

**CITY OF ONTARIO**  
**CITY COUNCIL AND HOUSING AUTHORITY**  
**AGENDA**  
**MARCH 5, 2013**

**Paul S. Leon**  
Mayor

**Jim W. Bowman**  
Mayor pro Tem

**Alan D. Wapner**  
Council Member

**Debra Dorst-Porada**  
Council Member

**Paul Vincent Avila**  
Council Member



**Chris Hughes**  
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***

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 0211-321-10 and 1083-352-02; 2202 South Milliken Avenue; City/Authority Negotiator: Chris Hughes or his designee; Negotiating parties: Joseph Davies, National Metal & Steel Corp.; Under negotiation: Price and terms of payment.
- GC 54956.9 (b), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION: *One (1) Case*
- GC 54956.9 (a), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *Frederick Ortega v. Hopley, et al, USDC CD Case No. EDCV 12-00397 GAF (OPx) and H.Z. v. Hopley, et al, USDC CD Case No. EDCV 12-1315 GAF (OPx).*
- 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 Wapner

**INVOCATION**

Reverend Frank Hamilton, First Christian Church of Ontario

**REPORT ON CLOSED SESSION**

City Attorney

**PUBLIC COMMENTS**

**6:30 p.m.**

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

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

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

**SPECIAL CEREMONIES**

**RECOGNITION OF COMMISSIONERS**

**CONSENT CALENDAR**

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

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

**1. APPROVAL OF MINUTES**

Minutes for the regular meeting of the City Council and Housing Authority of February 5, 2013, and approving same as on file in the Records Management Department.

**2. BILLS/PAYROLL**

**Bills** January 27, 2013 through February 9, 2013 and **Payroll** January 27, 2013 through February 9, 2013, when audited by the Finance Committee.

**3. A RESOLUTION APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES**

That the City Council adopt a resolution approving an application for financial assistance for the Francis Street Storm Drain and Ely Basin Flood Control and Aquifer Recharge Project; and authorize the City Manager to execute said application for Proposition 84 grant funds from the California Department of Water Resources.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING AN APPLICATION FOR FINANCIAL ASSISTANCE FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES FOR THE FRANCIS STREET STORM DRAIN AND ELY BASIN FLOOD CONTROL AND AQUIFER RECHARGE PROJECT AND AUTHORIZING THE CITY MANAGER TO SIGN AND FILE, FOR AND ON BEHALF OF THE CITY OF ONTARIO, FOR A GRANT FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.

**4. A RESOLUTION AMENDING THE RESOLUTION OF NECESSITY FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY (APN 156-020-044)**

That the City Council adopt a resolution amending Resolution of Necessity No. 2012-094, originally adopted on December 4, 2012, for the purpose of amending the access easement and temporary construction easement areas of the portions to be acquired pursuant to the request of the property owner with regard to Assessor Parcel No. 156-020-044 (located in Riverside County) for public right-of-way and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements.



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING RESOLUTION NO. 2012-094, A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 156-020-044 BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

**5. CONSTRUCTION CONTRACT FOR SOUND INSULATION OF 98 CONDOMINIUM UNITS UNDER THE ONTARIO QUIET HOME PROGRAM/S&L SPECIALTY CONTRACTING, INC.**

That the City Council:

- (A) Award Contract No. P150-1213-01 (on file with the Records Management Department) to S&L Specialty Contracting, Inc. of Syracuse, New York (S&L), in the amount of \$2,554,000, plus 15% contingency of \$383,100 for a total not to exceed amount of \$2,937,100 to sound insulate 98 condominium units;
- (B) Reject any and all other bids for this project;
- (C) Direct the City Manager, or his designee, not to pursue the bid bond submitted by Harry H. Joh Construction, Inc; and
- (D) Authorize the City Manager, or his designee, to execute the contract, other related documents necessary to implement said contract, and file a Notice of Completion at the conclusion of all construction activities related to this contract.

**6. A RESOLUTION APPROVING AN APPLICATION WITH THE STATE OF CALIFORNIA DEPARTMENT OF PUBLIC HEALTH FOR GRANT FUNDS UNDER THE PROPOSITION 50 FUNDING PROGRAM**

That the City Council adopt a resolution approving the City's application for State of California Department of Public Health (CDPH) grant funds under the Proposition 50 Funding Program for a groundwater recovery and treatment system; and authorize the City Manager or his designee to execute said application.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE FILING OF AN APPLICATION WITH THE STATE OF CALIFORNIA DEPARTMENT OF PUBLIC HEALTH FOR GRANT FUNDS UNDER THE PROPOSITION 50 FUNDING PROGRAM.

**7. PROFESSIONAL SERVICES AGREEMENTS FOR ON-CALL MATERIAL TESTING AND GEOTECHNICAL ENGINEERING CONSULTING SERVICES/CONVERSE CONSULTANTS/NINYO & MOORE/CHJ CONSULTANTS**

That the City Council authorize the City Manager to execute two-year Professional Services Agreements (on file with the Records Management Department) with Converse Consultants of Redlands, California; Ninyo & Moore of Rancho Cucamonga, California; and CHJ Consultants of Colton, California, for on-call material testing and geotechnical engineering consulting services; and, authorize the City Manager to extend the agreements for up to three additional consecutive one-year periods consistent with City Council approved budgets.

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

That the City Council take the following actions:

(A) Bid No. 297

Award Bid to E-W Truck of San Diego, California, in the amount of \$526,760 for the purchase and delivery of two (2) front loading solid waste trucks;

(B) Bid No. 299

Award Bid to Fritts Ford of Riverside, California, in the amount of \$587,663 for the purchase and delivery of two (2) all-wheel drive Police interceptor vehicles and twenty (20) patrol all-wheel drive Police interceptor vehicles;

(C) Bid No. 301

Award Bid to: Rotolo Chevrolet of Fontana, California, in the amount of \$31,136 for the purchase and delivery of one (1) Chevrolet Tahoe; Wondries Fleet Group of Alhambra, California, in the amount of \$24,802 for the purchase and delivery of one (1) ½ ton crew cab truck; and Redlands Ford of Redlands, California, in the amount of \$20,751 for the purchase and delivery of one (1) ½ ton extended cab truck;

(D) Bid No. 302

Award Bid to Theodore Robins Ford of Costa Mesa, California, in the amount of \$30,284 for the purchase and delivery of one (1) 15,000 gross vehicle weight rating (GVWR) truck cab and chassis;

(E) Authorize the purchase and delivery of one (1) TORO GroundMaster 360, 2-wheel drive, 72 inch quad-steer mower to Turf Star of Brea, California, in the amount of \$23,695 consistent with the terms and condition of the National-Intergovernmental Purchasing Alliance (IPA) Contract No. 120535; and

- (F) Authorize the purchase and delivery of two (2) 2013 BMW R1200RT-P motorcycles to Long Beach BMW of Long Beach, California, in the amount of \$53,714 consistent with the terms and conditions of the Los Angeles Sheriffs Department Purchase Order No. PO-SH-12321526-1.

**9. A RESOLUTION APPROVING AN APPLICATION FOR FISCAL YEAR 2012-13 HOUSEHOLD HAZARDOUS WASTE GRANT (HD20) FROM THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)**

That the City Council adopt a resolution approving the City's application for the Fiscal Year 2012-13 Household Hazardous Waste Grant (HD20) pursuant to Sections 40000 et seq. of the Public Resources Code; and authorize the City Manager to execute said application.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A GRANT APPLICATION TO THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY HOUSEHOLD HAZARDOUS WASTE (HHW) GRANT PROGRAM TO FUND PUBLIC EDUCATION AND OUTREACH AND MINOR IMPROVEMENTS TO THE HOUSEHOLD HAZARDOUS WASTE FACILITY.

**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.

**10. CONSIDERATION OF AN ORDINANCE GRANTING A ONE-YEAR TIME EXTENSION TO APPROVED DEVELOPMENT PLAN, CONDITIONAL USE PERMIT AND VARIANCE APPLICATIONS**

That the City Council introduce and waive further reading of an ordinance granting a one- year time extension to approved Development Plan, Conditional Use Permit and Variance applications that are due to expire on or before March 1, 2014.

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

Written communication.

Oral presentation.

Public hearing closed.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, GRANTING A ONE-YEAR TIME EXTENSION TO ANY APPROVED DEVELOPMENT PLAN, CONDITIONAL USE PERMIT OR VARIANCE APPLICATION THAT IS ACTIVE AND DUE TO EXPIRE ON OR BEFORE MARCH 1, 2014, AND MAKING FINDINGS IN SUPPORT THEREOF.

## **COUNCIL MATTERS**

***ESTABLISH AD HOC SUBCOMMITTEE ON DEVELOPMENT CODE UPDATE AND APPOINT MAYOR PRO TEM BOWMAN AND COUNCIL MEMBER DORST-PORADA***

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)  
**March 5, 2013**

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

**STAFF:** 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 0211-321-10 and 1083-352-02; 2202 South Milliken Avenue;  
City/Authority Negotiator: Chris Hughes or his designee; Negotiating parties:  
Joseph Davies, National Metal & Steel Corp.; Under negotiation: Price and term of  
payments.

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

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

- GC 54956.9 (b), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED  
LITIGATION:  
One (1) Cases

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

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

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

- GC 54956.9 (a), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION:  
Frederick Ortega v. Hopley, et al, USDC CD Case No. EDCV 12-00397 GAF (OPx)  
and H.Z. v. Hopley, et al, USDC CD Case No. EDCV12-1315 GAF (OPx)

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

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

**ONTARIO CITY COUNCIL  
ONTARIO HOUSING AUTHORITY  
MINUTES  
FEBRUARY 5, 2013  
(Not Official Until Approved)**

**JOINT MEETINGS**

Regular meetings of the Ontario City Council and Ontario Housing Authority were held on Tuesday, February 5, 2013, at the Ontario City Hall, 303 East B Street, Ontario, CA.

**CLOSED SESSION**

The Mayor called the City Council/ Housing Authority meetings to order at 6:02 p.m., and inquired whether persons were present who wished to speak to a Closed Session item. Hearing none, he advised that all members were present except Council Member Wapner and thereupon adjourned to Closed Session for discussion as follows:

- 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).*

**CALL TO ORDER**

The Mayor called the City Council/ Housing Authority meetings to order at 6:33 p.m., and requested the City Clerk to call the roll.

<b>PRESENT:</b>	Mayor/ Chairman	Paul S. Leon
	Mayor pro Tem/ Vice Chairman	Jim W. Bowman
	Council/ Authority Members:	Debra Dorst-Porada and Paul Vincent Avila
<b>ABSENT:</b>	Council/Authority Members:	Alan D. Wapner

Also present were City Manager/Executive Director Chris Hughes, City Attorney John Brown and Assistant City Clerk/ Secretary Vicki Kasad.

The Pledge of Allegiance was led by Council Member Avila.

The invocation was offered by *Pastor Richard Bargas, First Fundamental Bible Church.*



## **CLOSED SESSION REPORT**

City Attorney Brown advised direction was given regarding real property negotiations, but there was no reportable action taken on the first Closed Session item; and no reportable action was taken on the item concerning Los Angeles World Airports.

## **AGENCY REVIEW/ ANNOUNCEMENTS**

City Manager Hughes advised Council Members there were no announcements.

## **PUBLIC COMMENT**

*Lino Cerrillo*, Chaffey High School, spoke on behalf of the school's administration and introduced Dr. Raul Castillo and Chauncy Mann and extended a formal invitation to the City Council to attend the Ontario City Challenge. He explained that this event is a fundraiser ballgame between the Ontario Firefighters and the Ontario Police Officers, followed by alumni games involving the other Ontario high schools. He indicated that the event will be held on March 1, 2013 at 6 p.m. *Raul Castillo* encouraged attendance at this event, noting that the first year the police department won and last year the fire department won. He reiterated that the event would be held at Jay Littleton Ball Park at 6 p.m. on March 1, 2013. He stressed their interest in providing a community event and generating financial support for the student programs.

## **JOINT AGENCIES CONSENT CALENDAR**

**MOTION:** Moved by Council Member Dorst-Porada, seconded by Mayor pro Tem Bowman, the Joint Agencies approved the following Consent Calendar items as recommended.

### **1. BILLS/PAYROLL**

The City Council approved **Bills** for the period December 30, 2012 through January 12, 2013 in the amount of \$2,445,693.07 and **Payroll** for the period December 30, 2012 through January 12, 2013 in the amount of \$1,628,744.08, when audited by the Finance Committee.

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

The City Council took the following actions:

#### **(A) Bid No. 289**

1. Awarded Bid to Thorson Motor Center of Pasadena, California, in the amount of \$106,222 for the purchase and delivery of three (3)  $\frac{3}{4}$  ton trucks with utility bodies;

2. Awarded 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) Bid No. 291

1. Awarded 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. Awarded 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. Awarded Bid to Fritts Ford of Riverside, California, in the amount of \$38,249 for the purchase and delivery of two (2) ½ ton trucks;

(C) Bid No. 292

1. Awarded 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. Awarded 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**

The City Council authorized 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.

**MOTION CARRIED.** Motion to approve the Consent Calendar as presented carried by unanimous vote of those present, with Council Member Wapner absent. Mayor Leon declared the Consent Calendar items approved.

**END OF JOINT CONSENT CALENDAR**

**PUBLIC HEARINGS**

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

The City Council conducted a public hearing for 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 was duly given and affidavits of compliance are on file in the Records Management Department.

The Mayor opened the public hearing, no one requested to be heard, the public hearing was closed. There were no written communications.

**MOTION:** Moved by Council Member Dorst-Porada, seconded by Council Member Avila and carried by unanimous vote of those present, with Council Member Wapner absent to approve the proposed spending plan.

**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**

The City Council conducted a public hearing to 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 was duly given and affidavits of compliance are on file in the Records Management Department.

The Mayor opened the public hearing, no one requested to be heard, the public hearing was closed. There were no written communications.

**MOTION:** Moved by Mayor pro Tem Bowman, seconded by Council Member Dorst-Porada and carried by unanimous vote of those present, with Council Member

Wapner absent to adopt Resolution No. 2013-005, Introduce upon first reading and waive further reading of Ordinance No. 2958 and authorize the City Manager to Execute a Development Impact Fee Credit and Reimbursement Agreement for construction of public infrastructure.

**RESOLUTION NO. 2013-005** 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. 2958** 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).

