

CITY OF ONTARIO
CITY COUNCIL AND HOUSING AUTHORITY
AGENDA
JUNE 5, 2012

Paul S. Leon
Mayor

Sheila Mautz
Mayor pro Tem

Alan D. Wapner
Council Member

Jim W. Bowman
Council Member

Debra Dorst-Porada
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

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

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

CLOSED SESSION

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

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

PLEDGE OF ALLEGIANCE

Council Member Bowman

INVOCATION

Pastor David Horn, BCC Life Changing Ministries

REPORT ON CLOSED SESSION

City Attorney

PUBLIC COMMENTS

6:30 p.m.

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

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

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

CONSENT CALENDAR

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

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

1. APPROVAL OF MINUTES

Minutes for the regular meeting of the City Council and Housing Authority of May 1, 2012, and approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills April 22, 2012 through May 5, 2012 and **Payroll** April 22, 2012 through May 5, 2012, when audited by the Finance Committee.

3. BIENNIAL CONFLICT OF INTEREST CODE REVIEW

That the City Council receive the 2012 Local Agency Biennial Notice of the Political Reform Act requirement and direct staff to review the Conflict of Interest Code.

4. CONSTRUCTION CONTRACT FOR THE 2012 SLURRY SEAL PROGRAM AND CITYWIDE BRIDGE REPAIRS/AMERICAN ASPHALT SOUTH, INC.

That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) to American Asphalt South, Inc. of Fontana, California, for the 2012 Slurry Seal Program and Citywide Bridge Repairs for the bid amount of \$1,023,992 plus a contingency (9.8%) of \$101,008 for a total authorized expenditure of \$1,125,000; and authorize the City Manager to execute said contract, related documents, and file a notice of completion for all construction activities at the conclusion of the project.

5. MAINTENANCE SERVICE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES AT THE VARIOUS CITY LANDSCAPE ASSESSMENT MAINTENANCE DISTRICTS/MERCHANTS LANDSCAPE MAINTENANCE

That the City Council authorize the City Manager to execute a three-year Maintenance Service Agreement (on file with the Records Management Department) for Contract No. PM 11-12-05 with Merchants Landscape Maintenance, of Rancho Cucamonga, California, for an annual cost of \$293,940, plus a 5% contingency of \$14,697; and authorize the addition of future service areas and the option to extend the Agreement for up to two additional years consistent with City Council approved budgets.

6. CONSTRUCTION CONTRACT FOR THE CNG FUELING FACILITIES UPGRADES PHASE I PROJECT/MANSFIELD GAS EQUIPMENT SYSTEMS CORPORATION

That the City Council approve the plans and specifications and award the CNG Fueling Facilities Upgrades Phase I Project to Mansfield Gas Equipment Systems Corporation (Mansfield) of Ontario, California, in the amount of \$274,621 plus a 15% contingency of \$41,193, for a total amount of \$315,814; authorize the City Manager to execute said contract (on file with Records Management Department); and file a notice of completion at the conclusion of all construction activities related to the project.

7. MAINTENANCE SERVICE AGREEMENT FOR STREETLIGHT MAINTENANCE AND REPAIR SERVICES AT VARIOUS CITY LOCATIONS/REPUBLIC ITS

That the City Council authorize the City Manager to execute a three-year Maintenance Service Agreement (on file in the Records Management Department) for Contract No. MS 1112-12 with Republic ITS of Anaheim, California, for an annual cost of \$137,316 plus a contingency of \$20,598 (15%) for a total amount of \$157,914; and authorize the addition of future service areas and the option to extend the agreement for up to two additional years consistent with City Council approved budgets.

8. OPERATION OF THE HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITY/COUNTY OF SAN BERNARDINO

That the City Council approve and authorize the City Manager to execute an agreement (on file in the Records Management Department) with the County of San Bernardino for the Operation of a Household Hazardous Waste Collection Facility.

9. RESOLUTION APPROVING APPLICATION FOR THE 2012-2013 USED OIL PAYMENT PROGRAM FROM THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)

That the City Council adopt a resolution approving an application for the 2012-2013 Used Oil Payment Program from the State of California Department of Resources Recycling and Recovery (CalRecycle), and authorize the City Manager or his designee to execute all necessary documents to participate in the program.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN ANNUAL APPLICATION TO PARTICIPATE IN THE 2012-2013 USED OIL PAYMENT PROGRAM FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE).

10. A RESOLUTION APPROVING THE FILING OF 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 filing of an application with the State of California Department of Public Health for grant funds under the Proposition 50 Funding Program for a wellhead treatment system.

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.

11. ACQUISITION OF AVIATION HIGH DEFINITION CAMERA SYSTEMS UNDER THE URBAN AREA SECURITY INITIATIVE GRANT

That the City Council authorize the City Manager to negotiate and execute a professional services agreement with L3/Wescam of Santa Rosa, California, for the acquisition of two High Definition (HD) Camera Systems in an amount not to exceed the Urban Area Security Initiative (UASI) grant allocation of \$510,000; and authorize future amendments to the agreement up to the approved grant award.

12. AN ORDINANCE AMENDING THE ONTARIO DEVELOPMENT CODE (FILE NO. PDCA12-001) ADDING ARTICLE 22, MULTI-MODAL TRANSIT OVERLAY DISTRICT, CREATING THE OVERLAY DISTRICT AND ESTABLISHING DEVELOPMENT STANDARDS AND PERMITTED AND CONDITIONALLY PERMITTED USES FOR APPROXIMATELY 75 ACRES OF LAND LOCATED SOUTH OF INTERSTATE 10, WEST OF ARCHIBALD AVENUE, AND NORTH AND EAST OF GUASTI ROAD (ASSESSOR'S PARCEL NUMBERS 110-322-08, 17, 18, 21, 22, 25, 27, 29, 30, 31, AND 33)

That the City Council adopt an ordinance approving Development Code Amendment File No. PDCA12-001, adding Development Code Article 22.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA12-001, A DEVELOPMENT CODE AMENDMENT ADDING ARTICLE 22, MULTI-MODAL TRANSIT OVERLAY DISTRICT, CREATING THE OVERLAY DISTRICT AND ESTABLISHING DEVELOPMENT STANDARDS AND PERMITTED AND CONDITIONALLY PERMITTED USES FOR APPROXIMATELY 75 ACRES OF LAND LOCATED SOUTH OF INTERSTATE 10, WEST OF ARCHIBALD AVENUE, NORTH OF THE RAILROAD TRACKS, AND EAST OF GUASTI ROAD MAKING FINDINGS IN SUPPORT THEREOF (APN: 110-322-08, 17, 18, 21, 22, 25, 27, 29, 30, 31, AND 33).

13. A ZONE CHANGE (FILE NO. PZC09-002) TO REZONE APPROXIMATELY 20-ACRES OF LAND FROM R1 (SINGLE-FAMILY RESIDENTIAL) TO SPECIFIC PLAN, AND THE ADOPTION OF TUSCANA VILLAGE SPECIFIC PLAN (FILE NO. PSP09-001), TO MASTER PLAN APPROXIMATELY 20-ACRES OF LAND BY ESTABLISHING LAND USE DESIGNATIONS AND DESIGN GUIDELINES FOR THE PROPERTY LOCATED AT THE NORTHWEST CORNER OF RIVERSIDE DRIVE AND MILLIKEN AVENUE

That the City Council adopt ordinances approving a Zone Change (File No. PZC09-002) and approving the Tuscana Village Specific Plan (File No. PSP09-001).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC09-002, A ZONE CHANGE TO REZONE APPROXIMATELY 20 ACRES OF LAND FROM R1 (SINGLE-FAMILY RESIDENTIAL) TO SPECIFIC PLAN (TUSCANA VILLAGE), LOCATED AT THE NORTHWEST CORNER OF RIVERSIDE DRIVE AND MILLIKEN AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1083-361-01.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSP09-001, A SPECIFIC PLAN (TUSCANA VILLAGE) TO MASTER PLAN APPROXIMATELY 20-ACRES OF LAND BY ESTABLISHING LAND USE DESIGNATIONS AND DESIGN GUIDELINES FOR THE PROPERTIES LOCATED AT THE NORTHWEST CORNER OF RIVERSIDE DRIVE AND MILLIKEN AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1083-361-01.

14. AN ORDINANCE RELATED TO A DEVELOPMENT AGREEMENT (FILE NO. PDA11-001) BETWEEN PANAYIOTIS AND ANDRIANA KATELARIS AND THE CITY OF ONTARIO TO ESTABLISH THE TERMS AND CONDITIONS FOR COMMERCIAL AND RESIDENTIAL DEVELOPMENT OF 20 ACRES WITHIN THE TUSCANA VILLAGE SPECIFIC PLAN

That the City Council adopt an ordinance approving a Development Agreement (PDA11-001) between Panayiotis and Andriana Katelaris and the City of Ontario regarding the development of 20 acres within the Tuscana Village Specific Plan, generally located at the northwest corner of Milliken Avenue and Riverside Drive (APN: 218-091-09).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND PANAYIOTIS AND ANDRIANA KATELARIS, FILE NO. PDA11-001, TO ESTABLISH THE TERMS AND CONDITIONS FOR COMMERCIAL AND RESIDENTIAL DEVELOPMENT OF 20 ACRES WITHIN THE TUSCANA VILLAGE SPECIFIC PLAN, GENERALLY LOCATED AT THE NORTHWEST CORNER OF MILLIKEN AVENUE AND RIVERSIDE DRIVE, AND MAKING FINDINGS IN SUPPORT THEREOF (APN: 218-091-09).

