012-13 State of California's Vehicle License Fee (VLF) revenues, the allocation may be re-calculated and adjusted by the Auditor/Controller's Office. The grant funds will be distributed to the City in four installments: March, June, September and December 2013. The City is not required to provide matching funds for this grant. If approved, the associated revenue and expenditure adjustments will be presented in the next quarterly budget report to the City Council.

BACKGROUND: Beginning in FY 2002-03, the State of California allocated grant monies (SLESF/COPS) to counties, who in turn, granted those monies to cities for the purpose of supporting front-line law enforcement needs. A public hearing is required for public input before the grant funds can be utilized.

Based on current front-line operational needs, the Police Department proposes the following grant spending plan:

STAFF MEMBER PRESENTING: Eric V. Hopley, Chief of Police

Prepared by: Department:	 Submitted to Council/O.H.A. Approved:	02/05/2013
City Manager	Continued to:	
Approval:		4

•	Allocation towards upgrading the City's public safety radio system and equipment	\$140,000
•	Additional equipment and weapon systems for frontline personnel	\$77,149
•	Tactical Ad-Hoc Wireless Mesh Network Components	\$50,000

TOTAL <u>\$267,149</u>

.

CITY OF ONTARIO

Agenda Report February 5, 2013

SECTION: PUBLIC HEARINGS

SUBJECT: A RESOLUTION APPROVING AN ADDENDUM TO THE COUNTRYSIDE SPECIFIC PLAN FINAL ENVIRONMENTAL IMPACT REPORT, AN ORDINANCE AMENDING THE DEVELOPMENT AGREEMENT BETWEEN FORESTAR COUNTRYSIDE LLC., AND THE CITY OF ONTARIO TO **INCLUDE THE CONSTRUCTION OF UP TO 39 RESIDENTIAL UNITS AND REQUIRED INFRASTRUCTURE ON 8.77 ACRES OF LAND WITHIN** NEIGHBORHOOD 3 (RD-5,000) OF THE COUNTRYSIDE SPECIFIC PLAN, AND AUTHORIZATION FOR THE CITY MANAGER TO EXECUTE A REIMBURSEMENT DEVELOPMENT IMPACT FEE CREDIT AND AGREEMENT

RECOMMENDATION: That the City Council adopt a resolution approving an Addendum to the Countryside Specific Plan Final Environmental Impact Report pursuant to CEQA Section 15164; introduce and waive further reading of an ordinance approving an amendment (File No. PDA12-001) to the Development Agreement between Forestar Countryside, LLC, and the City of Ontario regarding the development of 39 residential units on 8.77 acres within the Countryside Specific Plan, generally located north of Chino Avenue, south of Riverside Drive, and west of Archibald Avenue (APN: 218-111-52); and authorize the City Manager to execute a Development Impact Fee Credit and Reimbursement Agreement for the construction of public infrastructure.

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial <u>Downturn on Ontario's Economy and the City's Fiscal Health</u> <u>Invest in the Growth and Evolution of the City's Economy</u> <u>Operate in a Businesslike Manner</u> <u>Invest in the City's Infrastructure (Water, Streets, Sewer, Parks, Storm Drains, and Public Facilities)</u> <u>Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New</u> <u>Model Colony</u>

STAFF MEMBER PRESENTING: Jerry L. Blum, Planning Director

Prepared by:	· · · · · · · · · · · · · · · · · · ·	Submitted to Council/O.H.A.	02/05/2013
Department:	Planning	Approved:	
City Manager	111	Continued to: Denied:	
Approval:	Chiff		5

FISCAL IMPACT: The proposed Development Agreement Amendment will provide funding from a community facilities district (CFD) for additional City services required to support the Countryside Specific Plan development, thereby mitigating the increased cost associated with such services. In addition, the City will receive Public Service Funding fees plus development impact, compliance processing, licensing, and permitting fees. No Original Model Colony revenue will be used to support the New Model Colony development. The Development Agreement and the related tract map conditions require the developer to construct public infrastructure with an estimated cost of \$6.1 million. The proposed DIF Credit and Reimbursement Agreement defines the amount of DIF Credit and DIF Reimbursement cap is based on the program costs of infrastructure and is estimated at \$3.5 million. DIF Credit may be used in-lieu of the payment of Development Impact Fees, and DIF Reimbursement is available when other developers that benefit from the construction of the infrastructure pay their respective DIF.