## **COUNCIL MATTERS**

Council Member Avila commented on his activities of the last two weeks including attendance at the League of California Cities conference, AB1234 ethics training, the Martin Luther King Day event at the Doubletree Hotel, the Esperanza Scholarship Foundation dinner and the Ontario City Employees Awards Dinner. He also noted several positive conversations he has had with local dignitaries and City staff. He expressed an interest in assisting in improving the quality of life in southern Ontario, noting the special circumstances of residences in the agricultural areas. Council Member Avila also noted that he had been contacted by the Inland Valley Daily Bulletin to be interviewed for their possible endorsement and indicated that he would not be accepting that invitation, suggesting that this type of endorsement from media was a conflict of interest.

Mayor pro Tem Bowman commented that the City is blessed to have great employees who actively give back to the community. He requested Fire Chief Clark comment on the upcoming charity event with the New York Fire Department.

Chief Clark spoke on behalf of Ryan Lewis, Firefighters Association President, noting that on Friday, February 8<sup>th</sup> Ontario will host the first annual Fire on Ice Golf Classic at Goose Creek Golf Course, playing with the firefighters from New York to benefit the local USO. Chief Clark further stated that on Saturday, the Fire on Ice Hockey Game and Chili Cook-off would be held at the Citizens Business Bank Arena, with a 2 p.m.

hockey game against New York firefighters, 4 p.m. Chili Cook-off, and a 6 p.m. Las Vegas Wranglers vs. the Ontario Reign hockey game. He indicated that proceeds from these events would also benefit the local USO.

Mayor Leon concurred with Council Member Avila on the need for assistance in southern Ontario, noting that the area had in the past been somewhat neglected. Mayor Leon stated that the Ontario CARES Program had recognized some of the community needs and had provided for the rehabilitation of some streets, sidewalks, and neighborhood improvements in that portion of Ontario. He expressed excitement for residents in south Ontario over the Ontario Montclair School District's upcoming motion to rename Linda Vista School to the Alex Espinoza Family Education Center. He encouraged public attendance at the School Board meeting on February 7<sup>th</sup> at 7 p.m. to support that action. Mayor Leon expressed his displeasure with the YMCA in closing their Ontario facility after 60 years in the community. He requested that staff consider the potential of taking over the facility and continuing service to the community. Council Member Dorst-Porada concurred with this request.

Mayor Leon announced a health fair to be held at De Anza Park on Saturday, February 9<sup>th</sup> at 10 a.m., and requested that staff contact the West Valley Mosquito and Vector Control District to participate in community events such as this to promote educational outreach throughout Ontario.

## **STAFF MATTERS**

City Manager Hughes further explained that the event on Saturday is the kick-off for the Ontario HEAL Zone and will be from 10 a.m. to 2 p.m. at De Anza Park.

## **ADJOURNMENT**

Mayor Leon adjourned the joint meetings at 7:02 p.m., and announced the next regular meetings will be on February 19, 2013 in the City Hall Council Chambers.

Respectfully submitted,

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VICKI KASAD, MMC, ASSISTANT CITY CLERK/ SECRETARY

APPROVED:

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PAUL S. LEON, MAYOR/ CHAIRMAN

# CITY OF ONTARIO

*Agenda Report*  
March 5, 2013

## SECTION: CONSENT CALENDAR

**SUBJECT: A RESOLUTION APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES**

**RECOMMENDATION:** That the City Council adopt a resolution approving an application for financial assistance for the Francis Street Storm Drain and Ely Basin Flood Control and Aquifer Recharge Project; and authorize the City Manager to execute said application for Proposition 84 grant funds from the California Department of Water Resources.

**COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health**  
**Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)**

**FISCAL IMPACT:** With this application the City is expected to receive \$750,000 of Proposition 84 funds. The Engineer's estimate for the total project cost is \$12,750,000. The City has applied for \$6 million in Proposition 1E grant funds; \$750,000 in funding is being sought through this action requesting Proposition 84 funds; and \$1.8 million has been appropriated in FY 2012-13 Storm Drain DIF funds. The remaining \$4.2 million will be included in future years' budgets as appropriations from Storm Drain DIF funds.

**BACKGROUND:** On December 13, 2012 the One Water One Watershed (OWOW) Steering Committee recommended the Francis Street Storm Drain and Ely Basin Flood Control and Aquifer Recharge Project for Proposition 84 Round 2 Funding in an amount of \$750,000. As part of the application requirements, the City Council must adopt a resolution authorizing the application for financial assistance from the California Department of Water Resources and authorize the City Manager to execute the Proposition 84 grant application.

This master planned priority drainage project will improve flood protection and enhance water conservation and water quality through ground water recharge. Flooding along Francis Street and the

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

Prepared by: Cindy Hackett, P.E.

Department: Engineering

City Manager

Approval: 

Submitted to Council/O.H.A. 03/05/2013

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

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

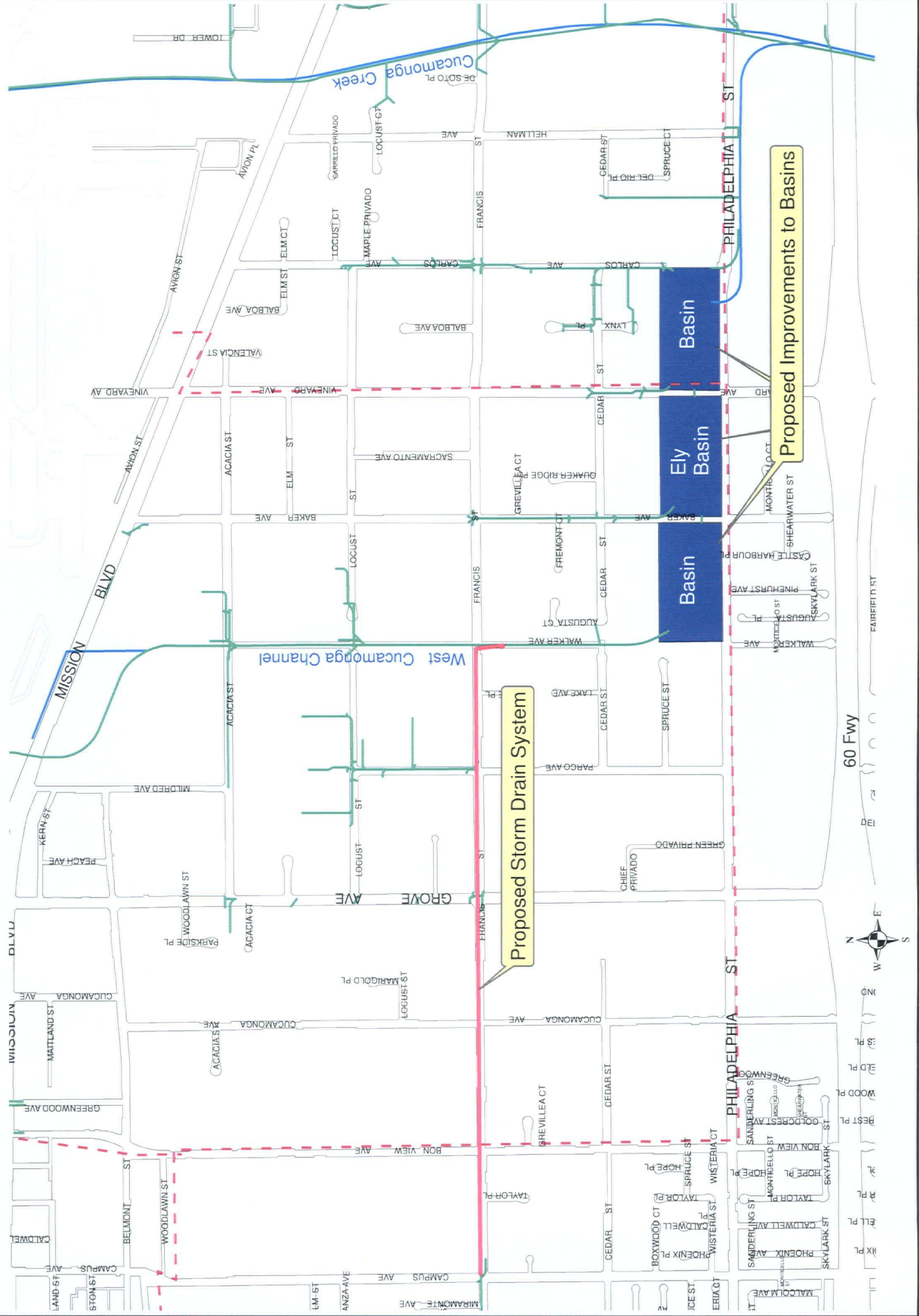
Denied: \_\_\_\_\_

3

intersection of Grove Avenue and Francis Street has occurred during moderate flood events for decades. Conveyance facilities will be constructed along Francis Street from Campus Avenue to the West Cucamonga Channel. The Channel will then convey the runoff, currently lost to the region, to the Ely Basins (see Exhibit "A" for a location map). Rather than continuing to allow this valuable water resource to simply be conveyed downstream, the City will incorporate improvements to the Ely Basins to conserve more water resources for the benefit of the region by deepening all three basins and creating more storage volume.



**EXHIBIT "A"**  
**Francis Street Storm Drain**  
**and Ely Basin Flood Control and Aquifer Recharge Project**



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING AN APPLICATION FOR FINANCIAL ASSISTANCE FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES FOR THE FRANCIS STREET STORM DRAIN AND ELY BASIN FLOOD CONTROL AND AQUIFER RECHARGE PROJECT AND AUTHORIZING THE CITY MANAGER TO SIGN AND FILE, FOR AND ON BEHALF OF THE CITY OF ONTARIO, FOR A GRANT FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES

WHEREAS, the California Department of Water Resources is soliciting applications for grant funding made available by Proposition 84; and

WHEREAS, the City of Ontario desires to submit an application for the Francis Street Storm Drain and Ely Basin Flood Control and Aquifer Recharge Project.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ontario, that application shall be made to the California Department of Water Resources to obtain an Integrated Regional Water Management Implementation Grant pursuant to the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Public Resource Code Section 75001 et seq.); and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to prepare the necessary data, conduct investigations, file such application, and execute a grant agreement with California Department of Water Resources; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute an agreement and other documents necessary to receive a grant for the City of Ontario Francis Street Storm Drain and Ely Basin Flood Control and Aquifer Recharge Project.

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

PASSED, APPROVED, AND ADOPTED this 5<sup>th</sup> day of March 2013.

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

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

(SEAL)



# CITY OF ONTARIO

*Agenda Report*  
March 5, 2013

## SECTION: CONSENT CALENDAR

**SUBJECT: A RESOLUTION AMENDING THE RESOLUTION OF NECESSITY FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY (APN 156-020-044)**

**RECOMMENDATION:** That the City Council adopt a resolution amending Resolution of Necessity No. 2012-094, originally adopted on December 4, 2012, for the purpose of amending the access easement and temporary construction easement areas of the portions to be acquired pursuant to the request of the property owner with regard to Assessor Parcel No. 156-020-044 (located in Riverside County) for public right-of-way and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements.

**COUNCIL GOALS:** Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health  
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

**FISCAL IMPACT:** The Adopted Capital Improvement Program Budget includes appropriations for the right-of-way phase of the South Milliken Avenue Grade Separation Project. Per the cooperative funding agreement with SANBAG, the City's share is 20% of the actual expenses and is split in accordance with the City's adopted DIF Program and SANBAG's approved Measure I Nexus Study.

**BACKGROUND:** The South Milliken Avenue Grade Separation Project and related public infrastructure improvements are required for and will benefit the community by eliminating potential conflicts between vehicular and train traffic, increasing travel reliability on Mission Boulevard and Milliken Avenue, enhancing the flow of truck traffic and improving air quality.

As established by City staff and conveyed to the City Council during its meeting of December 4, 2012, the City obtained appraisals of the affected properties from Integra Realty Resources and made offers of just compensation to the property owners pursuant to California Government Code section 7267.2. The

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

Prepared by: Jay Bautista  
Department: Engineering

City Manager  
Approval:



Submitted to Council/O.H.A. 03/05/2013  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

4

City also retained the consulting firm of Overland, Pacific & Cutler, Inc., which has negotiated on behalf of the City to purchase the properties. Preliminary title reports were ordered to determine the identities of the record owners. Following standard public records and due diligence searches for ownership information, a notice of this public hearing was mailed to the property owners. Eight resolutions of necessity (including Resolution No. 2012-094) were adopted on December 4, 2012.

One of the property owners, J.W. Mitchell Company LLC, worked with City staff to negotiate an alternative plan to the original design to better accommodate traffic flow for the affected parcel. New legal descriptions and depictions to accommodate the revised design have been produced. Resolution No. 2012-094 needs to be amended to replace the legal definitions, legal descriptions and maps with the new version (attached as Exhibit "A" to the proposed resolution). A true and correct copy of Resolution No. 2012-094, marked as Attachment "A," is attached hereto and incorporated herein by reference. Negotiations can then proceed as to the new areas sought to be acquired by the City for this project.

***DESCRIPTION OF PROPERTY TO BE ACQUIRED:***

The property affected is owned by J.W. Mitchell Company LLC, located at 3100 South Milliken Avenue, Eastvale (Riverside County), California, and is identified as Assessor Parcel No. 156-020-044. The City seeks to acquire fee, access easement and temporary construction easement interests in the property. It is the only parcel located outside the City of Ontario, and the only eminent domain action filed in Riverside County Superior Court.



## ATTACHMENT "A"

Page 1 of 4

### RESOLUTION NO 2012-094

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO 156-020-044 BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA

WHEREAS, the City of Ontario (the "City") proposes to acquire fee, easement and temporary construction easement interests in portions of certain real property located at or near the intersection of Mission Boulevard, Philadelphia Street and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel No 156-020-044 (located in Riverside County), for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350 5 of the California Government Code, and

WHEREAS, pursuant to Section 1245 235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6 30 p m at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240 030 of the California Code of Civil Procedure, and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters, and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240 040 of the California Code of Civil Procedure

WHEREAS, the City has the power to condemn property located in the City of Eastvale, pursuant to an agreement between the City of Ontario and the City of Eastvale

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS



## ATTACHMENT "A"

Resolution No 2012-094

Page 2 of 4

SECTION 1 Compliance with California Code of Civil Procedure and California Environmental Quality Act There has been compliance by the City with the requirements of Section 1245 235 of the California Code of Civil Procedure and the California Environmental Quality Act

SECTION 2 Public Use The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California Section 37350 5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes

SECTION 3 Description of Property Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification

SECTION 4 Findings The City hereby finds and determines each of the following

- (a) The public interest and necessity require the proposed project,
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury,
- (c) The real property described in Exhibit "A" are necessary for the proposed project,
- (d) The offer required by Section 7267 2 of the California Government Code was made

SECTION 5 Use Not Unreasonably Interfering with Existing Public Use(s) Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240 510 of the California Code of Civil Procedure

SECTION 6 More Necessary Public Use Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240 610 of the California Code of Civil Procedure Staff is further

## ATTACHMENT "A"

Resolution No 2012-094

Page 3 of 4

authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use

SECTION 7 Further Activities Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8 Effective Date This Resolution shall take effect upon adoption.