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.

15. A SPECIFIC PLAN AMENDMENT (FILE NO. PSPA12-002) TO THE ONTARIO GATEWAY SPECIFIC PLAN TO ALLOW A 45 FOOT TALL, 745 SQUARE FOOT, FREEWAY ORIENTED PYLON DIGITAL SIGN

That the City Council adopt a resolution, approving an Addendum to the Ontario Gateway Specific Plan Environmental Impact Report analyzing the environmental effects of the Project, pursuant to State CEQA Guidelines section 15164, and adopt a resolution approving File No. PSPA12-002 amending the Ontario Gateway Specific Plan allowing a 45 foot tall, 745 square foot, freeway oriented pylon digital sign for Fletcher Jones of Ontario located along the southeast corner of Haven Avenue and the I-10 Freeway.

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

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE ONTARIO GATEWAY SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT FOR FILE NO. PSPA12-002, 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: 210-212-55, 56, 57, 58, 59, 60).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSPA12-002, AN AMENDMENT TO THE ONTARIO GATEWAY SPECIFIC PLAN TO ALLOW A SECOND FREEWAY ORIENTED PYLON SIGN (DIGITAL SIGN), 45 FOOT TALL AND 745 SQUARE FEET IN AREA, FOR FLETCHER JONES OF ONTARIO FOR PROPERTY LOCATED ALONG THE SOUTHEAST CORNER OF HAVEN AVENUE AND THE I-10 FREEWAY, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 210-212-55, 56, 57, 58, 59, 60.

16. AN ORDINANCE REPEALING AND RESERVING SECTION 4-15.03 AND AMENDING SECTION 4-15.05 OF THE ONTARIO MUNICIPAL CODE

That the City Council introduce and waive further reading of an ordinance repealing and reserving Section 4-15.03 of the Ontario Municipal Code regarding the solicitation of employment in public rights-of-way and amending Section 4-15.05 of the Ontario Municipal Code regarding the penalties for violations of Section 4-15.03 and 4-15.04.

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, REPEALING AND RESERVING ONTARIO MUNICIPAL CODE SECTION 4-15.03 PROHIBITING SOLICITATION OF EMPLOYMENT IN PUBLIC RIGHTS-OF-WAY AND AMENDING SECTION 4-15.05 REGARDING THE PENALTIES FOR VIOLATIONS OF SECTIONS 4-15.03 AND 4-15.04.

ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

17. AN ORDINANCE AMENDING THE CONTRACT WITH THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) FOR LOCAL POLICE AND FIRE MEMBERS

That the City Council adopt an ordinance amending the City's contract with the California Public Employees' Retirement System (CalPERS) to provide a second tier 3% at age 55 retirement formula for police and fire safety members entering membership for the first time in a safety classification after the effective date of the contract amendment.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF ONTARIO AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

COUNCIL MATTERS

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

STAFF MATTERS

City Manager Hughes

ADJOURNMENT

**CITY OF ONTARIO
CLOSED SESSION REPORT**
City Council / / Housing Authority // Other // (GC 54957.1)
June 05, 2012

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

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

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

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

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

Reported by: _____
City Attorney / City Manager / Executive Director

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: BIENNIAL CONFLICT OF INTEREST CODE REVIEW

RECOMMENDATION: That the City Council receive the 2012 Local Agency Biennial Notice of the Political Reform Act requirement and direct staff to review the Conflict of Interest Code.

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
Operate in a Businesslike Manner

FISCAL IMPACT: The costs associated with staff review of the city's Conflict of Interest Code are minimal and included in the Records Management Department's annual baseline operating budget.

BACKGROUND: The Political Reform Act requires every local government agency to review its conflict of interest code biennially to determine if it is accurate or, alternatively, that the code must be amended.

The City's Conflict of Interest Code was last amended on December 7, 2010. To meet the requirements of the Political Reform Act, it is necessary to again review the Conflict of Interest Code to determine whether amendments are necessary based on the following:

- The addition, deletion or modification of the specific types of investments, business positions, interests in real property, and sources of income which are reportable for the designated positions.
- The reclassification, renaming or deletion of previously designated positions.

Any recommendations for updates or confirmation that the current Conflict of Interest Code is accurate will be presented to the City Council for review before the State's deadline of October 1, 2012.

STAFF MEMBER PRESENTING: Al C. Boling, Deputy City Manager

Prepared by: Vicki Kasad
Department: Citywide Administration

City Manager Approval:  _____

Submitted to Council/O.H.A. 06/05/2012

Approved: _____

Continued to: _____

Denied: _____

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: CONSTRUCTION CONTRACT FOR THE 2012 SLURRY SEAL PROGRAM AND CITYWIDE BRIDGE REPAIRS

RECOMMENDATION: That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) to American Asphalt South, Inc. of Fontana, California, for the 2012 Slurry Seal Program and Citywide Bridge Repairs for the bid amount of \$1,023,992 plus a contingency (9.8%) of \$101,008 for a total authorized expenditure of \$1,125,000; and authorize the City Manager to execute said contract, related documents, and file a notice of completion for all construction activities at the conclusion of the project.

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 Fiscal Year 2011-12 Budget includes appropriations of \$180,000 from Community Development Block Grant (CDBG) funds, \$600,000 from Measure "I" funds, \$260,000 from Gas Tax funds and \$85,000 from the General Fund for a total of \$1,085,000. The total recommended expenditure authorization of \$1,125,000 includes a 9.8% contingency for unforeseen or unexpected conditions which may be discovered as the project proceeds.

BACKGROUND: The scope of services for the 2012 Slurry Program and Bridge Repairs includes crack-sealing, removal and replacement of existing thermoplastic striping and markings, placement of Rubber Polymer Modified Slurry Seal (RPMSS) on various collector, arterial and local streets and the City Hall Annex parking lot. Also included in the scope of work is the rehabilitation of three (3) bridge decks. Rehabilitation of the bridge decks includes removal and replacement of damaged concrete, cleaning by means of sandblasting, application of an acrylic-based primer-sealer, re-sealing of all bridge joints and placement of a polyester concrete deck overlay.

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

Prepared by: Gary Harms
Department: Engineering
City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2012
Approved: _____
Continued to: _____
Denied: _____

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This project will extend the lifespan of the streets by six to eight years and prevent aging bridge structures from needing more costly repairs. Project location maps are provided for reference.

In May 2012, the City solicited bids for this project, and 2 bids were received. The bid results are:

<u>Company</u>	<u>Location</u>	<u>Amount</u>
American Asphalt South, Inc.	Fontana, CA	\$1,023,992
All American Asphalt, Inc.	Corona, CA	\$1,063,385

American Asphalt South, Inc. submitted the lowest responsive bid and has previously performed work for the City of Ontario in a satisfactory manner.

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: MAINTENANCE SERVICE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES AT THE VARIOUS CITY LANDSCAPE ASSESSMENT MAINTENANCE DISTRICTS

RECOMMENDATION: That the City Council authorize the City Manager to execute a three-year Maintenance Service Agreement (on file with the Records Management Department) for Contract No. PM 11-12-05 with Merchants Landscape Maintenance, of Rancho Cucamonga, California, for an annual cost of \$293,940, plus a 5% contingency of \$14,697; and authorize the addition of future service areas and the option to extend the Agreement for up to two additional years 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: The estimated annual cost of the proposed Maintenance Service Agreement is \$293,940 plus contingency of \$14,697 for urgency services for a total annual amount of \$308,637 for each of the first three years. The maintenance cost for these City Landscape Assessment Maintenance Districts will be funded by the Parkway Maintenance Fund, and if approved will be included in the Fiscal Year 2012-13 proposed operating budget.

At the City's discretion, two additional one-year extensions may be exercised with no price increases for the fourth year, and an increase of 3% for the fifth year. Future contracting actions will be commensurate with City Council authorized work programs and budgets. Contracting for the multi-year period will allow the City to: limit the potential for yearly increases to the bid amounts; avoid the costs for re-bidding the contract annually; provide service continuity and project future costs.

BACKGROUND: In March 2012, the City solicited proposals for citywide landscape maintenance services for the four (4) City Landscape Assessment Maintenance Districts located throughout the City.

STAFF MEMBER PRESENTING: Mark Chase, Community and Public Services Director

Prepared by: Roberto Perez
Department: Parks and Maintenance

City Manager Approval:  _____

Submitted to Council/O.H.A. 06/05/2012

Approved: _____

Continued to: _____

Denied: _____

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Eight (8) proposals were received that met bid criteria and standards necessary to perform this work. Base cost proposals ranged from \$293,940 to \$365,028 annually.

<u>Vendor</u>	<u>Location</u>	<u>Amount</u>
Merchants Landscape	Rancho Cucamonga, CA	\$293,940
Valley Crest Landscape	Fontana, CA	\$329,400
Excel Landscape	Corona, CA	\$334,800
Soltis and Company	Fontana, CA	\$336,235
Mariposa Horticultural	Irwindale, CA	\$346,512
Hunter Landscape	Placentia, CA	\$358,584
CA Landscape Design	Upland, CA	\$363,458
Parkwood	Van Nuys, CA	\$365,028

Merchants Landscape Maintenance located in Rancho Cucamonga, California, submitted a proposal that met all the required specifications with a base cost, three-year total of \$881,820. Based on their proposal, credentials, pricing and favorable references, staff recommends award of a Maintenance Services Agreement to Merchants Landscape Maintenance.