BACKGROUND: Forestar Countryside, LLC ("Forestar") and the City recognized that the financial commitment required for construction in the New Model Colony ("NMC") was substantial. To adequately forecast these costs and gain assurance that the project may proceed under the existing policies, rules and regulations, Forestar entered into a development agreement with the City for the properties north and south of the subject site, providing for the development of up to 422 dwelling units. The Development Agreement, approved in April 2011, addressed issues of parkland, public facilities, public services funding, infrastructure and affordable housing.

The Development Agreement Amendment proposes to include 8.77 acres of residential development as shown in Exhibit A (Specific Plan Map) to the previously approved Development Agreement. The Agreement grants to the Owner a vested right to develop their project as long as the Owner complies with the terms and conditions of the Countryside Specific Plan and EIR.

The Amendment funds all new City expenses created by the project, including operational costs related to the review, approval and administration of the Forestar project, additional project related services, infrastructure and affordable housing requirements. The Amendment proposes minor adjustments to the costs of the services based on revisions to the construction agreement with NMC Builders. Unless otherwise stipulated in the Amendment, the approved Development Agreement remains intact.

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

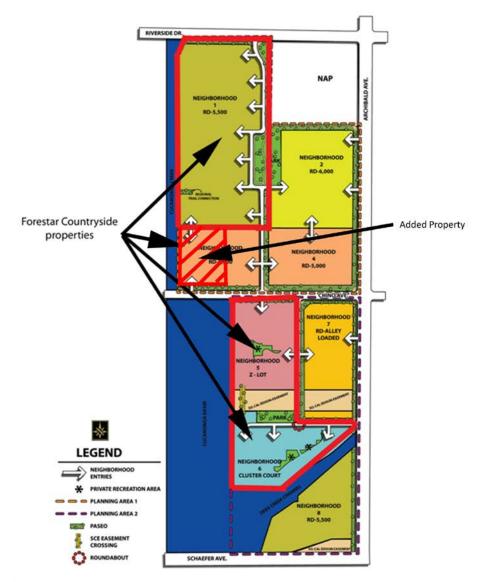
Term:	Maintains the same term of ten (10) years with a five (5) year option.
Assignment:	Assignable with all terms and conditions applying to the assignee. The City has conditional approval and City will assess a processing fee.
Fees:	
Development Impact:	Varies by category (i.e.; Streets and Bridges, 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.
Public Services Funding:	-

	 \$900/unit with the issuance of the each building permit or within 30 days of City commencing construction of the Fire Station No. 9, whichever occurs first. \$900 upon issuance of each remaining building permits, the cost of which shall increase each January 1 beginning January 1, 2014.
Community Facilities Distr (CFD):	ict 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 (5) acres per 1,000 projected population through park dedication and/or the payment of in-lieu fees.
Housing:	Maintains the provision of affordable housing as required by the General Plan through construction, rehabilitation, or by paying an in- lieu fee.
Compliance:	Owner will submit an annual monitoring report which the City will review for compliance. The City will assess a review/approval processing fee. If Owner is found to be in compliance, the City will issue a Certificate of Compliance. If noncompliance is identified, a letter of correction will be issued.
Schools:	Maintains the requirement to satisfy Mountain View Elementary School District and Chaffey Joint Union High School District school facilities requirements.
Termination:	Maintains the City's ability to terminate the Agreement if substantial evidence is found of noncompliance.

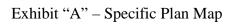
The Development Agreement and this Amendment recognize the developer's requirement to construct public infrastructure contained within the City Development Impact Fee Program. This infrastructure is in the Water, Streets and Storm Drain DIF infrastructure categories. The Development Agreement also recognizes that the developer is eligible to receive credit towards the payment of DIF up to the developer's total DIF obligation upon completion of construction of the public infrastructure. As the estimated costs in the City's DIF program for the required infrastructure exceeds the developer's DIF Obligations in the Water and Streets DIF categories, the developer is eligible to receive future reimbursements from DIF collected when future development projects that benefit pay their respective DIF in these categories. The Development Agreement references (Section 4.2.7) a separate DIF credit agreement to provide for the specific limitations on the issuance of DIF Credit and Reimbursement and other related provisions. This agreement amendment has been drafted in compliance with the City's recently-amended DIF Policies and in conformance with the Amended Construction Agreement with NMC Builders. Under the provisions of the City's DIF Program, the City Manager is authorized to execute such agreements with the approval of the City Council.