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

PASSED, APPROVED, AND ADOPTED this 4<sup>th</sup> day of December 2012

  
PAUL S. LEON, MAYOR

ATTEST

  
MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM

  
BEST BEST & KRIEGER LLP  
CITY ATTORNEY



ATTACHMENT "A"

Resolution No 2012-094

Page 4 of 4

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 2012-094 was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit

AYES	MAYOR/COUNCIL MEMBERS	LEON, WAPNER, BOWMAN, DORST-PORADA AND AVILA
NOES	COUNCIL MEMBERS	NONE
ABSENT	COUNCIL MEMBERS	NONE

  
for MARY E WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No 2012-094 duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012

  
for MARY E WIRTES, MMC, CITY CLERK

(SEAL)

## ATTACHMENT "A"

### Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

**"Fee Acquisition"** also known as fee simple or fee simple absolute, refers to complete or absolute ownership of the property in the City of Eastvale, County of Riverside, State of California.

**"Temporary Construction Easement"** or **"TCE"** refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the South Milliken Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence after the owner is provided 5 calendar days advanced written notice by the City of the City's intent to utilize the TCE area. The use of the TCE area shall not exceed 6 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$3,502.21 a month, prorated to the actual date upon which the City's use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

**"Access Easement"** refers to an non-exclusive permanent and perpetual easement and right of way in favor of the City, its successors and assigns, together with the right to construct, reconstruct, repair, extend, maintain and traverse an access way to access City owned facilities and/or construction site, as determined necessary by the City, together with all necessary rights incidental thereto, on, over, under and across the property in connection with the exercise of any easement rights described herein.

Property Owner shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over, or under any portion of the easement, or plant trees or any other vegetation on any portion of the easement except with the prior written consent of the City, its successors and assigns.

The City shall have the right to trim, cut or clear away any trees, brush, or other vegetation from time to time as determined in its sole discretion, without payment of additional compensation.

No other easements shall be granted on, under or over the easement without the prior written consent of the City, its successors and assigns.

The existing ground elevations upon completion of construction shall not be further increased or decreased without the prior written consent of the City.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.



## ATTACHMENT "A"

Coast Surveying, Inc.  
August 24, 2012

### EXHIBIT "A" LEGAL DESCRIPTION RIGHT OF WAY

THOSE PORTIONS OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF EASTVALE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

#### PARCEL 1

BEGINNING AT A NORTHWEST CORNER OF PARCEL 1 AS DESCRIBED IN THE GRANT DEED TO J.W. MITCHELL COMPANY, LLC, RECORDED JANUARY 10, 2002 AS DOCUMENT NO. 2002-017019 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCELS 1 AND 2 AS DESCRIBED IN SAID GRANT DEED, SAID LINE ALSO BEING THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD (150 FEET WIDE), SOUTH 68°24'43" EAST 326.67 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 5536.27 FEET; THENCE SOUTHEASTERLY 364.68 FEET ALONG SAID CURVE AND ALONG SAID NORTHEASTERLY DEED LINE THROUGH A CENTRAL ANGLE OF 03°46'23"; THENCE LEAVING SAID NORTHEASTERLY LINE NONTANGENT NORTH 68°24'25" WEST 701.01 FEET TO THE NORTHWESTERLY LINE OF SAID GRANT DEED; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 61°30'45" EAST 15.61 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,895 SQUARE FEET, MORE OR LESS.

#### PARCEL 2

BEGINNING AT THE NORTHEAST CORNER OF PARCEL 1 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402636 OFFICIAL RECORDS AND RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD; THENCE ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE NORTH 61°30'45" EAST 9.34 FEET TO A LINE PARALLEL AND/OR CONCENTRIC WITH AND 8.00 FEET EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE AS DESCRIBED IN SAID EASEMENT DEED; THENCE ALONG SAID PARALLEL AND/OR CONCENTRIC LINE THE FOLLOWING THREE COURSES:

1. SOUTH 02°37'26" WEST 47.81 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1425.00 FEET;
2. SOUTHERLY 83.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°22'28";
3. SOUTH 00°45'02" EAST 90.39 FEET TO THE NORTHERLY LINE OF PARCEL 3 AS DESCRIBED IN SAID EASEMENT DEED;

THENCE ALONG SAID NORTHERLY LINE NORTH 38°19'09" WEST 13.12 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 3; THENCE ALONG THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE NORTH 00°45'02" WEST 79.99 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1433.00 FEET; THENCE NORTHEASTERLY 84.40 FEET ALONG SAID CURVE AND ALONG SAID EASTERLY RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF 03°22'28"; THENCE CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE NORTH 02°37'26" EAST 42.98 FEET TO THE POINT OF BEGINNING.

JN 108038 AP 0156-020-44 RW

## ATTACHMENT "A"

Coast Surveying, Inc.  
August 24, 2012

CONTAINING 1,717 SQUARE FEET, MORE OR LESS.

### PARCEL 3

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL 3 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402836 OFFICIAL RECORDS AND RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 3 NORTH 36°49'05" EAST 13.12 FEET TO A LINE PARALLEL WITH AND 8.00 FEET EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF SAID MILLIKEN AVENUE; THENCE ALONG SAID PARALLEL LINE SOUTH 00°45'02" EAST 95.58 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°14'58" WEST 8.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE; THENCE ALONG SAID EASTERLY LINE NORTH 00°45'02" WEST 85.18 FEET TO THE POINT OF BEGINNING.

CONTAINING 723 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 29<sup>TH</sup> DAY OF AUGUST, 2012.

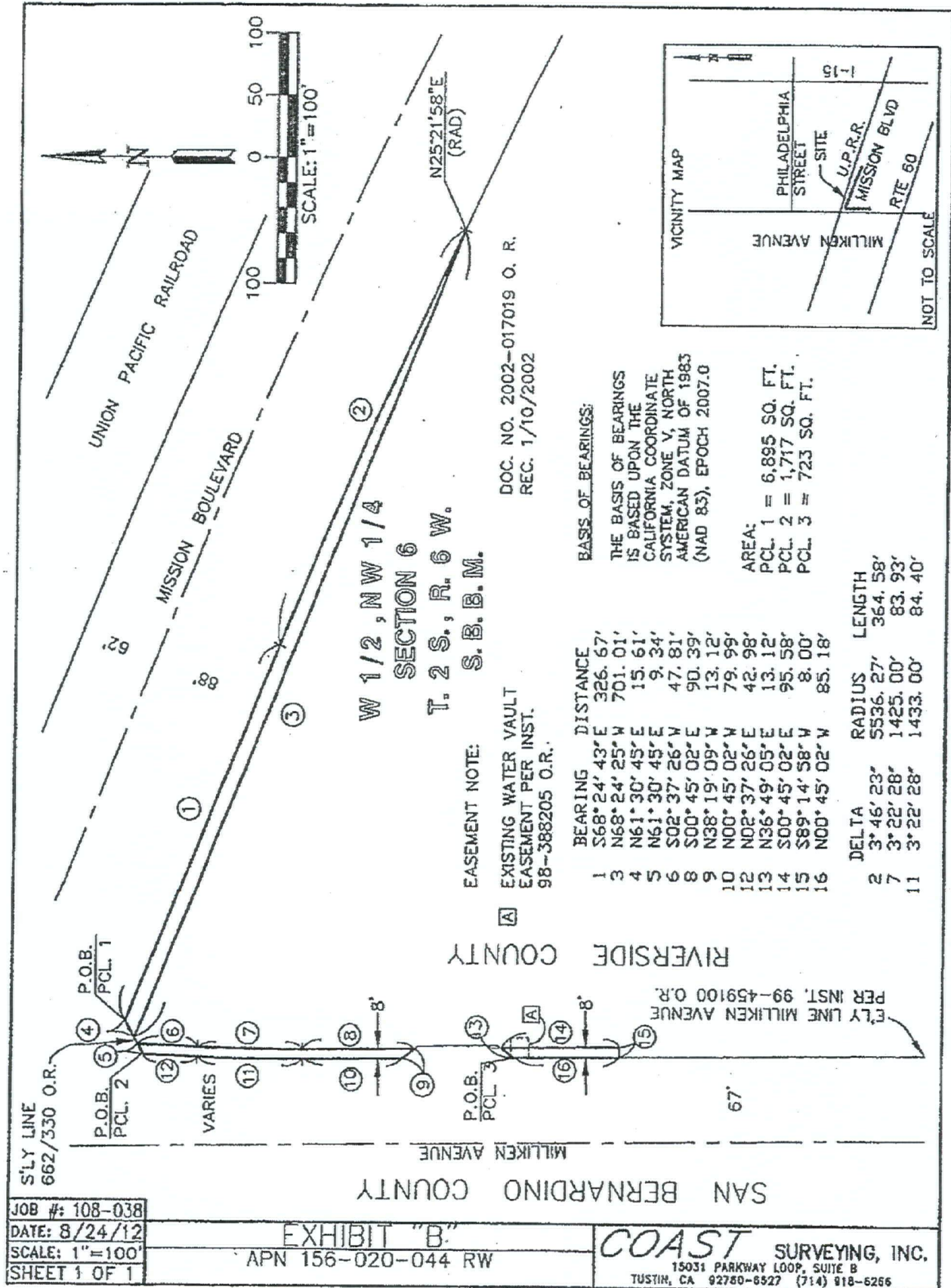


GWEN-VERA DEL CASTILLO, PLS 5108





# ATTACHMENT "A"





## ATTACHMENT "A"

Coast Surveying, Inc.  
August 24, 2012

### EXHIBIT "A" LEGAL DESCRIPTION ACCESS EASEMENT

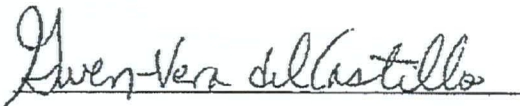
THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF EASTVALE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF PARCEL 3 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402638 OFFICIAL RECORDS AND RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG SAID EASTERLY LINE OF SAID PARCEL 3 SOUTH 00°45'02" EAST 19.26 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EASTERLY LINE NORTH 89°14'58" EAST 30.00 FEET; THENCE SOUTH 00°45'02" EAST 25.00 FEET; THENCE SOUTH 89°14'58" WEST 30.00 FEET TO SAID EASTERLY LINE; THENCE ALONG SAID EASTERLY LINE NORTH 00°45'02" WEST 25.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 750 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

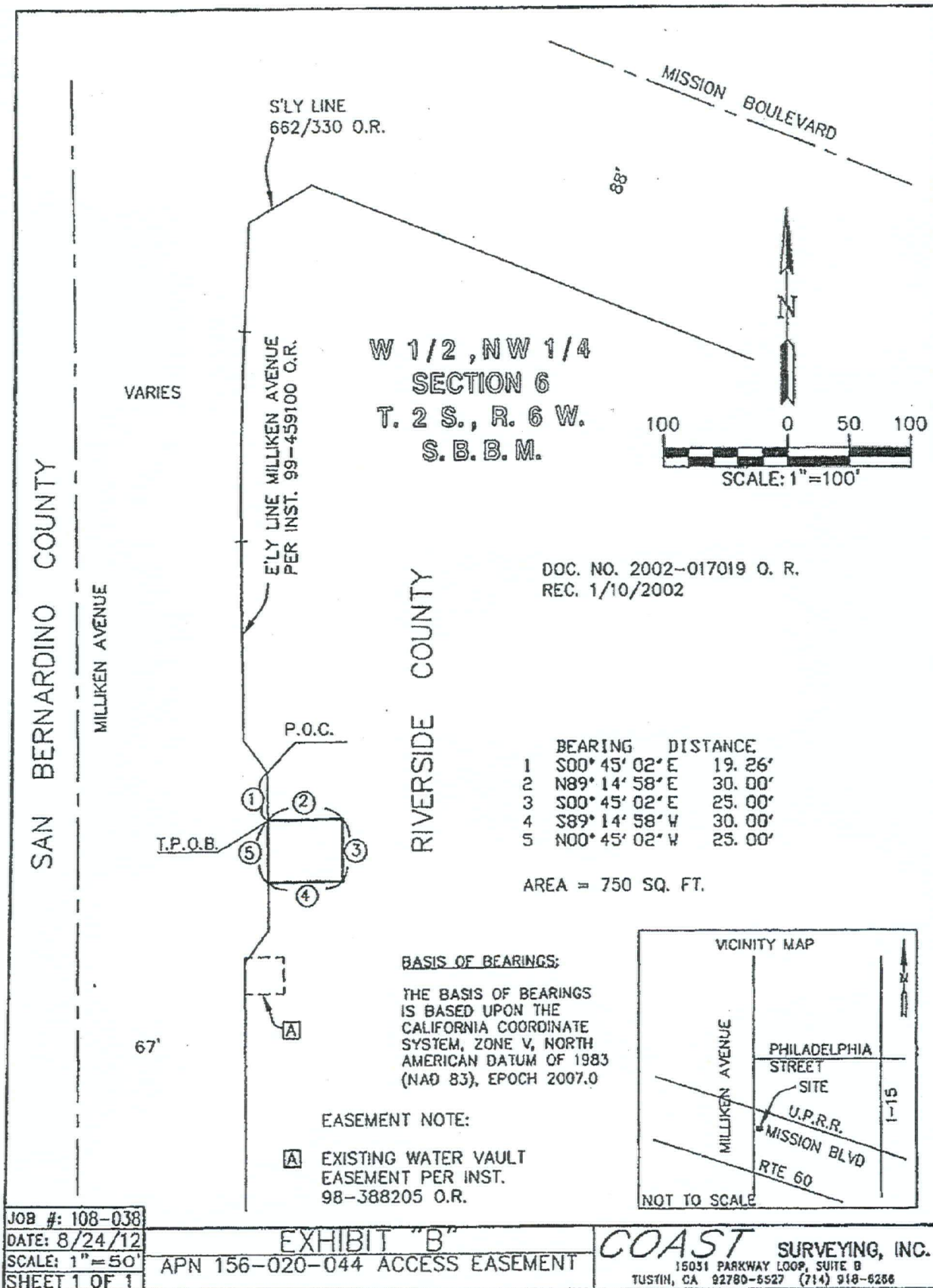
DATED THIS 27<sup>TH</sup> DAY OF AUGUST, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108