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: CONSTRUCTION CONTRACT FOR THE CNG FUELING FACILITIES UPGRADES PHASE I PROJECT

RECOMMENDATION: That the City Council approve the plans and specifications and award the CNG Fueling Facilities Upgrades Phase I Project to Mansfield Gas Equipment Systems Corporation (Mansfield) of Ontario, California, in the amount of \$274,621 plus a 15% contingency of \$41,193, for a total amount of \$315,814; authorize the City Manager to execute said contract (on file with Records Management Department); and file a notice of completion at the conclusion of all construction activities related to the project.

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, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Fiscal Year 2011-12 Capital Improvement Program includes appropriations related to a grant from South Coast Air Quality Management District's (SCAQMD) Mobile Source Air Pollution Reduction Review Committee Local Government Match Program, and the Mobile Source Air Fund for construction of the CNG Fueling Facilities Upgrade Project. The total recommended contract authorization of \$315,814 includes a 15% contingency (\$41,193). There is no impact to the General Fund.

BACKGROUND: The SCAQMD adopted a "Rule for Clean On-Road Residential and Commercial Refuse Collection Vehicles" that requires public and private solid waste collectors to acquire alternative fuel refuse collection vehicles when procuring or leasing vehicles. The City currently operates seventy (70) CNG alternate fuel vehicles, with an additional six (6) CNG vehicles on order, and is a leader in the clean air effort. Given the increasing number of City vehicles, the recommended upgrades to the existing fueling facility are necessary for the City to meet current and future fueling needs.

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. 06/05/2012

Approved: _____

Continued to: _____

Denied: _____

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The CNG Facilities Upgrades Project Phase I will provide needed maintenance and expansion of the existing CNG fueling system and station to meet operational demands. Phase I upgrades to the fueling system consist of the following:

- Addition of 24 new slow-fill dispensers to support ongoing transition of the City's fleet to CNG
- Removal and upgrades of 52 slow-fill dispenser hoses
- Installation of air purge system to existing electrical panels to meet safety requirement

On April 9, 2012, three (3) bids were received for the CNG Fueling Facilities Upgrades Phase I Project. The three bids are summarized below:

<u>Bidder</u>	<u>Location</u>	<u>Amount</u>
Mansfield Gas Equipment Systems Corp.	Ontario, CA	\$274,621
Allsup Corporation	Upland, CA	\$332,940
Broughton Construction	Rancho Cucamonga, CA	\$375,485

Mansfield Gas Equipment Systems Corporation located in Ontario, California, submitted the lowest responsive bid that met all the plans and specifications required of the construction contract and has performed this type work in the past. Staff recommends award to Mansfield Gas Equipment Systems Corporation based on their expertise and ability to perform the work in a timely manner.

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

**SUBJECT: MAINTENANCE SERVICE AGREEMENT FOR STREETLIGHT
MAINTENANCE AND REPAIR SERVICES AT VARIOUS CITY LOCATIONS**

RECOMMENDATION: That the City Council authorize the City Manager to execute a three-year Maintenance Service Agreement (on file in the Records Management Department) for Contract No. MS 1112-12 with Republic ITS of Anaheim, California, for an annual cost of \$137,316 plus a contingency of \$20,598 (15%) for a total amount of \$157,914; and authorize the addition of future service areas and the option to extend the agreement for up to two additional years 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: The annual cost of the proposed Maintenance Service Agreement is \$137,316 plus a contingency of \$20,598 (15%) for urgency services for a total annual amount of \$157,914 for each of the first three years beginning in Fiscal Year 2012-13. The proposed pricing is approximately twenty percent (20%) less than current pricing on a per light basis for these services. This agreement is funded through the General Fund and if approved will be included in the Fiscal Year 2012-13 proposed operating budget.

At the City's discretion, two additional one-year extensions may be exercised, and pricing for the optional years will be negotiated based upon prevailing market conditions but will not exceed three percent (3%) per year. Future contracting actions will be commensurate with City Council authorized work programs and budgets. Contracting for the multi-year period will allow the City to: limit the potential for yearly increases to the bid amounts; avoid the costs of re-bidding the contract annually; provide service continuity; and certainty for future project costs.

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Robert Gluck
Department: MU/Building Facilities

City Manager
Approval: 

Submitted to Council/O.H.A. 06/05/2012
Approved: _____
Continued to: _____
Denied: _____

BACKGROUND: Street lighting contributes to the safety and security of pedestrians, vehicle traffic, homeowners and businesses. There are approximately 11,500 street lights in the City, and about 2,700 of these street lights have recently been replaced with light emitting diode (LED) components that produce a whiter and more uniform light output and are also more energy efficient.

City staff maintains approximately 2,500 lights and Southern California Edison maintains an additional 480 lights. The remaining approximately 8,520 street lights will be maintained through this proposed contract. The scope of services for this agreement includes nightly inspections and repairs from the fuse box which is located in the vicinity of the base of the light pole up to and including the light bulb. Repairs are required to be made within five business days of being reported.

In April 2012, the City solicited proposals from seven (7) prospective vendors for Streetlight Maintenance and Repair Services. Only one proposal was received.

<u>Vendor</u>	<u>Location</u>
Republic ITS	Anaheim, CA

Republic ITS, the City's current service provider, submitted a proposal that met all the specifications required of the Maintenance Service Agreement. Staff recommends award to Republic ITS, based on the quality of their proposal, credentials, pricing, references, and ability to respond to urgencies in a timely manner.

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: OPERATION OF THE HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITY

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute an agreement (on file with the Records Management Department) with the County of San Bernardino for the Operation of a Household Hazardous Waste Collection Facility.

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

FISCAL IMPACT: The proposed agreement is for five years with an estimated annual cost of \$267,160 for Fiscal Year 2012-13, no change from the current year expense, and \$268,534 annually for each of the remaining four years. The agreement is funded by the Solid Waste Fund and includes the use of approximately \$25,000 of annual grant funding provided through the Used Oil Payment Program. There is no impact to the General Fund.

BACKGROUND: The State of California Public Resources Code requires cities and counties to prepare a Household Hazardous Waste Element which identifies a program for the safe collection, recycling, treatment and disposal of hazardous wastes which are generated by households in the City. As part of the Household Hazardous Waste Element, the City provides its residents a Household Hazardous Waste Collection Facility, which is located at 1430 South Cucamonga Avenue. The facility is open Fridays and Saturdays between the hours of 9:00 a.m. and 2:00 p.m. The facility accepts paint, motor oils, batteries, pesticides, electronic waste and other commonly generated household hazardous wastes.

The County provides personnel to operate the facility; 24-hour emergency response capability to respond to the facility in order to mitigate any emergency that might arise at the facility as a result of operations; an annual report to the City that includes the amount, types of waste collected, and final

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. 06/05/2012

Approved: _____

Continued to: _____

Denied: _____

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disposition of waste collected; and waste storage containers and a secure storage shed meeting Department of Transportation specifications. The County assumes responsibility for maintaining the necessary site permits and responsibility for the on-site management, transportation, recycling and disposal of the materials and waste collected at the site. The County either removes the accumulated wastes or contracts with licensed hazardous waste haulers for on-call removal, recycling or disposal of wastes at approved facilities, at no additional cost to the City.

The County has provided this service for the City of Ontario since 1996, and the current agreement expires on June 30, 2012. Added benefits of contracting with the County include giving residents the option of using any other County-run HHW facility, and staff networking opportunities with other County-run cities to keep abreast of changing State requirements and regulations.

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: RESOLUTION APPROVING APPLICATION FOR THE 2012-2013 USED OIL PAYMENT PROGRAM FROM THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)

RECOMMENDATION: That the City Council adopt a resolution approving an application for the 2012-2013 Used Oil Payment Program from the State of California Department of Resources Recycling and Recovery (CalRecycle), and authorize the City Manager or his designee to execute all necessary documents to participate in the program.

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
Operate in a Businesslike Manner
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: The City is eligible to receive approximately \$48,000 in per capita funding through the Used Oil Payment Program. The costs covered by this program include publicity, educational materials, and collection facility operations that support used oil and filter recycling, including some of the costs associated with operation of the City's Household Hazardous Waste (HHW) Collection Facility at 1430 South Cucamonga Avenue. The City will receive funding for qualifying expenses made during the grant term of July 1, 2012 through June 30, 2014 up to the per capita payment amount. There are no additional costs and no matching requirements for the City to participate in this grant program.

BACKGROUND: The California Oil Recycling Enhancement Act provides annual payments to local governments for the implementation of used oil and filter collection programs. The payment program is intended to assist the City in achieving the goals set by the State of California to reduce the amount of waste sent to the landfills by 50%. Used oil recycling and household hazardous waste collection are integral programs for attaining this goal.

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. 06/05/2012

Approved: _____

Continued to: _____

Denied: _____

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To enhance recycling education and community involvement, staff is planning to conduct various programs during this payment program including: production and distribution of educational materials promoting proper handling and recycling of used oil and used oil filters; and, promotion of the City's Household Hazardous Waste Collection Facility and Certified Collection Centers through printed materials and advertisements.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN ANNUAL APPLICATION TO PARTICIPATE IN THE 2012-2013 USED OIL PAYMENT PROGRAM FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CalRecycle).