In considering the application at their meeting of December 20, 2012, 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, and unanimously recommended approval of the Development Agreement Amendment to the City Council.

ENVIRONMENTAL REVIEW: Pursuant to CEQA section 21166 and sections 15162 and 15163 of the CEQA Guidelines, an Addendum to the Certified Environmental Impact Report for the Countryside Specific Plan (SCH# 2004071001) was prepared by the City with regard to the Project ("Addendum"). The Addendum incorporates, by reference, the analysis contained in the Certified Environmental Impact Report for the Countryside Specific Plan, and addresses only those issues specific to the Project. As described in the Addendum and the Initial Study, the Certified Environmental Impact Report for the Countryside Specific Plan adequately describes the activity proposed. The Addendum concludes that the Project will not result in new or substantially more adverse, significant environmental impacts than those disclosed in the Certified Environmental Impact Report for the Countryside Specific Plan.



Land Use Plan



A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE COUNTRYSIDE SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT ADOPTED FOR FILE NO. PSP04-001, PREPARED FOR FILE NO. PMTT12-003 (TT18855), FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF (APN: 0218-111-52).

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study and an Addendum to the Countryside Specific Plan Environmental Impact Report (EIR) File No. PSP04-001 for Planning File No. PDA12-001 (the "Addendum"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively "CEQA"); and

WHEREAS, Planning File No. PDA12-001 (the "Project") analyzed under the Addendum consists of a Tentative Tract Map request to subdivide 8.77 acres of land acres into 39 lots and 2 lettered lots, within Neighborhood 3 (RD-5,000) of the Countryside Specific Plan, located on the north side of Chino Avenue, adjacent to the east of the Cucamonga Creek Channel and approximately 2,200 feet west of Archibald Avenue; and

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

WHEREAS, on April 18, 2006, the City Council certified an EIR (SCH#2004071001) and a related Mitigation Monitoring and Reporting Program for File No. PSP04-001; and

WHEREAS, pursuant to Public Resources Code section 21166 and sections 15162 and 15163 of the State CEQA Guidelines, the Addendum to the Countryside Specific Plan EIR for File No. PSP04-001 was prepared by the City with regard to the Project (Planning File No. PDA12-001). The Addendum incorporates, by reference, the analysis contained in the certified EIR and related Mitigation Monitoring and Reporting Program for File No. PSP04-001, and addresses only those issues specific to the Project. The Addendum concludes that the Project will not result in impacts beyond what was previously analyzed in the certified EIR, because the Project does not have new or substantially more severe significant environmental impacts, either directly or indirectly; and

WHEREAS, the City of Ontario is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to construct and otherwise undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Addendum for the Project and intends to take actions on the Project in compliance with CEQA, and state and local guidelines implementing CEQA; and

WHEREAS, the Addendum for the Project and the certified EIR for File No. PSP04-001 are on file in the Planning Department, located at 303 East B Street, Ontario, CA 91764, and are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein.

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

<u>SECTION 1</u>. THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Addendum/Initial Study and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Addendum prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Addendum represents the independent judgment and analysis of the City of Ontario, as lead agency for the Project.

<u>SECTION 2</u>. THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received and pursuant to State CEQA Guidelines Section 15162 and 15164, that there is no substantial evidence that the Project will result in any new, increased, or substantially different significant impacts, other than those previously considered and addressed in the Countryside Specific Plan EIR for File No. PSP04-001 and that no changes or additions to the adopted Mitigated Negative Declaration analyses are necessary, nor is there a need for any additional mitigation measures (Planning File No. PMTT12-003), and that none of the conditions described in State CEQA Guidelines Section 15162 that would require subsequent or supplemental CEQA review for the Project otherwise exist.

<u>SECTION 3</u>. The documents and materials that constitute the record of proceedings on which these findings have been based upon 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

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

PASSED, APPROVED, AND ADOPTED this 5th day of February 2013.