# ATTACHMENT "A"





# ATTACHMENT "A"

Coast Surveying, Inc.  
August 24, 2012

## EXHIBIT "A" LEGAL DESCRIPTION TEMPORARY CONSTRUCTION EASEMENT

THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF EASTVALE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF PARCEL 1 AS DESCRIBED IN THE GRANT DEED TO J.W. MITCHELL COMPANY, LLC, RECORDED JANUARY 10, 2002 AS DOCUMENT NO. 2002-017019 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCELS 1 AND 2 AS DESCRIBED IN SAID GRANT DEED, SAID LINE ALSO BEING THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD (150 FEET WIDE), SOUTH 68°24'43" EAST 326.67 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 5536.27 FEET; THENCE SOUTHEASTERLY 364.58 FEET ALONG SAID CURVE AND ALONG SAID NORTHEASTERLY DEED LINE THROUGH A CENTRAL ANGLE OF 03°46'23" TO THE TRUE POINT OF BEGINNING, A RADIAL BEARING TO SAID POINT BEARS NORTH 25°21'58" EAST; THENCE CONTINUING ALONG SAID CURVE AND SAID NORTHEASTERLY LINE SOUTHEASTERLY 132.97 FEET THROUGH A CENTRAL ANGLE OF 01°22'34"; THENCE LEAVING SAID NORTHEASTERLY LINE NONTANGENT SOUTH 26°44'32" WEST 18.00 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 5518.27 FEET, A RADIAL BEARING TO SAID POINT BEARS NORTH 26°44'32" EAST; THENCE NORTHWESTERLY 496.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°08'57"; THENCE NORTH 68°24'25" WEST 110.09 FEET; THENCE SOUTH 05°23'24" WEST 88.80 FEET; THENCE SOUTH 37°12'48" WEST 47.60 FEET; THENCE NORTH 90°00'00" WEST 31.56 FEET; THENCE SOUTH 49°29'56" WEST 39.15 FEET; THENCE NORTH 90°00'00" WEST 16.16 FEET; THENCE NORTH 00°36'46" EAST 39.75 FEET; THENCE SOUTH 88°45'07" WEST 29.76 FEET; THENCE NORTH 29°50'34" WEST 54.01 FEET; THENCE NORTH 00°00'00" WEST 128.38 FEET; THENCE NORTH 87°22'34" WEST 17.08 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 75.00 FEET, A RADIAL BEARING TO SAID CURVE BEARS NORTH 39°39'44" WEST; THENCE SOUTHWESTERLY 64.08 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 48°57'25" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1423.00 FEET, A RADIAL BEARING TO SAID POINT BEARS NORTH 88°37'09" WEST; THENCE SOUTHERLY 52.94 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°07'53"; THENCE SOUTH 00°45'02" EAST 46.15 FEET; THENCE NORTH 89°14'58" EAST 3.00 FEET; THENCE SOUTH 00°45'02" EAST 210.02 FEET; THENCE SOUTH 89°14'58" WEST 3.00 FEET TO A LINE PARALLEL WITH AND 10.00 FEET EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE; THENCE ALONG SAID PARALLEL LINE SOUTH 00°45'02" EAST 381.00 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°14'58" WEST 10.00 FEET TO SAID EASTERLY RIGHT OF WAY LINE; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE NORTH 00°45'02" WEST 381.00 FEET; THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE NORTH 89°14'58" EAST 8.00 FEET; THENCE NORTH 00°45'02" WEST 95.58 FEET TO THE SOUTHEASTERLY LINE OF PARCEL 3 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402636 OFFICIAL RECORDS AND

JN 108038 AP 0156-020-44 TCE

## ATTACHMENT "A"

Coast Surveying, Inc.  
August 24, 2012

RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH  $38^{\circ}49'05''$  EAST 3.28 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 3; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 NORTH  $00^{\circ}45'02''$  WEST 64.00 FEET TO THE NORTHEASTERLY CORNER OF SAID PARCEL 3; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 3 NORTH  $38^{\circ}19'09''$  WEST 3.28 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE NORTH  $00^{\circ}45'02''$  WEST 90.39 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1425.00 FEET; THENCE NORTHERLY 83.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $03^{\circ}22'28''$ ; THENCE NORTH  $02^{\circ}37'26''$  EAST 47.81 FEET TO THE NORTHWESTERLY LINE OF THE DESCRIBED IN SAID GRANT DEED TO J.W. MITCHELL COMPANY, LLC; THENCE ALONG SAID NORTHWESTERLY LINE NORTH  $61^{\circ}30'45''$  EAST 5.95 FEET; THENCE LEAVING SAID NORTHWESTERLY LINE SOUTH  $68^{\circ}24'25''$  EAST 701.01 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 39,573 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 29<sup>TH</sup> DAY OF AUGUST, 2012.

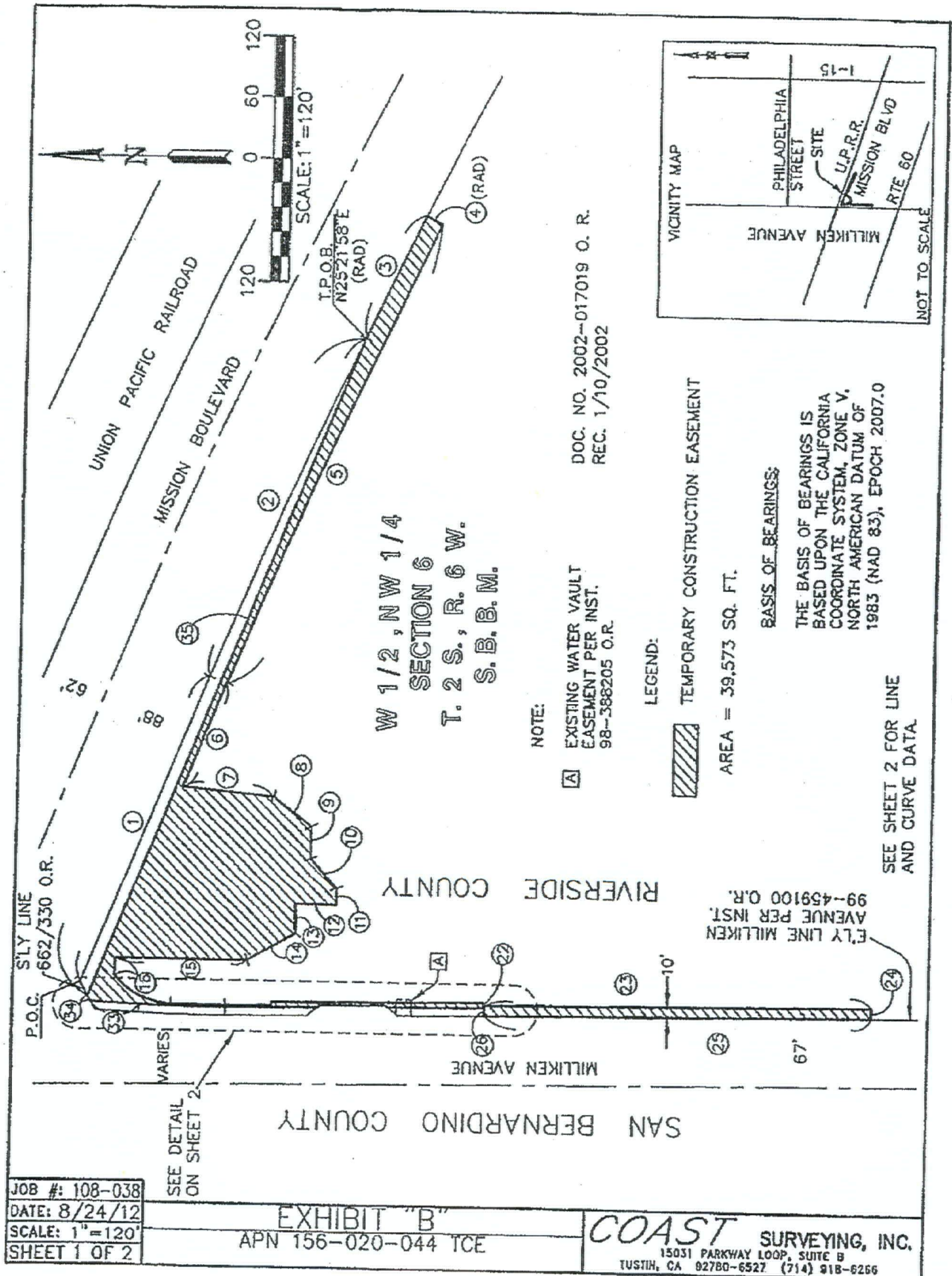
  
GWEN-VERA DEL CASTILLO, PLS 5108



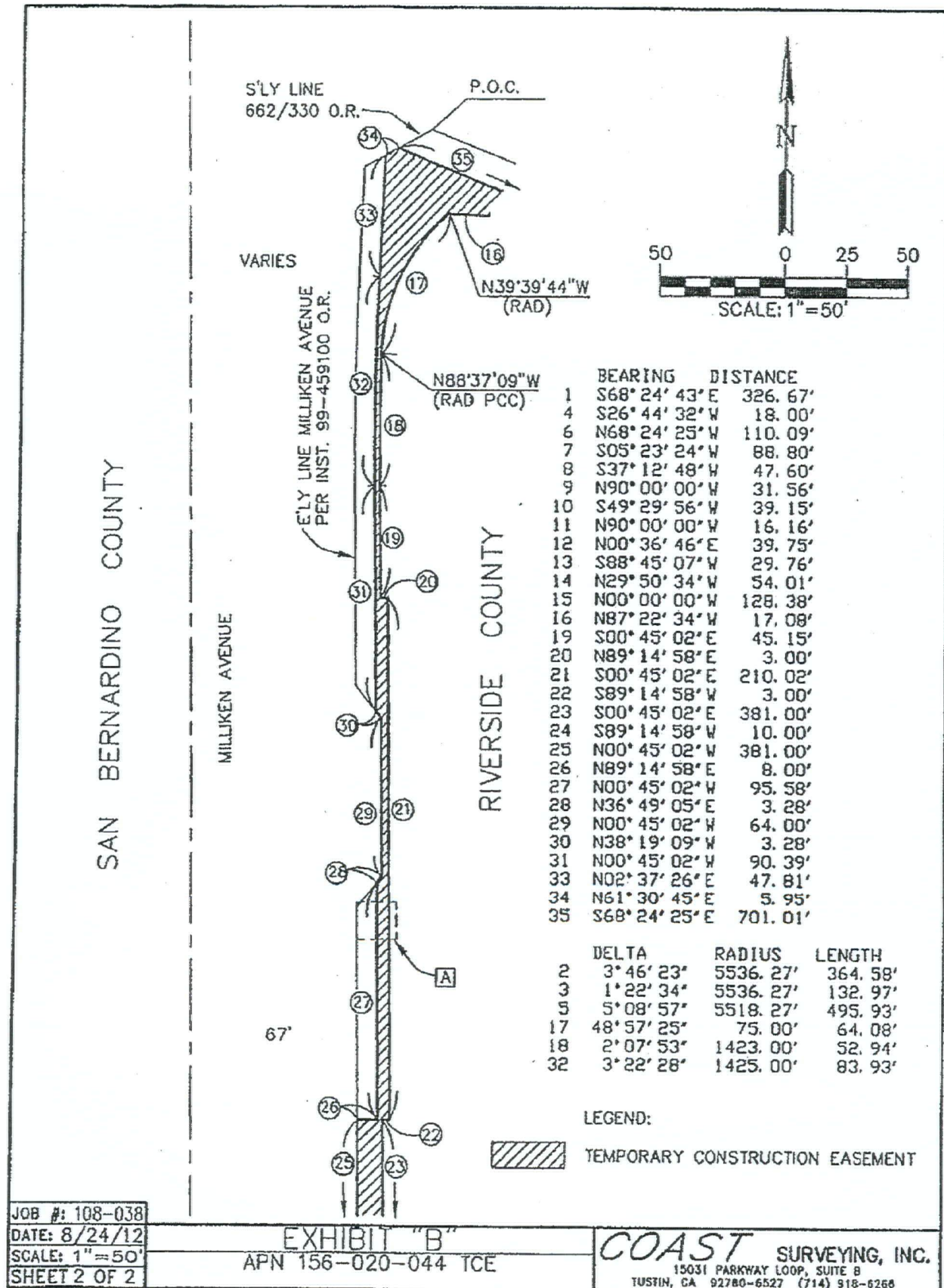
JN 108038 AP 0156-020-44 TCE



# ATTACHMENT "A"



# ATTACHMENT "A"





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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING RESOLUTION NO. 2012-094, A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 156-020-044 BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire fee, easement and temporary construction easement interests in portions of certain real property located at or near the intersection of Mission Boulevard, Philadelphia Street and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel No. 156-020-044 (located in Riverside County), for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it be by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

WHEREAS, the City has the power to condemn property located in the City of Eastvale, pursuant to an agreement between the City of Ontario and the City of Eastvale.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" are necessary for the proposed project;
- (d) The offer required by section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further



authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Amended Resolution shall be retroactive to December 4, 2012, the date it was originally adopted.

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

PASSED, APPROVED, AND ADOPTED this 5<sup>th</sup> day of March 2013.

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

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

(SEAL)

### Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

**“Fee Acquisition”** also known as fee simple or fee simple absolute, refers to complete or absolute ownership of the property in the City of Eastvale, County of Riverside, State of California.

**“Temporary Construction Easement”** or **“TCE”** refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the South Milliken Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence after the owner is provided 5 calendar days advanced written notice by the City of the City’s intent to utilize the TCE area. The use of the TCE area shall not exceed 6 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$3,502.21 a month, prorated to the actual date upon which the City’s use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

**“Access Easement”** refers to an non-exclusive permanent and perpetual easement and right of way in favor of the City, its successors and assigns, together with the right to construct, reconstruct, repair, extend, maintain and traverse an access way to access City owned facilities and/or construction site, as determined necessary by the City, together with all necessary rights incidental thereto, on, over, under and across the property in connection with the exercise of any easement rights described herein.

Property Owner shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over, or under any portion of the easement, or plant trees or any other vegetation on any portion of the easement except with the prior written consent of the City, its successors and assigns.

The City shall have the right to trim, cut or clear away any trees, brush, or other vegetation from time to time as determined in its sole discretion, without payment of additional compensation.

No other easements shall be granted on, under or over the easement without the prior written consent of the City, its successors and assigns.

The existing ground elevations upon completion of construction shall not be further increased or decreased without the prior written consent of the City.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.