WHEREAS, pursuant to Public Resources Code § 48690 the Department of Resources Recycling and Recovery (CalRecycle), formerly known as the California Integrated Waste Management Board, has established the Used Oil Payment Program (OPP) to make payments to qualifying jurisdictions for implementation of their used oil programs; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the administration of the Used Oil Payment Program; and

WHEREAS, CalRecycle's procedures for administering the Used Oil Payment Program require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the Used Oil Payment Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Ontario authorizes the submittal of a Used Oil Payment Program application to CalRecycle.

BE IT FURTHER RESOLVED that the City Manager, or a designee, is hereby authorized and empowered to execute in the name of the City of Ontario all documents, including but not limited to, applications, agreements, annual reports including expenditure reports and amendments necessary to secure said payments to support our Used Oil Payment Program.

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

PASSED, APPROVED, AND ADOPTED this 5th day of June 2012.

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. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held June 5, 2012 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. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held June 5, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING THE FILING OF 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 filing of an application with the State of California Department of Public Health for grant funds under the Proposition 50 Funding Program for a wellhead treatment system.

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: If approved, the City will apply for grant funds from the State Department of Public Health (CDPH) Proposition 50 Funding Program. The proposed master-planned project is consistent with the grant program criteria and would construct a new wellhead treatment system to treat local groundwater. The grant application will seek up to 50% of the project costs with the City's share of 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 water master plan has identified wellhead 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 2007, Ontario submitted a request for funding through *Proposition 50 - Chapter 4b: Southern California Projects to Reduce Demand on Colorado River* for a potential wellhead treatment system. The project, which has a preliminary cost estimate of \$3.5 million, was determined by

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

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

Submitted to Council/O.H.A. 06/05/2012
Approved: _____
Continued to: _____
Denied: _____

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the State to be eligible under Proposition 50; and it received a ranking of seven (7) out of 38 projects statewide.

The next step in the grant process is to submit a full application to CDPH; and the resolution authorizing the filing of the application is a mandatory element of the grant application. In the event Ontario is successful in the application process, a proposed Funding Agreement and future budget actions 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 wellhead treatment system to extract and treat a local groundwater plume for perchlorate removal.

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 sign the application to be 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 5th day of June 2012.

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. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held June 5, 2012 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. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held June 5, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: ACQUISITION OF AVIATION HIGH DEFINITION CAMERA SYSTEMS UNDER THE URBAN AREA SECURITY INITIATIVE GRANT

RECOMMENDATION: That the City Council authorize the City Manager to negotiate and execute a professional services agreement with L3/Wescam of Santa Rosa, California, for the acquisition of two High Definition (HD) Camera Systems in an amount not to exceed the Urban Area Security Initiative (UASI) grant allocation of \$510,000; and authorize future amendments to the agreement up to the approved grant award.

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
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: In February 2011, the City Council approved the acceptance of a grant award of \$1,310,000 provided through the Urban Area Security Initiative (UASI) Grant Program. The approved grant spending plan allocated \$510,000 towards the acquisition of HD camera systems for the Regional Aviation Video Downlink Project.

BACKGROUND: The City Council previously approved a spending plan for the FY 2010 UASI Grant Program which includes the purchase of HD aviation video camera systems for the Ontario Police Department's Aviation Unit and the San Bernardino County Sheriff Department's Aviation Division. L3/Wescam has been the sole-source provider of camera equipment for both agencies and has agreed to pricing for this specific equipment at or below General Services Administration (GSA) pricing. The use of HD camera components has dramatically increased the intelligence gathering capabilities for both the downlink system and the onboard Tactical Flight Officer, improving situational awareness and safety for first responders.

STAFF MEMBER PRESENTING: Eric Hopley, Chief of Police

Prepared by: Darryl Polk
Department: Police
City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2012
Approved: _____
Continued to: _____
Denied: _____

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE AMENDING THE ONTARIO DEVELOPMENT CODE (FILE NO. PDCA12-001) ADDING ARTICLE 22, MULTI-MODAL TRANSIT OVERLAY DISTRICT, CREATING THE OVERLAY DISTRICT AND ESTABLISHING DEVELOPMENT STANDARDS AND PERMITTED AND CONDITIONALLY PERMITTED USES FOR APPROXIMATELY 75 ACRES OF LAND LOCATED SOUTH OF INTERSTATE 10, WEST OF ARCHIBALD AVENUE, AND NORTH AND EAST OF GUASTI ROAD (ASSESSOR'S PARCEL NUMBERS 110-322-08, 17, 18, 21, 22, 25, 27, 29, 30, 31, AND 33)

RECOMMENDATION: That the City Council adopt an ordinance approving Development Code Amendment File No. PDCA12-001, adding Development Code Article 22.

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
Operate in a Businesslike Manner

FISCAL IMPACT: The City would experience a nominal increase in revenue as a result of the business licenses required for the companies which operate within the overlay district; and would gain from the indirect fiscal benefits associated with jobs created by the same businesses.

BACKGROUND: At the meeting of May 15, 2012, the City Council took the following actions:

1. Adopted a resolution approving an addendum to The Ontario Plan EIR, pursuant to the California Environmental Quality Act (CEQA). No further City Council action is required.
2. Introduced and waived further reading of an ordinance approving a Development Code Amendment (Case No. PDCA12-001) adding article 22, creating the Multi-Modal Transit Overlay District.

STAFF MEMBER PRESENTING: Jerry L. Blum, Planning Director

Prepared by: Scott Murphy
Department: Planning

City Manager Approval:  _____

Submitted to Council/O.H.A. 06/05/2012

Approved: _____

Continued to: _____

Denied: _____

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In 1985, the subject property was rezoned to the Airport Related Services (ARS) zone. As the name implies, the ARS zone permitted uses related to airport operations including, but not limited to, hotels, offices, personal services, and similar uses. Additionally, the ARS zone permitted some light manufacturing operations, such as optical goods, scientific instruments, watches/clocks, and some light assembly. The ARS zone did not, however, permit warehouse/distribution facilities or contractor's storage yards. As a result, use of the existing buildings became non-conforming – the office portion of the northerly building remained a permitted use.

With the adoption of The Ontario Plan (TOP) in 2010, the site was designated as the Multi-Modal Transit Center. That designation is the only one of its type in the City and creates a situation where the existing warehouse and contractor's storage yard uses on the site continue to remain non-conforming. Under the Development Code, the building could only be used for uses conforming to the land use designation. The northerly building is designed for warehouse/distribution uses and indeed has been used for many years as a warehouse operation. The building is ill-suited for uses allowed in the transit center (residential, office, retail) but still has a useful life. Generally, the concept of creating non-conforming uses is so that the marginal properties can transition to new, desirable uses over time. In this case, the new use as a transit center may take years or decades to transition due to the lack of funding for transit infrastructure.

To allow the use of the warehouse/distribution and office structures until more definitive plans are available for the multi-modal transit center, an overlay district is being proposed that will temporarily allow those uses that were in operation at the existing buildings until April 2010 to continue until 2027, or until the buildings are demolished, whichever comes first. Uses would include warehouse/distribution, ancillary offices and temporary uses, in keeping with the existing buildings' design and the existing buildings' previous uses.

The TOP allows for land use flexibility and interim development in order to achieve the TOP Vision. Specifically, the TOP contains the following principles, goals and polities that are furthered and carried out by the Ordinance

- **TOP Goal Land Use 3.** Staff, regulations and processes that support and allow flexible responses to conditions and circumstances to achieve the [TOP] Vision.
 - The overlay district will allow use of existing buildings for the use for which they were constructed. Otherwise the warehouse building and contractor' storage yard would remain vacant until development of the multi-modal transit center.
- **TOP Policy LU3-3 - Land Use Flexibility.** We consider uses not typically permitted within a land use category if doing so improves livability, reduces vehicular trips, creates community gathering places and activity nodes, and helps create identity.
 - The uses permitted are identical to the uses underway at the site until 2010. The overlay will allow those uses in close proximity to major transportation corridors.
- **TOP Goal LU4.** Development that provides short-term value only when the opportunity to achieve our Vision can be preserved.

- The overlay will allow uses of existing buildings while maintaining the necessary designation to require future development to adhere to the vision established by the TOP.
- **TOP Policy LU4-2 - Interim Development.** We allow development in growth areas that is not immediately reflective of our ultimate Vision provided it can be modified or replaced when circumstances are right. We will not allow development that impedes, precludes or compromises our ability to achieve our Vision.
 - The overlay will allow uses of existing buildings while maintaining the necessary designation to require future development to adhere to the vision established by the TOP.
- **TOP Policy Community Economics 2-3 - Interim Development.** We require interim development that does not reflect the long-term Vision, be limited in scale of development so that the investment can be sufficiently amortized to make Vision-compatible redevelopment financially feasible.
 - The two existing buildings were built as industrial buildings and do not lend themselves to the uses identified within the multi-modal transit center. The overlay will permit limited interim uses to allow the buildings to be sufficiently amortized.
- **TOP Policy Mobility 3-5 - Light Rail.** We support extension of the Metro Rail Gold Line to Ontario, and will work to secure station locations adjacent to the Meredith site and at the proposed multimodal transit center.
 - The Metro Rail Gold Line is proposed – though no specific development proposal is before the City nor is any expected in the near future - within the western portion of the property. The overlay will allow use of the existing buildings while maintaining the area needed for the future Gold Line extension.
- **TOP Policy M3-10 - Multimodal Transit Center.** We intend to ensure the development of a multimodal transit center near LAONT airport to serve as a transit hub for local buses, BRT, the Gold Line, high-speed rail, the proposed Ontario Airport Metro Center circulator and other future transit modes.
 - The Metro Rail Gold Line is proposed – though no specific development proposal is before the City nor is any expected in the near future - within the western portion of the property. The overlay will allow use of the existing buildings while maintaining the long term vision of the site as a multi-modal transit hub, accommodating stops for the Gold Line, high-speed rail, and other transit options.