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. 2013- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 5, 2013 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. 2013- duly passed and adopted by the Ontario City Council at their regular meeting held February 5, 2013.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND FORESTAR COUNTRYSIDE, LLC. FILE NO. PDA12-001, TO INCLUDE THE DEVELOPMENT OF UP TO 39 RESIDENTIAL UNITS ON 8.77 ACRES WITHIN NEIGHBORHOOD 3 (RD-5,000) OF THE COUNTRYSIDE SPECIFIC PLAN, OF THE NEW MODEL COLONY, GENERALLY LOCATED NORTH OF CHINO AVENUE, SOUTH OF RIVERSIDE DRIVE, EAST OF THE CUCAMONGA CHANNEL, AND WEST OF ARCHIBALD AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF (APN: 0218-111-52).

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 the 4th day of April 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.

WHEREAS, on the 10th day of September 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.

WHEREAS, on the April 5th day of 2011, the City Council of the City of Ontario, adopted Ordinance No. 2934, approving a Development Agreement between Forestar Countryside, LLC, and the City; and

WHEREAS, attached to this Ordinance, marked Exhibit "A" and incorporated herein by this reference, is the proposed First Amendment to the Development Agreement between Forestar Countryside, LLC. and the City of Ontario, File No. PDA12-001 concerning those 8.77 acres of land generally located north of Chino Avenue, south of Riverside Drive, east of the Cucamonga Channel, and west of Archibald Avenue and as legally described in the attached First Amendment Development Agreement. Hereinafter in this Resolution, the Development Agreement is referred to as the "First Amendment"; and

WHEREAS, on December 20, 2012, the Planning Commission of the City of Ontario conducted a hearing to consider the First Amendment and concluded said hearing on that date. After considering all public testimony, the Planning Commission unanimously recommended approval of the application; and

WHEREAS, as the first action on the Project, the City Council adopted an Addendum to Countryside Specific Plan Environmental Impact Report, previously certified by the Ontario City Council, with a Statement of Overriding Considerations, on April 18, 2006. The Addendum finds that the proposed Development Agreement introduces no new significant environmental impacts, and all previously adopted mitigation measures are to be a condition of project approval, and are incorporated into the Project by reference; and

WHEREAS, on February 5, 2013, the City Council of the City of Ontario conducted a hearing to consider the First Amendment 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:

<u>SECTION 1</u>. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Addendum to the Countryside Specific Plan Environmental Impact Report, previously certified by the Ontario City Council, with a Statement of Overriding Considerations, on April 18, 2006, and the supporting documentation. Based upon the facts and information contained in the Addendum and supporting documentation, the Planning Commission finds as follows:

a. The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project; and

b. The Addendum was completed in compliance with CEQA and the Guidelines promulgated thereunder; and.

c. The Addendum reflects the independent judgment of the Planning Commission; and

d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

<u>SECTION 2</u>. Based upon substantial evidence presented to the City Council during the above-referenced hearing on February 5, 2013, including written and oral staff reports, together with public testimony, the City Council hereby specifically finds as follows:

a. The First Amendment to the Development Agreement applies to 8.77 acres of residential land within the Countryside Specific Plan, generally located north of Chino Avenue, south of Riverside Drive, east of the Cucamonga Channel, and west of Archibald Avenue and is presently utilized for dairy and agriculture uses; and

b. The properties to the north are developed with residential uses and the property to the west, east and south are developed with dairy and agricultural uses; and

c. The Development Agreement and the First Amendment to the Development Agreement establishes parameters for the development of the Countryside residential projects. The Development Agreement also grants Forestar Countryside, 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 Countryside Specific Plan; and

d. The First Amendment to the Development Agreement focuses on the 8.77 acres of residential development within Neighborhood 3 (RD-5,000) of the Countryside Specific Plan; and

e. The First Amendment to the Development Agreement will provide for development of up to 39 residential units as established by the Countryside Specific Plan; and

f. The First 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 First 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 First Amendment to the Development Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and,

i. The First Amendment to the Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties but the benefits of the project outweighs the potential environmental impacts and the mitigation of these impacts were addressed in the Countryside Specific Plan EIR certified by the City Council on April 18, 2006.

<u>SECTION 3</u>. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council approves the Project.

<u>SECTION 4</u>. 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.

<u>SECTION 5.</u> 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.

<u>SECTION 6.</u> 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.

<u>SECTION 7.</u> This Ordinance shall be become effective thirty (30) days from its adoption.

PASSED, APPROVED, AND ADOPTED this _____ day of _____2013.

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. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held ______ and adopted at the regular meeting held ______ 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. _____ duly passed and adopted by the Ontario City Council at their regular meeting held _____ and that Summaries of the Ordinance were published on _____ and _____, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)