EXHIBIT "A"  
LEGAL DESCRIPTION  
RIGHT OF WAY

FEE

THOSE PORTIONS OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF EASTVALE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

**PARCEL 1**

BEGINNING AT A NORTHWEST CORNER OF PARCEL 1 AS DESCRIBED IN THE GRANT DEED TO J.W. MITCHELL COMPANY, LLC, RECORDED JANUARY 10, 2002 AS DOCUMENT NO. 2002-017019 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCELS 1 AND 2 AS DESCRIBED IN SAID GRANT DEED, SAID LINE ALSO BEING THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD (150 FEET WIDE), SOUTH  $68^{\circ}24'43''$  EAST 326.67 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 5536.27 FEET; THENCE SOUTHEASTERLY 364.58 FEET ALONG SAID CURVE AND ALONG SAID NORTHEASTERLY DEED LINE THROUGH A CENTRAL ANGLE OF  $03^{\circ}46'23''$ ; THENCE LEAVING SAID NORTHEASTERLY LINE NONTANGENT NORTH  $68^{\circ}24'25''$  WEST 701.01 FEET TO THE NORTHWESTERLY LINE OF SAID GRANT DEED; THENCE ALONG SAID NORTHWESTERLY LINE NORTH  $61^{\circ}30'45''$  EAST 15.61 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,895 SQUARE FEET, MORE OR LESS.

**PARCEL 2**

BEGINNING AT THE NORTHEAST CORNER OF PARCEL 1 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402636 OFFICIAL RECORDS AND RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD; THENCE ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE NORTH  $61^{\circ}30'45''$  EAST 9.34 FEET TO A LINE PARALLEL AND/OR CONCENTRIC WITH AND 8.00 FEET EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE AS DESCRIBED IN SAID EASEMENT DEED; THENCE ALONG SAID PARALLEL AND/OR CONCENTRIC LINE THE FOLLOWING THREE COURSES:

1. SOUTH  $02^{\circ}37'26''$  WEST 47.81 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1425.00 FEET;
2. SOUTHERLY 83.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $03^{\circ}22'28''$ ;
3. SOUTH  $00^{\circ}45'02''$  EAST 90.39 FEET TO THE NORTHERLY LINE OF PARCEL 3 AS DESCRIBED IN SAID EASEMENT DEED;

THENCE ALONG SAID NORTHERLY LINE NORTH  $38^{\circ}19'09''$  WEST 13.12 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 3; THENCE ALONG THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE NORTH  $00^{\circ}45'02''$  WEST 79.99 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1433.00 FEET; THENCE NORTHEASTERLY 84.40 FEET ALONG SAID CURVE AND ALONG SAID EASTERLY RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF  $03^{\circ}22'28''$ ; THENCE CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE NORTH  $02^{\circ}37'26''$  EAST 42.98 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,717 SQUARE FEET, MORE OR LESS.

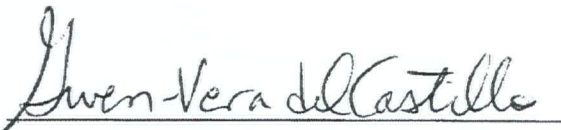
**PARCEL 3**

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL 3 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402636 OFFICIAL RECORDS AND RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 3 NORTH 36°49'05" EAST 13.12 FEET TO A LINE PARALLEL WITH AND 8.00 FEET EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF SAID MILLIKEN AVENUE; THENCE ALONG SAID PARALLEL LINE SOUTH 00°45'02" EAST 95.58 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°14'58" WEST 8.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE; THENCE ALONG SAID EASTERLY LINE NORTH 00°45'02" WEST 85.18 FEET TO THE POINT OF BEGINNING.

CONTAINING 723 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 29<sup>TH</sup> DAY OF AUGUST, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108







EXHIBIT "A"  
LEGAL DESCRIPTION  
ACCESS EASEMENT

**EASEMENT**

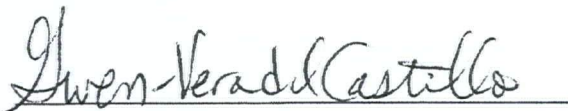
THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF EASTVALE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF PARCEL 3 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402636 OFFICIAL RECORDS AND RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 SOUTH 00°45'02" EAST 32.04 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID EASTERLY LINE NORTH 89°14'58" EAST 27.00 FEET; THENCE SOUTH 00°45'02" EAST 20.00 FEET; THENCE SOUTH 89°14'58" WEST 27.00 FEET TO SAID EASTERLY LINE; THENCE ALONG SAID EASTERLY LINE NORTH 00°45'02" WEST 20.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 540 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 24<sup>th</sup> DAY OF JANUARY, 2013.



GWEN-VERA DEL CASTILLO, PLS 5108



SAN BERNARDINO COUNTY

MILLIKEN AVENUE

VARIES

S'LY LINE  
662/330 O.R.

E'LY LINE MILLIKEN AVENUE  
PER INST. 99-459100 O.R.

W 1/2, NW 1/4  
SECTION 6  
T. 2 S., R. 6 W.  
S. B. B. M.

RIVERSIDE COUNTY

DOC. NO. 2002-017019 O. R.  
REC. 1/10/2002

	BEARING	DISTANCE
1	S00°45'02"E	32.04'
2	N89°14'58"E	27.00'
3	S00°45'02"E	20.00'
4	S89°14'58"W	27.00'
5	N00°45'02"W	20.00'

AREA = 540 SQ. FT.

BASIS OF BEARINGS:

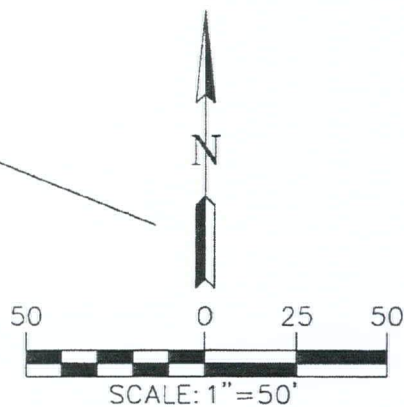
THE BASIS OF BEARINGS  
IS BASED UPON THE  
CALIFORNIA COORDINATE  
SYSTEM, ZONE V, NORTH  
AMERICAN DATUM OF 1983  
(NAD 83), EPOCH 2007.0

EASEMENT NOTE:

- [A] EXISTING WATER VAULT  
EASEMENT PER INST.  
98-388205 O.R.

MISSION BOULEVARD

88'

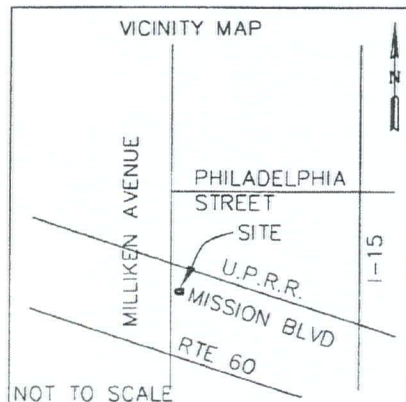


T.P.O.B.

P.O.C.

67'

VICINITY MAP



JOB #: 108-038  
DATE: 1/23/13  
SCALE: 1"=50'  
SHEET 1 OF 1

EXHIBIT "B"

APN 156-020-044 ACCESS EASEMENT

**COAST SURVEYING, INC.**  
15031 PARKWAY LOOP, SUITE B  
TUSTIN, CA 92780-6527 (714) 918-6266



EXHIBIT "A"  
LEGAL DESCRIPTION  
TEMPORARY CONSTRUCTION EASEMENT

THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF EASTVALE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICAL PLAT THEREOF, DESCRIBED AS FOLLOWS:


COMMENCING AT THE NORTHWEST CORNER OF PARCEL 1 AS DESCRIBED IN THE GRANT DEED TO J.W. MITCHELL COMPANY, LLC, RECORDED JANUARY 10, 2002 AS DOCUMENT NO. 2002-017019 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCELS 1 AND 2 AS DESCRIBED IN SAID GRANT DEED, SAID LINE ALSO BEING THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD (150 FEET WIDE), SOUTH 68°24'43" EAST 326.67 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 5536.27 FEET; THENCE SOUTHEASTERLY 364.58 FEET ALONG SAID CURVE AND ALONG SAID NORTHEASTERLY DEED LINE THROUGH A CENTRAL ANGLE OF 03°46'23" TO THE TRUE POINT OF BEGINNING, A RADIAL BEARING TO SAID POINT BEARS NORTH 25°21'58" EAST; THENCE CONTINUING ALONG SAID CURVE AND SAID NORTHEASTERLY LINE SOUTHEASTERLY 132.97 FEET THROUGH A CENTRAL ANGLE OF 01°22'34"; THENCE LEAVING SAID NORTHEASTERLY LINE NONTANGENT SOUTH 26°44'32" WEST 18.00 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 5518.27 FEET, A RADIAL BEARING TO SAID POINT BEARS NORTH 26°44'32" EAST; THENCE NORTHWESTERLY 495.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°08'57"; THENCE NORTH 68°24'25" WEST 57.81 FEET; THENCE SOUTH 21°35'35" WEST 44.32 FEET; THENCE NORTH 68°24'25" WEST 28.00 FEET; THENCE SOUTH 21°35'35" WEST 28.00 FEET; THENCE SOUTH 89°30'30" WEST 39.00 FEET; THENCE SOUTH 00°45'02" EAST 48.00 FEET; THENCE SOUTH 89°14'58" WEST 52.94 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 60.00 FEET; THENCE SOUTHWESTERLY 79.27 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 75°41'35"; THENCE SOUTH 13°33'22" WEST 25.25 FEET; THENCE SOUTH 00°45'02" EAST 28.26 FEET; THENCE SOUTH 89°14'58" WEST 48.50 FEET TO A LINE PARALLEL WITH AND 16.00 FEET EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE; THENCE ALONG SAID PARALLEL LINE SOUTH 00°45'02" EAST 76.00 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°14'58" WEST 6.00 FEET TO A LINE PARALLEL WITH AND 10.00 FEET EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE; THENCE ALONG SAID PARALLEL LINE SOUTH 00°45'02" EAST 381.00 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°14'58" WEST 10.00 FEET TO SAID EASTERLY RIGHT OF WAY LINE; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE NORTH 00°45'02" WEST 381.00 FEET; THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE NORTH 89°14'58" EAST 8.00 FEET; THENCE NORTH 00°45'02" WEST 95.58 FEET TO THE SOUTHEASTERLY LINE OF PARCEL 3 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402636 OFFICIAL RECORDS AND RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 36°49'05" EAST 3.28 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 3; THENCE ALONG THE EASTERLY LINE

OF SAID PARCEL 3 NORTH 00°45'02" WEST 64.00 FEET TO THE NORTHEASTERLY CORNER OF SAID PARCEL 3; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 3 NORTH 38°19'09" WEST 3.28 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE NORTH 00°45'02" WEST 90.39 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1425.00 FEET; THENCE NORTHERLY 83.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°22'28"; THENCE NORTH 02°37'26" EAST 47.81 FEET TO THE NORTHWESTERLY LINE OF THE LAND DESCRIBED IN SAID GRANT DEED TO J.W. MITCHELL COMPANY, LLC; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 61°30'45" EAST 5.95 FEET; THENCE LEAVING SAID NORTHWESTERLY LINE SOUTH 68°24'25" EAST 701.01 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 55,234 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

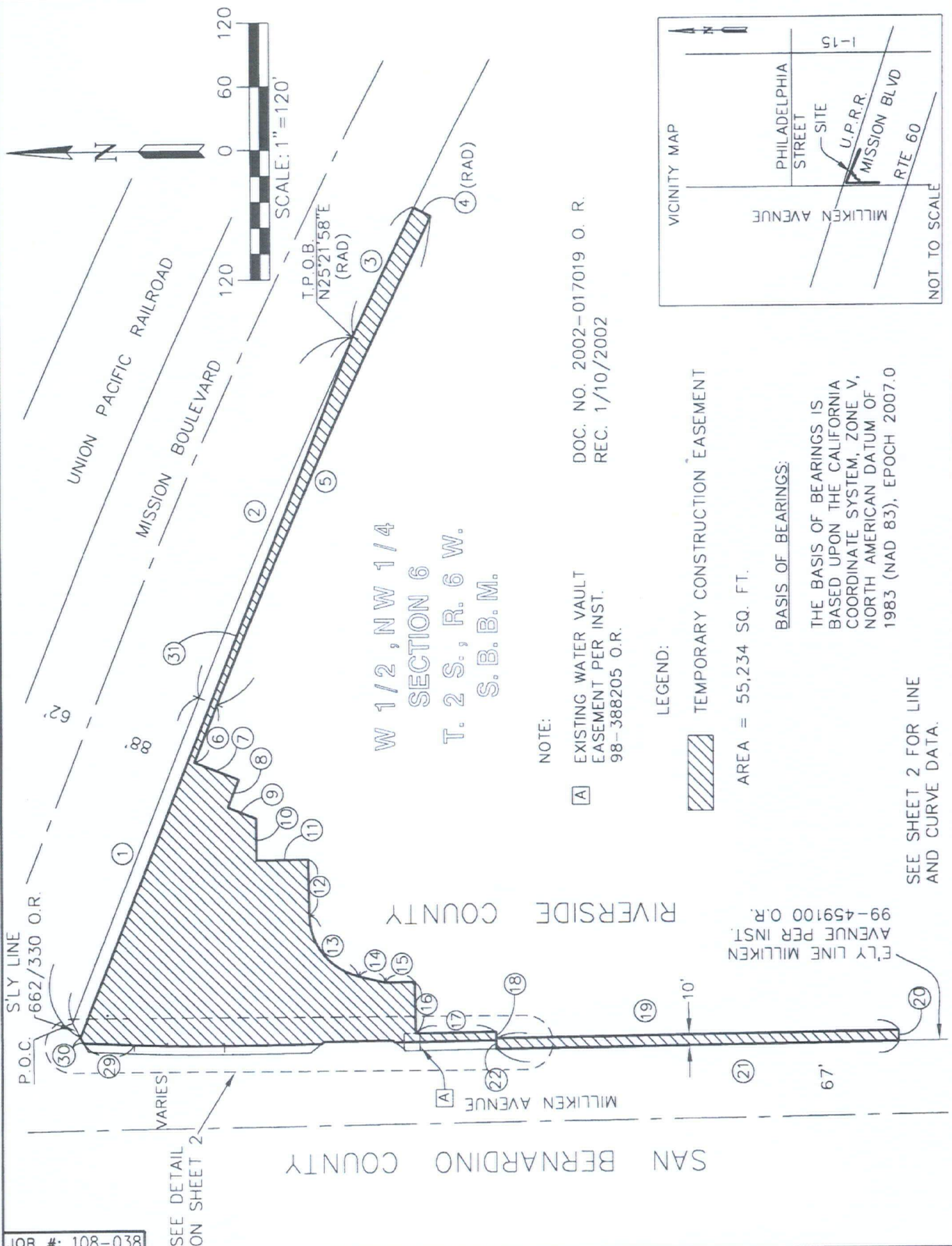
DATED THIS 25<sup>TH</sup> DAY OF FEBRUARY, 2013.