To ensure compliance with the long term TOP vision for the area, a “sunset clause” is included in the Ordinance that will result in the overlay district expiring under the following scenarios:

1. In 15 years on June 30, 2027, unless otherwise extended by the City Council; or
2. Upon demolition of the existing buildings.

Following review by the Planning Commission, the overlay district was further refined by staff to narrow the uses allowed under the proposed overlay to those uses previously that previously occupied the buildings. As a result, the changes noted below have been incorporated into the overlay:

1. Sec. 9-1.2200 Introduction – Sentence added to the end of the second paragraph to read “However, the City wishes to authorize the use of the existing buildings for the purpose for which they were previously used.”
2. Sec. 9-1.2210 Permitted Uses – Delete “Wholesale sales” and “Limited retail sales” and add “Temporary uses in accordance with Article 11, Temporary Use Permits, of the Ontario Development Code.”

In that these changes restrict the uses to a greater degree than considered by the Planning Commission, further review by the Planning Commission is not required.

ENVIRONMENTAL REVIEW: Pursuant to CEQA section 21166 and sections 15162 and 15163 of the CEQA Guidelines, an addendum to the Ontario Plan EIR was prepared by the City with regard to the Project (“Addendum”). The Addendum incorporates, by reference, the analysis contained in the Ontario Plan EIR, and addresses only those issues specific to the Project. The City proposes to approve the Ordinance as an activity within the TOP, as the activity proposed under the Ordinance is within the scope of TOP, and, as described in the Addendum and the Initial Study, the TOP EIR adequately describes the activity proposed under the Ordinance for the purposes of CEQA. The Addendum concludes that because the Project will not permit any uses other than those uses already in operation on the site at the time of the certification of the Ontario Plan EIR, and the Project will not result in new, or substantially more adverse, significant environmental impacts than those disclosed in the Ontario Plan EIR. The City Council adopted the addendum at their meeting on May 15, 2012.

The Planning Commission reviewed the proposed Development Code Amendment on March 27, 2012, and recommended approval of the application.

On April 17, 2012, Cory Briggs, on behalf of the Inland Oversight Committee, submitted comments to the City Council regarding its consideration of the Ordinance. Responses to those comments are included in the record of proceedings.

CITY OF ONTARIO

RESPONSES TO COMMENTS ON THE PROPOSED NEW ARTICLE 22 MULTI-MODAL TRANSIT OVERLAY DISTRICT ORDINANCE

Jerry L. Blum, Planning Director

On April 17, 2012, Cory Briggs, on behalf of the Inland Oversight Committee, submitted comments to the City Council regarding its consideration of an Ordinance amending the Ontario Development Code adding Article 22, Multi-Modal Transit Overlay District ("Ordinance"). We have prepared the following responses to those comments:

Briggs Comment 1: The public hearing notice is misleading because it states that the Project is exempt from the California Environmental Quality Act ("CEQA"), but the City is relying on an Addendum to an environmental impact report ("EIR")

Briggs Comment 2: The public hearing notice is defective because it fails to specify the recommendation that the Planning Commission made on the proposed Ordinance and was published even before the Planning Commission considered the Ordinance.

Response to Briggs Comments 1 and 2: The Notice of City Council Public Hearing for the City Council's May 15, 2012 hearing on the Ordinance (File No. PDCA12-001) was published on May 4, 2012, after the Planning Commission's March 27, 2012 hearing on the proposed Ordinance, and includes a statement notifying the public that the Planning Commission recommended the approval of the proposed Ordinance and a statement that an addendum to The Ontario Plan EIR was prepared for the Ordinance pursuant to the requirements of CEQA.

Briggs Comment 3: City files for the proposed Ordinance do not include The Ontario Plan Environmental Impact Report (TOP EIR).

Response to Briggs Comment 3: Copies of the TOP EIR and Addendum are included in the record of proceedings for File No. PDCA12-001 and are available along with the Agenda packets of the members of the City Council.

Briggs Comment 4: The Addendum to the TOP EIR was not considered by the Planning Commission.

Response to Briggs Comment 4: The Planning Commission was not required to consider the Addendum. (See California Code of Regulations, Title 14, Chapter 3 (CEQA Guidelines) §§15025 and 15161(d).)

Briggs Comment 5: The Addendum to the TOP EIR is the wrong environmental document for the Ordinance because it does not involve a minor change or correction to the TOP EIR. The TOP EIR rezoned the land that is the subject of this project, and now the land represents a non-conforming use. The EIR did not evaluate the environmental impacts of a non-conforming use on the land in question but rather eliminated that use. The finding of Section X-b of the

Addendum's Initial Study is incorrect.

Response to Briggs Comment 5: As noted in the Staff Report, the Addendum, and the Ordinance, the proposed overlay zone will allow the use of existing structures on the site ("Project site") for the purposes they were designed until more definitive plans are available for the multi-modal transit center. Uses would be limited to warehouse/distribution, ancillary offices and temporary uses, the uses for which the buildings were designed and used from 1967 until April of 2010.

The comment incorrectly states that the TOP EIR "eliminated" the use of the Project site that is proposed by the Ordinance. In fact, the uses on the Project site became non-conforming in 1985, when the zoning of the site was changed to Airport Related Services (ARS). The ARS zone permitted uses related to airport operations and did not permit warehouse/distribution facilities or contractor's storage yards. The Project site was under active and legal non-conforming use for warehouse/distribution, ancillary offices and temporary uses when the TOP EIR was prepared and certified. The TOP EIR's evaluation of the baseline environmental setting included the non-conforming use of the Project site.

In addition to the existing ARS zoning for the Project site, the TOP does further designate the Project site "Multi-Modal Transit Center," and the TOP EIR did consider this designation. However, the key TOP Policy regarding the Multi-Modal Transit Center that was evaluated in the TOP EIR provides, as does the proposed Ordinance, that a Multi-Modal Transit Center it is *not* expected to be a near-term development (See M3-10 Multimodal Transit Center: We intend to ensure the development of a multimodal transit center near LAONT airport to serve as a transit hub for local buses, BRT, the Gold Line, high-speed rail, the proposed Ontario Airport Metro Center circulator and other future transit modes"; see also Policies M3-4, 5, 6, 7, and 8.)

Further, the TOP EIR also evaluated the environmental impacts of the following TOP goals and policies regarding interim development using existing buildings, all of which are furthered and carried out by the proposed Ordinance. It is the proposed Ordinance's consistency with these goals and policies that supports the use of the Addendum and, in particular, supports the Initial Study's finding in Section X-b that the proposed Ordinance is consistent with the TOP. TOP Goal Land Use 3- Staff, regulations and processes that support and allow flexible responses to conditions and circumstances to achieve the [TOP] Vision.

- The proposed Ordinance will allow use of existing buildings for the use for which they were constructed. Otherwise the warehouse building and contractor' storage yard would remain vacant until development of the multi-modal transit center.
- TOP Policy LU3-3 – Land Use Flexibility We consider uses not typically permitted within a land use category if doing so improves livability, reduces vehicular trips, creates community gathering places and activity nodes, and helps create identity.
 - The uses permitted are identical to the uses underway at the site until 2010. The

overlay will allow those uses in close proximity to major transportation corridors.

- TOP Goal LU4 - Development that provides short-term value only when the opportunity to achieve our Vision can be preserved.
 - The proposed Ordinance will allow uses of existing buildings while maintaining the necessary designation to require future development to adhere to the vision established by the TOP.
- TOP Policy LU4-2 Interim Development. We allow development in growth areas that is not immediately reflective of our ultimate Vision provided it can be modified or replaced when circumstances are right. We will not allow development that impedes, precludes or compromises our ability to achieve our Vision.
 - The proposed Ordinance will allow uses of existing buildings while maintaining the necessary designation to require future development to adhere to the vision established by the TOP.
- TOP Policy Community Economics 2-3 Interim Development. We require interim development that does not reflect the long-term Vision, be limited in scale of development so that the investment can be sufficiently amortized to make Vision-compatible redevelopment financially feasible.
 - The two existing buildings were built as industrial buildings and do not lend themselves to the uses identified within the multi-modal transit center. The proposed Ordinance will permit limited interim uses to allow the buildings to be sufficiently amortized.
- TOP Policy Mobility 3-5 Light Rail. We support extension of the Metro Rail Gold Line to Ontario, and will work to secure station locations adjacent to the Meredith site and at the proposed multimodal transit center.
 - The Metro Rail Gold Line is proposed – though no specific development proposal is before the City nor is any expected in the near future - within the western portion of the property. The proposed Ordinance will allow use of the existing buildings while maintaining the area needed for the future Gold Line extension.
- TOP Policy M3-10 Multimodal Transit Center. We intend to ensure the development of a multimodal transit center near LAONT airport to serve as a transit hub for local buses, BRT, the Gold Line, high-speed rail, the proposed Ontario Airport Metro Center circulator and other future transit modes.
 - The Metro Rail Gold Line is proposed – though no specific development proposal is before the City nor is any expected in the near future - within the western portion of the property. The overlay will allow use of the existing buildings while maintaining the long term vision of the site as a multi-modal transit hub, accommodating stops for the Gold Line, high-speed rail, and other transit options.

Accordingly, and based on the findings and information contained in the previously certified TOP EIR, the Addendum, the Initial Study, and the CEQA statute and State CEQA Guidelines, including sections 15164 and 15162, the proposed Ordinance will not result in any new, increased or substantially different impacts, other than those previously considered and addressed in the TOP EIR. No changes or additions to the TOP EIR analyses are necessary, nor is there a need for any additional mitigation measures.

Briggs Comment 6: The agenda materials do not include a copy of the draft Ordinance.

Response to Briggs Comment 6: Copies of the draft Ordinance are included in the record of proceedings for File No. PDCA12-001 and in the Agenda packets of the members of the City Council.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA12-001, A DEVELOPMENT CODE AMENDMENT ADDING ARTICLE 22, MULTI-MODAL TRANSIT OVERLAY DISTRICT, CREATING THE OVERLAY DISTRICT AND ESTABLISHING DEVELOPMENT STANDARDS AND PERMITTED AND CONDITIONALLY PERMITTED USES FOR APPROXIMATELY 75 ACRES OF LAND LOCATED SOUTH OF INTERSTATE 10, WEST OF ARCHIBALD AVENUE, NORTH OF THE RAILROAD TRACKS, AND EAST OF GUASTI ROAD MAKING FINDINGS IN SUPPORT THEREOF (APN: 110-322-08, 17, 18, 21, 22, 25, 27, 29, 30, 31, AND 33).

WHEREAS, The City of Ontario ("Applicant") has initiated an Application for the approval of a Development Code Amendment, File No. PDCA12-001, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, in 1985, the site was rezoned to Airport Related Services ("ARS") making the existing warehouse and contractor's office and storage yard non-conforming uses; and

WHEREAS, The Ontario Plan's land use designation as "Multi-Modal Center" is the only one of its type in the City and creates a situation where the two existing buildings on the site remain non-conforming; and

WHEREAS, the buildings are designed for industrial uses and, indeed, were used until April 2010 as a warehouse/distribution operation with a contractor's office and storage yard, as well as, on occasion, for temporary retail sales. The buildings are ill-suited for uses allowed in the transit center (residential, office, retail), but still have a useful life; and

WHEREAS, generally, the concept of creating non-conforming uses is so that the marginal properties can transition to new, desirable uses over time. In this case, the new use as a transit center may take years or decades to transition due to the lack of funding for transit infrastructure; and

WHEREAS, to allow the use of these structures until more definitive plans are available for the multi-modal transit center, an overlay district is being proposed that will temporarily allow those uses that were in operation at the existing buildings until April, 2010 to continue until 2027, or until the buildings are demolished, whichever comes first; and

WHEREAS, allowable uses will be warehouse/distribution, ancillary offices and temporary uses, in keeping with the existing building design and the existing buildings' previous uses; and

WHEREAS, The Ontario Plan (TOP) allows for land use flexibility and interim development in order to achieve the TOP's Vision, and includes principles, goals and policies that are consistent with, and carried out by, the Ordinance, specifically TOP Goal Land Use 3, TOP Policy LU3-3, TOP Goal LU4, TOP Policy LU4-2, TOP Policy Community Economics 2-3 Interim Development, TOP Policy Mobility 3-5 Light Rail, and TOP Policy M3-10 Multimodal Transit Center; and

WHEREAS, as the first action on the Project, the City Council adopted a Resolution approving an Addendum to TOP EIR. The Addendum concludes that because the Project will not permit any uses other than those uses already in operation on the site and thus part of the baseline evaluated in the Ontario Plan EIR, and because the TOP EIR analyzes the environmental impact of allowing for land use flexibility and interim developments necessary to further TOP goals, such as the Project, the Project will not result in new, or substantially more adverse, significant environmental impacts than those disclosed in the Ontario Plan EIR; and

WHEREAS, on March 27, 2012, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and issued Resolution No. PC12-017, recommending the City Council approve the application.

WHEREAS, on March 23, 2012, the Notice of Public Hearing for the Project was published in the Inland Valley Daily Bulletin, a newspaper of local circulation; and

WHEREAS, on April 3, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project, and continued the hearing on that date; and

WHEREAS, on April 17, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project, and continued the hearing on that date; and

WHEREAS, on May 1, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project, and continued the hearing on that date; and

WHEREAS, on May 4, 2012, the Notice of Public Hearing for the Project was published in the Inland Valley Daily Bulletin, a newspaper of local circulation; and

WHEREAS, on May 15, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. None of the circumstances requiring preparation of a subsequent or supplemental EIR to the Ontario Plan EIR (as specified in CEQA Section 21166 and CEQA Guidelines 15162 and 15163) are present; and

b. This CEQA determination of reflects the independent judgment of the City Council.

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

a. The proposed development code amendment is consistent with the goals and policies of the general plan. The Amendment supports and allows flexible response to conditions and circumstances in order to continue to use the Project site will still allowing the City to work towards its goal of achieving a Multi-Modal Transit District.

b. The proposed development code amendment is reasonable and beneficial, and in the interest of good zoning practice. The concept of creating non-conforming uses is so that the marginal properties can transition to new, desirable uses over time. In this case, the new use as a transit center may take years or decades to transition due to the lack of funding for transit infrastructure. The two buildings were built as industrial buildings and do not lend themselves to uses identified within the multi-modal transit center.

c. The proposed development code amendment will not have a significant adverse impact on the environment. The amendment will allow the use of the existing buildings in a manner for which they were used until April 2010. It will not permit any uses other than those uses in operation on the site at the time of adoption of The Ontario Plan EIR and will not result in new, or substantially more adverse, significant environmental impacts than those disclosed in the Ontario Plan EIR.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves the addition of Article 22, as shown on Exhibit "A".

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

SECTION 5. 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.

SECTION 6. This Ordinance shall be become effective thirty (30) days from its adoption.

PASSED, APPROVED, AND ADOPTED this 5th day of June 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held May 15, 2012 and adopted at the regular meeting held June 5, 2012 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 June 5, 2012 and that Summaries of the Ordinance were published on May 22, 2012 and _____, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: A ZONE CHANGE (FILE NO. PZC09-002) TO REZONE APPROXIMATELY 20-ACRES OF LAND FROM R1 (SINGLE-FAMILY RESIDENTIAL) TO SPECIFIC PLAN, AND THE ADOPTION OF TUSCANA VILLAGE SPECIFIC PLAN (FILE NO. PSP09-001), TO MASTER PLAN APPROXIMATELY 20-ACRES OF LAND BY ESTABLISHING LAND USE DESIGNATIONS AND DESIGN GUIDELINES FOR THE PROPERTY LOCATED AT THE NORTHWEST CORNER OF RIVERSIDE DRIVE AND MILLIKEN AVENUE

RECOMMENDATION: That the City Council adopt ordinances approving a Zone Change (File No. PZC09-002) and approving the Tuscana Village Specific Plan (File No. PSP09-001).

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

FISCAL IMPACT: The proposed development will increase demands for certain City services. Conditions of approval require the formation of a Community Facilities District to provide funding for those services (landscape maintenance, street lights) required to support the Tuscana Specific Plan development, thereby mitigating the increased cost associated with such services.

BACKGROUND: At the meeting of May 15, 2012, the City Council took the following actions:

1. Adopted a resolution approving a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program pursuant to the California Environmental Quality Act (CEQA).

STAFF MEMBER PRESENTING: Jerry L. Blum, Planning Director

Prepared by: John Earle Hildebrand III
Department: Planning

City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2012

Approved: _____

Continued to: _____

Denied: _____

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2. Adopted a resolution approving File No. PGPA09-001, an amendment to the Policy Plan to revise the Hamner/SR-60 mixed-use area to include a residential land use component at a density range of 20.0 to 30.0 dwelling units per acre.
3. Introduced and waived further reading of an ordinance approving a zone change (File No. PZC09-002) to rezone the property from R1 (Single Family Residential) to SP (Specific Plan).
4. Introduced and waived further reading of an ordinance approving the Tuscana Village Specific Plan (File No. PSP09-001).

The first two items were approved and finalized on May 15, 2012; and no further City Council action is required.

The two remaining items are the focus of the subject recommended City Council action.

The project site is located at the northwest corner of Riverside Drive and Milliken Avenue, and is described as the Hamner/SR-60 Mixed Use Area within The Ontario Plan. A 20-acre portion of the entire 44-acre Mixed Use site is master planned under the proposed Specific Plan called Tuscana Village.

ZONE CHANGE: Pursuant to the Mixed Use Land Use Designation of the Policy Plan (General Plan) component of The Ontario Plan (TOP), the site is required to be developed under a Specific Plan. In order to implement the TOP requirements, this Zone Change will result in changing the project site to Specific Plan from its current zoning of R1 (single family residential).

SPECIFIC PLAN: The Tuscana Village Specific Plan area consists of one parcel, owned by Panayiotis Katelaris. The Specific Plan is a master plan of development which specifies land uses, infrastructure, landscaping, and architectural requirements, ensuring the orderly and complete development of the site. Consistent with The Ontario Plan, the project site is designated by the Specific Plan, which establishes Residential, with a density range of 20 - 30 dwelling units per acre, and Commercial land uses.