KENNETH C. KASBOHM, PLS 7371







JOB #: 108-038  
 DATE: 2/25/13  
 SCALE: 1"=120'  
 SHEET 1 OF 2

EXHIBIT "B"  
 APN 156-020-044 TCE

**COAST SURVEYING, INC.**  
 15031 PARKWAY LOOP, SUITE B  
 TUSTIN, CA 92780-6527 (714) 918-6266

SAN BERNARDINO COUNTY

MILLIKEN AVENUE

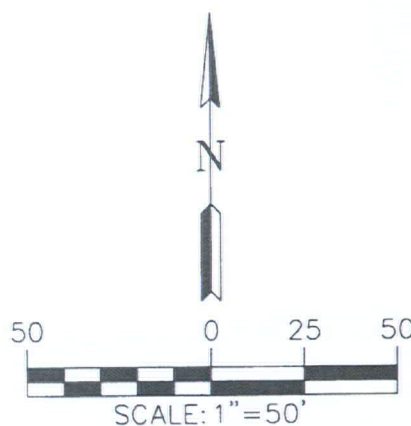
RIVERSIDE COUNTY

S'LY LINE  
662/330 O.R.

P.O.C.

VARIES

E'LY LINE MILLIKEN AVENUE  
PER INST. 99-459100 O.R.



	BEARING	DISTANCE
1	S68°24'43"E	326.67'
4	S26°44'32"W	18.00'
6	N68°24'25"W	57.81'
7	S21°35'35"W	44.32'
8	N68°24'25"W	28.00'
9	S21°35'35"W	28.00'
10	S89°30'30"W	39.00'
11	S00°45'02"E	48.00'
12	S89°14'58"W	52.94'
14	S13°33'22"W	25.25'
15	S00°45'02"E	28.26'
16	S89°14'58"W	48.50'
17	S00°45'02"E	76.00'
18	S89°14'58"W	6.00'
19	S00°45'02"E	381.00'
20	S89°14'58"W	10.00'
21	N00°45'02"W	381.00'
22	N89°14'58"E	8.00'
23	N00°45'02"W	95.58'
24	N36°49'05"E	3.28'
25	N00°45'02"W	64.00'
26	N38°19'09"W	3.28'
27	N00°45'02"W	90.39'
29	N02°37'26"E	47.81'
30	N61°30'45"E	5.95'
31	S68°24'25"E	701.01'

	DELTA	RADIUS	LENGTH
2	3°46'23"	5536.27'	364.58'
3	1°22'34"	5536.27'	132.97'
5	5°08'57"	5518.27'	495.93'
13	75°41'35"	60.00'	79.27'
28	3°22'28"	1425.00'	83.93'

LEGEND:



TEMPORARY CONSTRUCTION EASEMENT

JOB #: 108-038

DATE: 2/25/13

SCALE: 1"=50'

SHEET 2 OF 2

EXHIBIT "B"

APN 156-020-044 TCE

**COAST SURVEYING, INC.**

15031 PARKWAY LOOP, SUITE B  
TUSTIN, CA 92780-6527 (714) 918-6266



# CITY OF ONTARIO

*Agenda Report*  
March 05, 2013

## SECTION: CONSENT CALENDAR

**SUBJECT: CONSTRUCTION CONTRACT FOR SOUND INSULATION OF 98 CONDOMINIUM UNITS UNDER THE ONTARIO QUIET HOME PROGRAM**

**RECOMMENDATION:** That the City Council:

- (A) Award Contract No. P150-1213-01 (on file with the Records Management Department) to S&L Specialty Contracting, Inc. of Syracuse, New York (S&L), in the amount of \$2,554,000, plus 15% contingency of \$383,100 for a total not to exceed amount of \$2,937,100 to sound insulate 98 condominium units;
- (B) Reject any and all other bids for this project;
- (C) Direct the City Manager, or his designee, not to pursue the bid bond submitted by Harry H. Joh Construction, Inc; and
- (D) Authorize the City Manager, or his designee, to execute the contract, other related documents necessary to implement said contract, and file a Notice of Completion at the conclusion of all construction activities related to this contract.

**COUNCIL GOALS:** Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health  
Pursue City's Goals and Objectives by Working with Other Governmental Agencies  
Focus Resources in Ontario's Commercial and Residential Neighborhoods

**FISCAL IMPACT:** The Federal Aviation Administration (FAA) and Los Angeles World Airports (LAWA) awarded sound insulation grants to fund the specified work under the proposed contract. The adopted Fiscal Year 2012-13 Quiet Home Program budget includes appropriations to implement the contract. Therefore, there will be no impact to the City's General Fund.

**STAFF MEMBER PRESENTING:** Brent Schultz, Housing & Neighborhood Revitalization Director

Prepared by: Ivette Iraheta  
Department: Housing Agency  
City Manager  
Approval: 

Submitted to Council/O.H.A. 03/05/2013  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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**BACKGROUND:** City staff solicited bids for Contract No. P150-1213-01 to sound insulate 98 condominium units located at 1650 South Campus Avenue (see attached location map). On November 19, 2012, the City received a total of six (6) bids for the proposed project. The project architect, The Jones Payne Group, estimated the cost of construction at \$2,646,559.

The bid results were as follows:

<b>Company</b>	<b>Location</b>	<b>Bid Amount</b>
Ver-O-Roses Maintenance, Inc.	City of Industry, CA	\$51.00
Harry H. Joh Construction, Inc.	Paramount, CA	\$2,093,676
S&L Specialty Contracting, Inc.	Syracuse, NY	\$2,554,000
NSA Construction Group, Inc.	Tarzana, CA	\$2,789,000
Karabuild Development, Inc.	Encino, CA	\$2,969,800
DRP National, Inc.	West Covina, CA	\$3,362,674

City staff and the project architect reviewed all bid submittals. Ver-O-Roses Maintenance Inc.'s bid of \$51.00 was immediately deemed an anomaly and non-responsive. This left Harry H. Joh Construction, Inc. (HHJC) as the lowest responsive bidder with a bid of \$2,093,676. HHJC's bid was 21 percent, or \$552,883, lower than the architect's estimate. Staff conducted an extensive review of HHJC's bid and determined that while the bid was responsive, it was not a responsible bid given the extremely low bid that left no room for error or construction delays. After these concerns were discussed with HHJC, they voluntarily withdrew their bid on February 12, 2013. Staff recommends that the City Council award the contract to the next lowest, responsive and responsible bidder - S&L. S&L's bid is 3.5 percent, or \$92,559, below the architect's probable cost of construction. The FAA has issued a letter of concurrence to award the contract to S&L.

S&L has extensive sound insulation construction experience and has performed this type of work throughout the country. Between 2004 and 2012, S&L successfully completed eight (8) separate sound insulation projects totaling 554 houses for the Quiet Home Program. References were checked and no unsatisfactory issues were noted. Construction work is anticipated to start by summer of 2013 and be completed by spring 2014. To date, the program has sound insulated 1,379 units and expended over \$30 million in construction using FAA and LAWA sound insulation grants. After completion of this project and two additional future projects, the program will have sound insulated over 1,600 housing units.



**Sultana Ave.**

**Belmont St.**

**Campus Ave.**

**Bon View Ave.**

**Francis St.**



### Legend



Project Site - 1650 S. Campus Ave.  
Condominium Complex

# CITY OF ONTARIO

Agenda Report  
March 5, 2013

## SECTION: CONSENT CALENDAR

**SUBJECT: A RESOLUTION APPROVING AN APPLICATION WITH THE STATE OF CALIFORNIA DEPARTMENT OF PUBLIC HEALTH FOR GRANT FUNDS UNDER THE PROPOSITION 50 FUNDING PROGRAM**

**RECOMMENDATION:** That the City Council adopt a resolution approving the City's application for State of California Department of Public Health (CDPH) grant funds under the Proposition 50 Funding Program for a groundwater recovery and treatment system; and authorize the City Manager or his designee to execute said application.


**COUNCIL GOALS:** Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health  
Invest in the City's Infrastructure (Water, Streets, Sewer, Parks, Storm Drains and Public Facilities)

**FISCAL IMPACT:** The City is eligible to apply for matching grant funds from the State Department of Public Health (CDPH) Proposition 50 Funding Program for up to 50% and a maximum of \$20 million in project costs. The grant application will seek up to 50% of the project costs with the City's share funded by the Water Capital Fund. There is no impact to the General Fund.

**BACKGROUND:** In November 2002, California voters approved Proposition 50 – The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002. Proposition 50 authorized the State of California to sell \$2 billion in general obligation bonds for water related projects throughout the State. Funding opportunities through Proposition 50 are processed and approved by the State over multiple years.

The City's water master plan has identified groundwater treatment as a potential long-term solution to allow Ontario to maximize the beneficial use of its local groundwater resources and address water quality changes over time. In 2006, Ontario submitted a request for funding through *Proposition 50 - Chapter 4b: Southern California Projects to Reduce Demand on Colorado River* for a potential groundwater recovery and treatment system. This project was determined by the State to be eligible

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

Prepared by: Dennis Mejia  
Department: MU/Engineering  
City Manager Approval: 

Submitted to Council/O.H.A. 03/05/2013  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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under Proposition 50 and it received a ranking of four (4) out of 38 projects statewide. The next step in the grant process is to submit a full application to CDPH including a resolution of the governing body authorizing the filing of the application. In the event Ontario is successful in the application process, a proposed Funding Agreement and corresponding budget adjustments will be brought back to the City Council for consideration.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
ONTARIO, CALIFORNIA, APPROVING THE FILING OF AN  
APPLICATION WITH THE STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC HEALTH FOR GRANT FUNDS  
UNDER THE PROPOSITION 50 FUNDING PROGRAM.

WHEREAS, the people of the State of California have enacted Proposition 50, the Water Security, Clean Drinking Water, Coastal And Beach Protection Act Of 2002, which provides grant funds for eligible water infrastructure improvement projects; and

WHEREAS, the State of California Department of Public Health has been delegated the responsibility for the administration of the Proposition 50, Safe Drinking Water grant funding program within the State, setting up necessary procedures; and

WHEREAS, said procedures established by the State of California Department of Public Health require the Applicant's Governing Body to certify by resolution the approval of the Applicant to apply for Proposition 50 grant funding; and

WHEREAS, the City of Ontario desires to assure that the City potable water system meets minimum safe drinking water standards; and

WHEREAS, the City of Ontario has the authority to construct, operate, and maintain the City potable water system; and

WHEREAS, the City of Ontario desires to construct a new groundwater recovery and treatment system to extract and treat local groundwater.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO DOES  
HEREBY RESOLVE AS FOLLOWS:

1. Approve the filing of a Full Application with the State of California Department of Public Health for grant funding assistance, pursuant to and subject to all of the terms and provisions of the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50) and all amendments thereto; and
2. Authorizes and directs the City of Ontario Municipal Utilities Company General Manager to cause the necessary data to be prepared, investigations to be performed and application to be signed and filed with the State of California Department of Public Health.

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

PASSED, APPROVED, AND ADOPTED this 5<sup>th</sup> day of March 2013.

---

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

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

(SEAL)

# CITY OF ONTARIO

*Agenda Report*  
March 5, 2013

SECTION:  
CONSENT CALENDAR

**SUBJECT: PROFESSIONAL SERVICES AGREEMENTS FOR ON-CALL MATERIAL TESTING AND GEOTECHNICAL ENGINEERING CONSULTING SERVICES**

**RECOMMENDATION:** That the City Council authorize the City Manager to execute two-year Professional Services Agreements (on file with the Records Management Department) with Converse Consultants of Redlands, California; Ninyo & Moore of Rancho Cucamonga, California; and CHJ Consultants of Colton, California, for on-call material testing and geotechnical engineering consulting services; and, authorize the City Manager to extend the agreements for up to three additional consecutive one-year periods consistent with City Council approved budgets.

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

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

**FISCAL IMPACT:** All three firms have agreed to fixed billing rates that are competitive in the current market and will be in effect for the two-year term commencing March 6, 2013 and ending March 5, 2015, unless terminated early by the City. At the City's discretion, up to three additional consecutive one-year extensions may be executed. Pricing for the out-years will be negotiated and any proposed fee increases will not exceed 3% per year. The total compensation under the terms of these agreements will be commensurate with City Council approved budgets for the individual capital improvement projects of the Water Fund, Sewer Fund, and annual work programs included in the baseline departmental operating budget. There is no impact to the General Fund.

**BACKGROUND:** The City's Water and Sewer Master Plans recommend numerous pipeline replacement projects to maintain water and sewer service reliability to the community. Replacement of these pipelines is included in the City's ongoing pipeline replacement program. Material testing and geotechnical services are required for design and construction of these projects along with routine maintenance and repair projects.

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

Prepared by: Dennis Mejia, P.E.

Department: MU/Engineering

City Manager  
Approval: \_\_\_\_\_



Submitted to Council/O.H.A. 03/05/2013

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

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

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

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On October 10, 2012, a request for proposals for material testing and geotechnical services was issued to eleven geotechnical engineering consulting firms.

Staff received nine (9) proposals from the following firms:

<b><u>Firm</u></b>	<b><u>Location</u></b>
CHJ Consultants	Colton, CA
City & County Soil Engineering and Testing	Ontario, CA
Converse Consultants	Redlands, CA
Heider Engineering Services, Inc.	Ontario, CA
Hilltop Geotechnical, Inc.	San Bernardino, CA
Koury Engineering, Inc.	Chino, CA
Ninyo & Moore	Rancho Cucamonga, CA
RMA Group	Rancho Cucamonga, CA
Twining, Inc.	San Bernardino, CA

The proposals were reviewed and evaluated by a selection committee based on professional experience, project understanding and approach, and the ability to meet the City's on-call service needs. After reviewing and rating each of the responses, staff recommends that agreements be approved with Converse Consultants, Ninyo & Moore, and CHJ Consultants based on their qualifications, successful performance of similar services, and competitive rate schedules. Agreements with these three firms will ensure sufficient availability of resources to meet project schedules and on-call needs.