- **Development:** The Ontario Plan currently allows for a maximum Floor Area Ratio (FAR) of 1.0 within the Specific Plan area. The site is proposed to be split into a 7.1-acre parcel for residential development, allowing for a maximum of 200 dwelling units, 1.7-acres will be dedicated for new streets, and the remaining 11.3-acres will be developed with commercial uses, including inline retail stores, a vehicle fueling and wash station, and a farm store. It is anticipated that the operators of the farm store will also include a plant growing area, petting zoo, wine tasting, restaurant, and other seasonal sales items and live entertainment events in conjunction with the use.
- **Project Design:** The Specific Plan includes architectural design requirements for the project site. Both Tuscan and Italianate themes are proposed, which will be carried throughout both the residential and commercial developments. These styles are generally characterized by simple building massing and forms, with courtyard building configurations enhanced by rich architectural details, including recessed windows with rustic wood shutters, as well as stone and ironwork accents. Roof forms tend to be simple, with low pitches, exposed rafter tails, large overhangs, and s-tile roofing.

- **Circulation:** Two new public streets, identified as "A" Street and "B" Street, will provide primary access through the site and will allow future access to the northern properties within the Mixed Use area. Additionally, direct access to the site is provided from both Milliken Avenue and Riverside Drive through a series of drive approaches. Milliken Avenue is an 8-lane arterial and Riverside Drive is a 6-lane arterial, as specified in The Ontario Plan. Dedications and improvements, including a new curb, gutter, and parkway, are required along the southbound side of Milliken Avenue, as well as the westbound side of Riverside Drive.
- **Signage:** A master sign program will be prepared for the commercial development, which will identify the locations, designs, and sizing for all wall and monument signs. Pursuant to the New Model Colony Master Plan of Streets, the Riverside/Hamner corner is identified as a major City entry point and a City of Ontario identity sign will be constructed at this corner.
- **Future Development:** Only a portion of the 44-acre Hamner/SR-60 Mixed Use Area is proposed for development at this time. Should the properties north of the project site be developed in the future, they would first be required to be annexed into the Tuscana Village Specific Plan, or be master planned under a new Specific Plan.

COMPLIANCE WITH THE AIRPORT LAND USE COMPATIBILITY PLAN: The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and a consistency evaluation was conducted to determine if the proposed project is consistent with policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT. The project site is located outside of the safety zones but is located within the 60-65 dB CNEL noise contour. Residential land uses are allowed but required to have a Recorded Overflight Notification appearing on the Property Deed and Title incorporating the language below consistent with Business and Professions Code Section 11010 and Civil Code Sections 1102.6, 1103.4, and 1353. The required notification will read as follows:

NOTICE OF AIRPORT IN VICINITY: This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

ENVIRONMENTAL REVIEW: The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts. On the basis of the initial study, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of insignificance, a Mitigated Negative Declaration was prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines. The Mitigated Negative Declaration cited to State CEQA Guidelines section 15183 to detail why operational and construction air quality impacts and greenhouse gas impacts disclosed and mitigated in The Ontario Plan EIR did not require further discussion in the Project's Mitigated Negative Declaration (however, the applicable mitigation measures from The Ontario Plan EIR have been applied to this Project). To ensure that all of the mitigation measures proposed in the Mitigated Negative Declaration are implemented, a Mitigation Monitoring Plan has been prepared for the Project pursuant to CEQA Guidelines Section 15097, which

specifies responsible agencies/departments, monitoring frequency, timing and method of verification and possible sanctions for non-compliance with mitigation measures. On April 17, 2012, Cory Briggs, on behalf of the Inland Oversight Committee, submitted comments to the City Council regarding its consideration of the Ordinance. Responses to those comments have been prepared and are included in the record of proceedings. As part of those responses to comments, revisions to Mitigation Measure BR-2, which addresses impacts to the burrowing owl, were adopted. The revised Mitigation Measure is equivalent to, if not more effective than, the original Mitigation Measure in terms of addressing these impacts, and hence recirculation of the Mitigated Negative Declaration was not required. The City Council adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program by resolution at their meeting of May 15, 2012.

The Planning Commission considered the application at their meeting of March 27, 2012, and unanimously recommended approval of the applications.

CITY OF ONTARIO

RESPONSES TO COMMENTS ON THE PROPOSED TUSCANA VILLAGES SPECIFIC PLAN PROJECT

Jerry L. Blum, Planning Director

On April 17, 2012, Cory Briggs, on behalf of the Inland Oversight Committee, submitted comments to the City Council regarding its consideration of the proposed Tuscana Villages Specific Plan Project (the "Project"). We have prepared the following responses to those comments:

Briggs Comment 1: The City's public notice was defective for failure to specific the recommendation of the planning commission on the Project.

Briggs Comment 2: The agenda materials did not include a copy of the draft ordinances/resolutions/findings.

Response to Briggs Comments 1 and 2: The Notice of City Council Public Hearing for the City Council's May 15, 2012 hearing on the Project (Tuscana Village, File Nos. PGPA09-001, PZC09-002, and PSP09-001) was published on May 4, 2012, after the Planning Commission's March 27, 2012 hearing on the proposed Project, and includes a statement notifying the public that the Planning Commission recommended approval of the proposed Project. The resolutions, ordinances and findings for the Project are available along with and included in the agenda materials for the City Council's May 15, 2012 hearing on the Project.

Briggs Comment 3: The Project Mitigated Negative Declaration ("MND") violates CEQA because it illegally defers the analysis and mitigation of the project's impacts until later for the burrowing owl and delhi sands flower-loving fly. Additionally, the MND and its initial study make it clear that these two wildlife species have the potential to occur on the site, but it will not be until after construction activities begin (e.g., pre-grading clearing) that any attempt to identify these species and the project's impacts on them will be undertaken.

Response to Briggs Comment 3: The City of Ontario has ensured that the MND prepared for the Tuscana Village Specific Plan takes a conservative and precautionary approach in regard to sensitive biological resources which could occur on the Project site, given the urbanizing character of the area and the fact that the site is surrounded by major roadways. Mitigation measures BR-1 and BR-2, as provided within the MND, enforce the protection recommended by the California Department of Fish and Game ("CDFG") for common wildlife species, such as nesting birds; and ensure that any burrowing owls that might be present onsite at the time of construction would be protected. Additionally, mitigation measure BR-3 would ensure that the requirements of the United States Fish and Wildlife Service ("USFWS") are met in regard to the potential presence of the Delhi-sands flower loving fly.

It should be noted that in response to comments received from CDFG, an updated biological survey of the 20-acre Specific Plan area was conducted by Harmsworth Associates in February 2012. The survey report (available at the City of Ontario Planning Department) confirms the findings of the MND's Environmental Evaluation (page 4-27), noting that the "site conditions, habitats, vegetation and wildlife onsite were similar to those documented onsite during past biological surveys." Wildlife species found onsite were found to be "sparse due to the lack of native habitats and poor site conditions. Species detected were typical of disturbed open areas and included western fence lizards (*Sceloporus occidentalis*), killdeer (*Charadrius vociferus*), Savannah sparrow (*Passerculus sandwichensis*), house finch (*Carpodacus mexicanus*), and the California ground squirrel (*Spermophilus beecheyi*)."

No sensitive species, including burrowing owls, were identified onsite. Hence, the mitigation measures that Mr. Briggs complains of were merely precautionary, in case something changes prior to construction. As noted on page 4-29 of the MND, the burrowing owl (*Athene cunicularia*) is a California Species of Special Concern which "lives in the abandoned burrows of ground squirrels and other burrowing animals, modifying the burrows to suit their needs by digging." Although no burrowing owls have been identified by biologists during site surveys, because ground squirrels are present onsite, it is possible that burrowing owls may be attracted to the area in the period between Project approval and the beginning of construction. On this basis, Mitigation Measure BR-2 requires a pre-construction survey to document the presence or absence of this species. Given the migratory nature of the burrowing owl, the CDFG requires that focused burrowing owl surveys be conducted no more than 30 days prior to grading. Contrary to Mr. Briggs' assertions that surveys would not be undertaken "until after construction activities begin," Mitigation Measure BR-2 would require a burrowing owl survey to be completed prior to construction.

Also contrary to Mr. Briggs' assertion, Mitigation Measure BR-2 does not impermissibly defer mitigation. Under Mitigation Measure BR-2, any burrowing owls found to be present on the site are to be "actively or passively relocated following CDFG approved protocols, and with CDFG permission, prior to the commencement of clearing." This is not the same as solely "[r]equiring regulatory compliance," as the mitigatory actions to be taken (i.e., active or passive relocation) are explicitly listed as being required if owl burrows are found. Hence, Mr. Briggs' comment that analysis and mitigation has been deferred is not correct. However, to further clarify the requirements of the cited Protocol, Mitigation Measure BR-2 shall be revised as follows:

BR-2 Within 30 days of site clearing activities, a pre-construction burrowing owl survey shall be conducted to document the presence/absence of any occupied owl burrows. Any owls present shall be passively or actively relocated following CDFG approved protocols, and with CDFG permission, prior to commencement of clearing. Passive relocation shall occur by excluding owls from burrows by installing one-way doors in burrow entrances. One-way doors (e.g., modified dryer vents) should be left in place 48 hours to insure owls have left the burrow before excavation. Whenever possible, burrows should be excavated

using hand tool and refilled to prevent reoccupation. Active relocation (i.e., trapping) shall only be used if passive relocation is not possible. The survey shall be submitted to the Planning Division prior to issuance of a grading permit. Occupied burrows during owl nesting season (Feb. 1 through Aug. 31) shall be avoided by construction and clearing activities with at least a 75-meter buffer around each active owl nest. Occupied burrows may only be disturbed during nesting season if a qualified biologist approved by CDFG verifies through noninvasive methods that either: (1) the birds have not begun egg-laying and incubation; or (2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

It should be noted that these revisions are intended to give more detail regarding how passive relocation will occur and how occupied burrows with nesting owls will be treated. Such revisions would not require recirculation of the MND because these revisions result in a mitigation measure that is "equivalent or more effective" as compared to the original Mitigation Measure BR-2 with regard to mitigating impacts to the owl.