# CITY OF ONTARIO

*Agenda Report*  
March 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) Bid No. 297

Award Bid to E-W Truck of San Diego, California, in the amount of \$526,760 for the purchase and delivery of two (2) front loading solid waste trucks;

(B) Bid No. 299

Award Bid to Fritts Ford of Riverside, California, in the amount of \$587,663 for the purchase and delivery of two (2) all-wheel drive Police interceptor vehicles and twenty (20) patrol all-wheel drive Police interceptor vehicles;

(C) Bid No. 301

Award Bid to: Rotolo Chevrolet of Fontana, California, in the amount of \$31,136 for the purchase and delivery of one (1) Chevrolet Tahoe; Wondries Fleet Group of Alhambra, California, in the amount of \$24,802 for the purchase and delivery of one (1) ½ ton crew cab truck; and Redlands Ford of Redlands, California, in the amount of \$20,751 for the purchase and delivery of one (1) ½ ton extended cab truck;

(D) Bid No. 302

Award Bid to Theodore Robins Ford of Costa Mesa, California, in the amount of \$30,284 for the purchase and delivery of one (1) 15,000 gross vehicle weight rating (GVWR) truck cab and chassis;

(E) Authorize the purchase and delivery of one (1) TORO GroundMaster 360, 2-wheel drive, 72 inch quad-steer mower to Turf Star of Brea, California, in the amount of \$23,695 consistent with the terms and condition of the National-Intergovernmental Purchasing Alliance (IPA) Contract No. 120535; and

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

Prepared by: Victor Moraga  
Department: MU/Fleet Services

City Manager  
Approval: \_\_\_\_\_



Submitted to Council/O.H.A. 03/05/2013

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

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

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

8

- (F) Authorize the purchase and delivery of two (2) 2013 BMW R1200RT-P motorcycles to Long Beach BMW of Long Beach, California, in the amount of \$53,714 consistent with the terms and conditions of the Los Angeles Sheriffs Department Purchase Order No. PO-SH-12321526-1.

**COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health**  
**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 \$1,389,750 for the purchase of the replacement vehicles and equipment listed above. The total cost of the vehicles and equipment recommended for purchase is \$1,298,805.

**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. 297: Two (2) Autocar Model ACX64 with AMREP Model AMHFLPO-22 Bodies for Solid Waste Department**

In January 2013, the City solicited and received two (2) bids for front loading solid waste trucks. The results are as follows:

**Two (2) Autocar Model ACX64 with AMREP Model AMHFLPO-22 Bodies**

<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
E-W Truck & Equipment Co.	San Diego, CA	\$526,760
Los Angeles Truck Centers	Whittier, CA	\$528,450

Staff recommends award to E-W Truck, located in San Diego, California, in the amount of \$526,760. The purchase of the Autocar model ACX64 cab and chassis with an AMREP body continues the City's ongoing effort to standardize the solid waste fleet.

**(B) Bid No. 299: Two (2) Ford All-Wheel Drive (AWD) Police Interceptor Detective Vehicles and twenty (20) Ford All-Wheel Drive (AWD) Police Interceptor Patrol Vehicles for Police Department**

In January 2013, the City solicited and received eight (8) bids for Ford AWD Police Interceptor Vehicles. The results are as follows:



1.

**Two (2) Ford AWD Police Interceptor Vehicles**

<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
<b>Fritts Ford</b>	<b>Riverside, CA</b>	<b>\$51,394</b>
Frontier Ford	Santa, Clara, CA	\$51,843
Raceway Ford	Riverside, CA	\$52,208
Fairview Ford	San Bernardino, CA	\$52,283
Theodore Robins Ford	Costa Mesa, CA	\$52,453
Wondries Fleet Group	Alhambra, CA	\$53,221
McCoy Mills Ford	Fullerton, CA	\$53,379
South Bay Ford	Hawthorne, CA	\$53,648

2.

**Twenty (20) Ford (AWD) Police Interceptor Vehicles**

<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
<b>Fritts Ford</b>	<b>Riverside, CA</b>	<b>\$536,269</b>
Fairview Ford	San Bernardino, CA	\$541,558
Frontier Ford	Santa, Clara, CA	\$542,335
Theodore Robins Ford	Costa Mesa, CA	\$547,556
Raceway Ford	Riverside, CA	\$553,287
McCoy Mills Ford	Fullerton, CA	\$553,871
South Bay Ford	Hawthorne, CA	\$565,747
Wondries Fleet Group	Alhambra, CA	Withdrew

Staff recommends award to Fritts Ford, located in Riverside, California, in the amount of \$587,663.

**(C) Bid No. 301: One (1) Chevrolet Tahoe for Police, One (1) Ford ½ Ton Crew Cab Truck for Police, and One (1) Ford ½ Ton Extended Cab Truck for Engineering**

In January 2013, the City solicited bids for one (1) Chevrolet Tahoe, one (1) Ford ½ ton crew cab truck, one (1) Ford ½ ton extended cab truck. Staff recommends rejecting as non-responsive the bid from McPeek's Dodge of Anaheim, California, because a Ford or General Motors product was specified to continue the City's efforts in standardization of fleet vehicles for operational and maintenance efficiencies. McPeek's Dodge did not comply with the specified request and therefore was deemed non-responsive. The results are as follows:

1.

**One (1) Chevrolet Tahoe**

<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
<b>Rotolo Chevrolet</b>	<b>Fontana, CA</b>	<b>\$31,136</b>
Wondries Fleet Group	Alhambra, CA	\$31,783
Mark Christopher Chevrolet	Ontario, CA	\$33,170

Staff recommends award to Rotolo Chevrolet, located in Fontana, California, in the amount of \$31,136.

2.

**One (1) Ford ½ Ton Crew Cab Truck**

<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
<b>Wondries Fleet Group</b>	<b>Alhambra, CA</b>	<b>\$24,802</b>
Raceway Ford	Riverside, CA	\$25,228
Rotolo Chevrolet	Fontana, CA	\$26,787



Mark Christopher Chevrolet	Ontario, CA	\$28,332
Redland Ford	Redlands, CA	\$35,420

Staff recommends award to Wondries Fleet Group, located in Alhambra, California, in the amount of \$24,802.

3.

<b>One (1) Ford ½ Ton Extended Cab Truck</b>		
<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
<b>Redland Ford</b>	<b>Redlands, CA</b>	<b>\$20,751</b>
Wondries Fleet Group	Alhambra, CA	\$20,926
Raceway Ford	Riverside, CA	\$21,953
Rotolo Chevrolet	Fontana, CA	\$22,338
Mark Christopher Chevrolet	Ontario, CA	\$24,445

Staff recommends award to Redlands Ford, located in Redlands, California, in the amount of \$20,751.

**(D) Bid No. 302: One (1) 15,000 Gross Vehicle Weight Rating (GVWR) Truck Cab and Chassis for Utilities Department**

In January 2013, the City solicited bids for 15,000 GVWR truck cab and chassis. The results are as follows:

<b>One (1) Ford 15,000 GVWR Truck Cab &amp; Chassis</b>		
<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
<b>Theodore Robins Ford</b>	<b>Costa Mesa, CA</b>	<b>\$30,284</b>
Redland Ford	Redlands, CA	\$30,697
Wondries Fleet Group	Alhambra, CA	\$30,714
Frontier Ford	Santa, Clara, CA	\$31,009
Fairview Ford	San Bernardino, CA	\$31,223
Fritts Ford	Riverside, CA	\$31,108
Raceway Ford	Riverside, CA	\$31,237
McCoy Mills Ford	Fullerton, CA	\$31,643

Staff recommends award to Theodore Robbins Ford, located in Costa Mesa, California, in the amount of \$30,284.

**(E) One (1) TORO GroundMaster 360 Mower for Parks and Maintenance Department**

Staff recommends the purchase and delivery of one (1) TORO GroundMaster 360, 2-wheel drive, 72 inch quad-steer mower to Turf Star of Brea, California, for the amount of \$23,695 consistent with the terms and condition of the National- Intergovernmental Purchasing Alliance (IPA) Contract No. 120535. City of Ontario Municipal Code Section 2-6 11 (b)(3) allows for the purchase of supplies and equipment through cooperative purchasing when another governmental agency generally follows the provisions of California Government Code Sections 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. The TORO GroundMaster 360 mower recommended for purchase replaces a similar piece of equipment.

**(F) Two (2) 2013 BMW RT-P 1200 Motorcycles for Police Department/Patrol Division**

Pursuant to City of Ontario Municipal Code provisions regarding cooperative purchasing, staff recommends the purchase and delivery of two (2) 2013 BMW R1200RT-P motorcycles to Long Beach BMW of Long Beach, California, in the amount of \$53,714 consistent with the terms and conditions of the Los Angeles Sheriff's Department Purchase Order No. PO-SH-12321526-1. The 2013 BMW motorcycles recommended for purchase replace similar pieces of equipment.

# CITY OF ONTARIO

*Agenda Report*  
March 5, 2013

## SECTION: CONSENT CALENDAR

**SUBJECT: A RESOLUTION APPROVING AN APPLICATION FOR FISCAL YEAR 2012-13 HOUSEHOLD HAZARDOUS WASTE GRANT (HD20) FROM THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)**

**RECOMMENDATION:** That the City Council adopt a resolution approving the City's application for the Fiscal Year 2012-13 Household Hazardous Waste Grant (HD20) pursuant to Sections 40000 et seq. of the Public Resources Code; and authorize the City Manager to execute said application.

**COUNCIL GOALS:** Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health  
Pursue City's Goals and Objectives by Working with other Governmental Agencies  
Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

**FISCAL IMPACT:** The City may receive up to \$50,000 in grant reimbursement for the cost of Household Hazardous Waste (HHW) Education and Outreach provided to Ontario residents, and minor improvements to the HHW Facility that enhance or improve the existing program for Fiscal Years 2013-14 and 2014-15. No matching funds are required. There is no impact to the General Fund.

**BACKGROUND:** The City is eligible to apply for a Household Hazardous Waste Grant (HD20) from the State of California, Department of Resources Recycling and Recovery (CalRecycle). This grant is designed to provide opportunities for local governments to implement HHW programs for collection, public education, source reduction, reuse, and/or recycling of household hazardous waste.

The grant program provides funding on a competitive basis to local governments to provide education and outreach and minor improvements to HHW facilities like Ontario's, which is located at 1430 South Cucamonga Avenue. Ontario's HHW facility is open Friday and Saturday from 9:00 a.m. to 2:00 p.m.,

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

Prepared by: Bob Figoni  
Department: MU/Solid Waste

City Manager  
Approval: 

Submitted to Council/O.H.A. 03/05/2013  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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and the facility is designed to accept a variety of household hazardous waste materials such as motor oil, paint, pesticides, fertilizers, medicines and electronic waste.

Outreach to residents regarding Ontario's HHW Facility is intended to improve knowledge of household hazardous waste, reduce the amount of hazardous household materials being disposed in landfills, and increase traffic to the facility, leading to a healthier community for all.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A GRANT APPLICATION TO THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY HOUSEHOLD HAZARDOUS WASTE (HHW) GRANT PROGRAM TO FUND PUBLIC EDUCATION AND OUTREACH AND MINOR IMPROVEMENTS TO THE HOUSEHOLD HAZARDOUS WASTE FACILITY.

WHEREAS, Public Resources Code sections 40000 et seq authorize the Department of Resources Recycling and Recovery (CalRecycle), to administer various Grant Programs in furtherance of the State of California's efforts to reduce, recycle and reuse solid waste generated in the State thereby preserving landfill capacity and protecting public health and safety and the environment, and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

WHEREAS, if awarded, the applicant will enter into a Grant Agreement with CalRecycle to provide household hazardous waste education, outreach and complete minor improvements to the Household Hazardous Waste facility that enhance and improve the existing program during Fiscal Years 2013-14 and 2014-15.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Ontario authorizes the submittal of an application to CalRecycle for the Household Hazardous Waste Grant for Fiscal Year 2012-13 (HD20).

BE IT FURTHER RESOLVED that the City Manager or his designee is hereby authorized and empowered to execute in the name of the City of Ontario all grant documents, including but not limited to. Applications, agreements and requests for payment, necessary to secure grant funds and implement the approved grant project; and

BE IT FURTHER RESOLVED that these authorizations are effective for five (5) years from the date of adoption of this resolution.

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

PASSED, APPROVED, AND ADOPTED this 5<sup>th</sup> day of March 2013.

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

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

(SEAL)

# CITY OF ONTARIO

*Agenda Report*  
March 5, 2013

SECTION:  
PUBLIC HEARINGS

**SUBJECT: CONSIDERATION OF AN ORDINANCE GRANTING A ONE-YEAR TIME EXTENSION TO APPROVED DEVELOPMENT PLAN, CONDITIONAL USE PERMIT AND VARIANCE APPLICATIONS**

**RECOMMENDATION:** That the City Council introduce and waive further reading of an ordinance granting a one- year time extension to approved Development Plan, Conditional Use Permit and Variance applications that are due to expire on or before March 1, 2014.

**COUNCIL GOALS:** Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health  
Invest in the Growth and Evolution of the City's Economy

**FISCAL IMPACT:** Adoption of this ordinance could result in the loss of fees for the processing of time extension requests (at the rate of \$490 per application). Conversely, future building permit fees, development impact fees and property tax revenues could be lost should current development applications be allowed to expire.

**BACKGROUND:** The Development Code establishes the regulatory framework for controlling the development and use of land in the City. These regulations generally require an applicant to submit and have approved, a Development Plan, and in some cases, a Conditional Use Permit and/or Variance application. City regulations further provide for the expiration of a Development Plan, Conditional Use Permit or Variance approval within a specified one to two-year timeframe, unless a building permit is issued or the approved use has commenced.

To assist developers, landowners and business owners during the economic slowdown, in March 2009, the City Council approved Ordinance No. 2910, extending the expiration date for approved Development Plan, Conditional Use Permit and Variance applications by one year. In January 2010,

**STAFF MEMBER PRESENTING:** Jerry L. Blum, Planning Director

Prepared by: Charles Mercier  
Department: Planning

City Manager  
Approval: 

Submitted to Council/O.H.A. 03/05/2013  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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March 2011 and December 2011, the City Council approved Ordinances (Nos. 2917, 2933 and 2947, respectively) extending the expiration date an additional year each, for a total of 4 years.

Although the economy is showing signs of recovery, developers, and land and business owners face the prospect of having their Development Plan, Conditional Use Permit and Variance approvals expire before they can obtain financing. Therefore, staff is recommending the City Council grant an additional one-year time extension to all active Development Plan, Conditional Use Permit and Variance approvals, which were due to expire before March 1, 2014 (see Attachment 1 for a listing of the affected applications). This action would be consistent with the State Legislature and Governor's approval of several Senate and Assembly Bills over the past 3 years, which have extended the expiration date of any tentative subdivision map that has not yet expired, for a total of 5 years, as follows:

- SB 1185—Approved in July 2008, extending the expiration date of any tentative subdivision map that has not expired by January 1, 2011, by one year; and
- AB 333—Approved in July 2009, extending the expiration date of any tentative subdivision map that has not expired by January 1, 2012, by 2 years; and
- AB 208—Approved in July 2011, extending the expiration date of any tentative subdivision map that has not expired by July 15, 2011, by 2 years.

**ENVIRONMENTAL REVIEW:** The project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to § 15061(b) (3) of the CEQA Guidelines, which is the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.



## ***Attachment 1—PDEV, PCUP & PVAR Applications***

***Due to Expire on or Before 03/01/2014***

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**PCUP06-007:** A Conditional Use Permit to establish: (1) alcoholic beverage sales for off-premise consumption (Type 21--Off-Sale General--ABC license); (2) a game arcade; and (3) a banking center, in conjunction with a proposed Wal-Mart Supercenter generally located at the northwest corner of Mountain Avenue & Fifth Street, within the Main Street District of the Mountain Village Specific Plan (APN: 1008-431-03). Related File: PDEV04-047.

*Submitted:* 03/22/2006

*Approved:* 11/26/2007

*Expires:* 11/26/2013

*Staff:* CM

**PCUP06-037:** A Conditional Use Permit request to operate an approximate 120 room 4-story hotel with subterranean parking on 1.4 acres of vacant land, located north of the I-10 Freeway, south of Shelby Street and west of Haven Avenue within the Urban Commercial land use district of Ontario Center Specific Plan. APN: 210-193-14. Related Files: PDEV06-058.

*Submitted:* 09/22/2006

*Approved:* 02/05/2008

*Expires:* 02/05/2014

*Staff:* CB

**PCUP10-019:** A request for Conditional Use Permit approval to construct a 925 square foot detached accessory structure (garage/workshop) in conjunction with an existing single-family home located at 124 W. Sixth Street, within the R1 (Single Family Residential) zoning district (APN: 1047-251-05).

*Submitted:* 04/23/2010

*Approved:* 06/25/2010

*Expires:* 06/25/2013

*Staff:*

**PCUP10-028:** A Conditional Use Permit to operate a T-Mobile stealth wireless telecommunication facility within a proposed cupola on an existing place of worship within 500 feet of residential property in the R2 (Medium Density Residential) zone, located at 602 North Virginia Street (APN: 1048-451-51). Related Files: PDEV10-007 & PVAR11-001.

*Submitted:* 06/09/2010

*Approved:* 06/28/2011

*Expires:* 06/28/2013

*Staff:* CB

**PCUP10-051:** A Conditional Use Permit to operate a T-Mobile stealth wireless telecommunication facility within a proposed 44 foot tall clock tower at an existing place of worship in the R1 (Single Family Residential) zone within 500 feet of residential development, located at 2713 South Grove Avenue (APN: 10216-441-61). Related File: PDEV10-016.

*Submitted:* 10/28/2010

*Approved:* 04/26/2011

*Expires:* 04/26/2013

*Staff:* CB

**PCUP11-025:** A Conditional Use Permit to establish a contractor's yard with office and outdoor storage on 3.7 acres of land located at 1701 South Bon View Avenue, within the M2 (Industrial Park) zone (APN: 1050-191-04).

*Submitted:* 11/18/2011

*Approved:* 02/27/2012

*Expires:* 02/27/2013

*Staff:* CB

**PCUP12-009:** A Conditional Use Permit to upgrade an existing ABC license from a Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) to a Type 47 license (On-Sale General for Bona Fide Public Eating Place) for an existing restaurant (Bombay Restaurant) totaling 2,000 square feet and allow live entertainment within an 8 foot by 8 foot area to include a live band, DJ or belly dancing, located at 405 North Vineyard Avenue, Suite A, within the C4 (Airport Service Commercial District) zoning district (APN: 0110-261-16).

*Submitted:* 03/05/2012

*Approved:* 08/13/2012

*Expires:* 08/13/2013

*Staff:* CB

**PCUP12-012:** A Conditional Use Permit to establish a temporary parking lot on 0.6-acre site located at the northeast corner of Euclid Avenue and C Street, within the C2 (Central Business District) zoning district (APN: 1048-551-05).

*Submitted:* 04/12/2012

*Approved:* 05/07/2012

*Expires:* 05/07/2013

*Staff:*

**PCUP12-019:** A Conditional Use Permit to establish religious assembly (Iglesia de Cristo Camino de Santidad) within an existing 6,918 SF building on 0.89 acres of land located at 1335 West Mission Boulevard, within the AR/C3 (Agricultural Residential/Commercial Service) zoning districts (APN: 1011-371-09).

*Submitted:* 07/27/2012

*Approved:* 09/18/2012

*Expires:* 09/18/2013

*Staff:* CB

## ***Attachment 1—PDEV, PCUP & PVAR Applications***

***Due to Expire on or Before 03/01/2014***

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**PDEV04-047:** A Development Plan consisting of the demolition of existing on-site structures totaling 210,610 square feet and construction of an approximate 190,803 square foot Wal-Mart Supercenter, which includes 24-hour general merchandise and grocery sales, alcoholic beverage sales, banking services, game arcade, outdoor garden center, off-street parking and loading facilities and off-site public street and utility improvements necessary to the proposed development, on 16.29 acres generally located at the northwest corner of Mountain Avenue and Fifth Street, within the Main Street District of the Mountain Avenue Specific Plan (APN: 1008-431-03). (Related File: PCUP06-007).

Submitted: 08/13/2004

Approved: 11/26/2007

Expires: 11/26/2013

Staff: CM

**PDEV05-006:** A Development Plan to construct 196 multi-family residential dwellings on 14.87 acres located at the northwest corner of Euclid Avenue and Riverside Drive, in the Borba Village Specific Plan. Related Files: PSPA06-001 (Borba Village SPA), PDEV06-023 (Home Depot) & PMTT05-003 (Multi-Family Subdivision TT 17330).

Submitted: 01/18/2005

Approved: 01/23/2007

Expires: 1/23/2013

Staff: CM

**PDEV05-042:** A Development Plan to construct 9 residential condominium units on 0.85 acres of land in the R2 (Medium Density Residential) zone, located at 1655 & 1673 E. Fourth Street. (APN: 0108-551-10 and 11). Related files : PZC\_05-004 & PMTT05-017.

Submitted: 07/18/2005

Approved: 05/23/2006

Expires: 05/23/2013

Staff: CB

**PDEV06-048:** A Development Plan to construct 3 units on a 0.30 acre parcel that is currently developed with a single family residence (to be removed) in the R3 (High Density Residential) zone located at 1516 Stoneridge Court (APN: 1010-551-10).

Submitted: 07/17/2006

Approved: 02/18/2009

Expires: 02/18/2014

Staff: CB

**PDEV06-058:** A Development Plan to construct an approximate 122 room 4-story hotel with subterranean parking on 1.4 acres of vacant land, located north of the I-10 Freeway, south of Shelby Street and west of Haven Avenue within the Urban Commercial land use district of Ontario Center Specific Plan (APN: 210-193-14). Related Files: PCUP06-037.

Submitted: 09/22/2006

Approved: 02/05/2008

Expires: 02/05/2014

Staff: CB

**PDEV07-001:** A Development Plan to construct 7 new industrial buildings totaling 178,368 square feet and to revise parking and landscaping on 3 existing buildings totaling 72,350 square feet on approximately 13.66 acres in the M3 (General Industrial) zone located on the north side of California Street from Campus Avenue to Taylor Avenue extending north above Sunkist Street (APNs: 1049-201-28, 1049-202-01 to 06, 16 to 20, & 1049-211-05 & 06). Related file: PMTT06-033 (PM 17855).

Submitted: 01/12/2007

Approved: 12/15/2008

Expires: 12/15/2013

Staff: CB

**PDEV08-018:** A Development Plan to construct a 19,530 square foot two-story office building on 2.05 acres of vacant land, within the Commercial/Food/Hotel land use district of the California Commerce Center Specific Plan located at the southeast corner of Francis Street and Haven Avenue. APN: 0211-281-56. Related File: PVAR09-003.

Submitted: 07/03/2008

Approved: 01/25/2011

Expires: 01/25/2014

Staff: CB

**PDEV10-007:** A Development Plan to construct a T-Mobile stealth wireless telecommunication facility within a proposed cupola on an existing place of worship within the R2 (Medium Density Residential) zone, located at 602 North Virginia Street (APN: 1048-451-51). Related Files: PCUP10-028 & PVAR11-001

Submitted: 06/09/2010

Approved: 06/28/2011

Expires: 06/28/2013

Staff: CB



## ***Attachment 1—PDEV, PCUP & PVAR Applications***

***Due to Expire on or Before 03/01/2014***

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**PDEV10-016:** A Development Plan to construct a T-Mobile stealth wireless telecommunication facility within a proposed approximate 44 foot tall clock tower at an existing place of worship in the R1 (Single Family Residential) zone, located at 2713 South Grove Avenue (APN: 0216-441-61). Related File: PCUP10-051.

Submitted: 10/28/2010

Approved: 04/26/2011

Expires: 04/26/2013

Staff: CB

**PDEV10-018:** A Development Plan to construct 88 detached single family homes within the Edenglen Specific Plan, P6 residential land use designation, specifically within tracts 18789, 18790 and 18791 located south of Riverside Drive, north of Chino Avenue, west of Milliken Avenue and east of Mill Creek Avenue. Related Files: PMTT10-004, PMTT10-005, & PMTT10-006.

Submitted: 12/01/2010

Approved: 02/22/2011

Expires: 02/22/2014

Staff: CB

**PDEV11-009:** A Development Plan to construct three buildings totaling 804,547 square feet, located at the northeast and southeast corners of Jurupa Street and Archibald Avenue, within the Airport Business Park - Hofer Ranch Specific Plan. Relate Files: PMTT11-008 (PM 19341) & PMTT11-009 (PM 19342)

Submitted: 08/01/2011

Approved: 01/24/2012

Expires: 01/24/2014

Staff: JH

**PDEV11-018:** A revision to a previously approved Development Plan (File No. PDEV07-037) to facilitate the construction of 291 residential dwelling units on approximately 21.4 acres of land located on the north side of Inland Empire Boulevard, between Archibald and Turner Avenues, within the Ontario Festival Specific Plan area. The proposed revision will eliminate 20 townhouse units and modify the building elevations and floor plans (APNs: 211-631-05 through 11).

Submitted: 09/30/2011

Approved: 11/22/2011

Expires: 11/22/2013

Staff: CM

**PVAR09-003:** A Variance request to reduce the required street setbacks on Haven Avenue from 32 feet to 12 feet minimum and on Francis Street from 35 feet to 20 feet minimum while maintaining an average setback of 35 feet along both street frontages, in conjunction with a development plan to construct a 19,530 square foot two-story office building on 2.05 acres within the Commercial/Food/Hotel land use district of the California Commerce Center Specific Plan, located at the southeast corner of Haven Avenue and Francis Street. APN: 0211-281-56. Related File: PDEV08-018.

Submitted: 06/05/2009

Approved: 01/25/2011

Expires: 01/25/2014

Staff: CB

**PVAR10-002:** A Variance request to reduce the front parking setback from 20 feet to 10 feet in conjunction with a Development Plan (File No. PDEV08-008) to construct a 3,920 square foot commercial/retail building, on 0.43 acres of vacant land in the C1 (Shopping Center Commercial) zone, located south of the southeast corner of Archibald Avenue and Oakhill Street. (APN: 1083-071-25 (0218-051-98)). Related File: PDEV08-008.

Submitted: 08/16/2010

Approved: 12/20/2010

Expires: 12/20/2013

Staff: CB

**PVAR11-001:** A Variance to exceed the prescribed height limit (from 35 feet to 48 feet) in conjunction with the construction of a wireless telecommunication facility (T Mobile), within a proposed cupola on an existing place of worship located at 602 North Virginia Street, within the R2 zoning district (APN: 1048-451-51). Related Files: PDEV10-007 & PCUP10-028.

Submitted: 03/04/2011

Approved: 06/28/2011

Expires: 06/28/2013

Staff: CB



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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, GRANTING A ONE-YEAR TIME EXTENSION TO ANY APPROVED DEVELOPMENT PLAN, CONDITIONAL USE PERMIT OR VARIANCE APPLICATION THAT IS ACTIVE AND DUE TO EXPIRE ON OR BEFORE MARCH 1, 2014, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, existing City regulations establish, pursuant to the Development Code, a regulatory framework for controlling the development and use of land, which generally require a developer to submit and have approved by the City, a Development Plan, and in some cases, a Conditional Use Permit and/or Variance application. City regulations further provide for the expiration of Development Plans, Conditional Use Permits and Variances after specified periods of time, including two (2) years for Development Plans and one (1) year for Conditional Use Permits and Variances; and

WHEREAS, with the slow recovery in the economy, developers, and land and business owners face the prospect of having their Development Plan, Conditional Use Permit and Variance approvals expire before they can obtain financing or have their projects make any sort of economic sense to build; and

WHEREAS, the proposed measure is necessary to the support of the future economic recovery of the City. Over the past few years, the building industry has been mired in a deep recessionary trough and, because of the difficulty of securing financing, many projects for which Development Plans, Conditional Use Permits and Variances have already been approved, will expire within the next year, thereby, requiring developers to go through the entitlement process again, if a time extension is not requested; and

WHEREAS, the building industry wants to be in a position to take full advantage of any economic resurgence; and

WHEREAS, this measure is proposed in order to spare developers, landowners and business owners within the City the added time and expense of obtaining new approvals when the economic picture brightens in the future; and

WHEREAS, the activity is not a project as defined in Section 15378 of the California Environmental Quality Act Guidelines; and

WHEREAS, on March 5, 2013, the City Council of the City of Ontario conducted a public hearing to introduce the ordinance; and

WHEREAS, on March 19, 2013, the City Council of the City of Ontario conducted a public meeting to adopt the ordinance, and concluded said meeting 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. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment directly or indirectly it prevents changes in the environment pending the completion of the contemplated Zoning Ordinance review.

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 that:

1. The proposed measure is necessary to the support of the future economic recovery of the City, as the building industry has been hindered by recession followed by a slow economic recovery, and because of the difficulty of securing financing, many projects for which Development Plans, Conditional Use Permits and Variances have already been approved will soon expire within the next year, thereby, requiring developers to go through the entitlement process again, if a time extension is not requested; and

2. The proposed measure will spare developers, landowners and business owners within the City the added time and expense of obtaining new approvals when the future economic picture brightens, thereby aiding the City in a rapid economic recovery.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves the introduction of an ordinance granting a one (1) year time extension to all active Development Plan, Conditional Use Permit and Variance approvals, which are active and due to expire on or before March 1, 2014.

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 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 E. B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
JOHN E. BROWN, 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 March 5, 2013 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)