In regard to the Delhi sands flower-loving fly (DSFLF), as discussed in the MND's Environmental Evaluation (page 4-31), and documented in MND Appendix B, the current, revised Specific Plan area was, in its entirety, previously surveyed to determine the absence of the DSFLF. As discussed in the MND, focused DSFLF surveys were conducted according to USFWS protocol for five consecutive years (2004, 2005, 2006, 2007, and 2008), during the summer flight period. Survey Reports for each year were prepared by biologist Brian Drake, who conducted each survey under USFWS Permit TE-006328. Each report indicates that no DSFLF were observed onsite.

As a point of clarification, the MND reviewed by Mr. Briggs was prepared prior to the recent revision of the Tuscana Village Specific Plan. The Specific Plan area currently totals 20 acres, and includes only the southernmost portion of the area assessed within the MND. The northernmost parcels, previously identified as the Riboli and Galleano properties, are no longer part of the Tuscana Village Specific Plan. MND mitigation measure BR-3 was intended to ensure that the northerly parcels assessed within the MND project area undergo the recommended evaluation of habitat suitability for the DSFLF prior to their development. This measure is not applicable to the current, revised Specific Plan area, since focused, protocol surveys have been completed for this 20-acre area.

Contrary to Mr. Briggs' claims, the mitigation provided in the Tuscana Village Specific Plan MND adequately and appropriately documents the potential for sensitive biological species to occur on the Project site, and ensures that appropriate and timely protections will be implemented. The results and conclusions of the MND are not affected.

Briggs Comment 4: The MND is the wrong environmental document under CEQA. For instance, the initial study indicates that construction-related VOC emissions will exceed the SCAQMD's threshold and will therefore be significant, but then the initial study states that the impact will only be temporary. Because the region is already exceeding air-quality standards for

VOCs, the project's contribution constitutes a cumulative impact that triggers a mandatory finding of significance. Another example is the initial study's statement that the project's long-term operation impacts on air pollution--namely, VOCs, NOx, and PM10--will exceed SCAQMD's thresholds and will therefore be significant. It makes zero legal difference that The Ontario Plan's EIR includes a statement of over-riding considerations. The adverse environmental impacts of the project before the City Council were not specifically considered previously in the EIR or in the statement of overriding considerations.”

Response to Briggs Comment 4: Despite Mr. Briggs’ assertions in regard to the requirements of the California Environmental Quality Act, CEQA does not require that an EIR be prepared for a project with significant impacts, provided that such significant impacts have been previously addressed within an encompassing certified EIR. In this regard, preparation of an MND for the Project is consistent with and supports CEQA provisions outlined at CEQA Guidelines §15183, excerpted below in pertinent part:

15183 (a): CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.

15183 (c): If an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, as contemplated by subdivision (e) below, then an additional EIR need not be prepared for the project solely on the basis of that impact.

In this case, the Project development intensity is consistent with the development density established by the City of Ontario General Plan (TOP), and the significance implications of the Project’s air quality impacts (inclusive of its VOC, NOx and PM₁₀ emissions impacts) have been previously and adequately addressed within the TOP EIR (SCH No. 2008101140) and related statements of overriding considerations adopted by the City of Ontario.

Actually, the Project would result in substantially reduced development intensity of the subject property and likely reduced environmental effects, when compared to development intensities allowed under TOP and environmental effects reflected in the TOP EIR. The Project proposes up to 210,830 square feet of commercial development and up to 200 residential units within the 20-acre Tuscana Village Specific Plan Area, resulting in an estimated maximum floor-to-area ratio (FAR) of 0.55.¹ In contrast, the

¹ The Project provides for up to 210,830 s.f. of commercial/retail development, and up to 200 residential units ranging in floor area from 780 s.f. to 1,335 s.f. each. Assuming the total allowance of 200 residential units are constructed at the maximum allowable unit area (1,335 s.f./unit), full buildout of the 20-acre Project area would yield 210,830 s.f. commercial/retail development + 200 residential units x 1,335 s.f./ unit = 477,830 s.f./20 acres = 0.548 FAR.

General Plan "Mixed Use Area 12," encompassing the Project site allows for FARs of up to 1.0, and is assumed to be developed accordingly within the Ontario Plan EIR.

On a proportional basis, the Project yields a 45 percent reduction in development intensity when compared to allowed buildout of the Project site pursuant to the adopted TOP. Certain incrementally reduced impacts would also likely occur when compared to impacts identified in the Ontario Plan EIR. While a straight-line 45 percent proportional reduction in air quality impacts would not be expected, there would be likely reductions in total air quality impacts resulting from the Project when compared to air quality impacts predicated on maximum intensity buildout scenarios reflected in the Ontario Plan EIR.

It is further noted that consistent with CEQA's intent to minimize potential environmental effects of projects, the MND proposes air quality mitigation measures (inclusive of all applicable mitigation measures incorporated in the Ontario Plan EIR), and incorporates all applicable development policies or standards acting to reduce all Project air quality impacts to the extent feasible. (See: MND Pages 4-8 through 4-23; MND Appendix A, Air Quality Impact Analysis, GHG Analysis; and Mitigation Measures AQ-1 through AQ-3; GG-1 through GG-3.)

Lastly, it is recognized that preparation of an MND for the Project is consistent with the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" which provide for the use a single environmental assessment (in this case, the Ontario Plan EIR) in situations where the impacts of subsequent projects are adequately analyzed.

On this basis, the Tuscana Village Specific Plan Project MND provides substantial evidence to support that:

- The Tuscana Village Specific Plan Project is consistent with the Ontario Plan for which the Certified Ontario Plan EIR was prepared;
- The Tuscana Village Specific Plan Project is consistent with the general plan and zoning of the City of Ontario; and
- The Tuscana Village Specific Plan Project, as mitigated, will not result in any significant effects which were not examined in the previously Certified Ontario Plan EIR.

The MND's conclusion that the Project will result in certain significant air quality impacts, which impacts have already been considered and addressed under the Certified City of Ontario General Plan EIR, does not trigger the requirement for a new EIR. The Project MND correctly relies on the previously Certified Ontario Plan EIR where appropriate, while accurately focusing on new potential impacts particular to the Project under consideration.

Briggs Comment 5: The analysis of the project's air-quality impacts on sensitive receptors is unlawful. The only air pollutant considered was CO, but the project will result in the emission of several other pollutants (some of which will be emitted at a significant level). There are residences that are part of the project and that will be surrounded on the east and to the north by commercial activities (including pollution-belching vehicles), and those impacts also have not been considered for the sensitive receptors. Since the residences will be part of phase 1 of the project, the residents will have to endure the impacts of construction-related air-pollution impacts during phase 2, even though the initial study concludes that such pollution will be significant. None of these impacts has been adequately analyzed and mitigated. All of these impacts have been found to be significant in other project-specific environmental documents, such as the most recent EIR prepared for the Ontario Walmart Supercenter at Fifth and Mountain.

Response to Briggs Comment 5: Absent any supporting evidence or analysis, Mr. Briggs speculates on potential localized air quality impacts of the Project. Pursuant to California Public Resources Code (PRC) Section 21080, subd. (e), below, the commenter's statements alone are not considered substantial evidence that the Project may result in significant localized air quality impacts.

e) (1): For the purposes of this section and this division, substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.

e) (2): Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

Mr. Briggs' statements regarding the Ontario Walmart Supercenter EIR may be informative regarding that project, but are not considered germane to the Tuscana Village Specific Plan Project as the nature of the two projects is different. There is no demonstrated or substantiated evidence of significant localized air pollutant emissions impacts should the Project be implemented. Absent substantiation, the commenter's statements in these regards (as well as other opinions provided) are considered speculative.

Moreover, and consistent with SCAQMD *Final Localized Significance Threshold Methodology* (Methodology) (SCAQMD, June 2003), the MND does in fact provide an evaluation of the Project's potential localized air pollutant emissions impacts. (See: MND Pages 4-15 through 4-17; 4-22; and MND Appendix A, Air Quality Analysis, Pages 50 through 53). As concluded therein, even at the nearest sensitive receptor (inclusive of potential future residential uses) the Project would not generate air pollutant emission concentrations exceeding applicable SCAQMD localized Significance Thresholds (LSTs). It is also noted that, contrary to the commenter's inferences, an exceedance of a regional threshold does not translate to an exceedance of a localized threshold. Methodologies, modeling protocols, and significance thresholds for localized and regional pollutants are distinct and independent: localized thresholds are more directly

related to affects on human health, whereas regional thresholds are related to consistency with the Air Quality Management Plan's long-term efforts to improve regional air quality.

Briggs Comment 6: The MND and initial study say nothing about the air-quality impacts from diesel emissions and particulate. Diesel particulate is a toxic air pollutant. The analysis from the Supercenter's EIR provides that this pollutant needs to be properly addressed in an environmental impact report for this project.

Response to Briggs Comment 6: The Project MND and supporting Initial Study correctly and appropriately focus on potentially significant environmental impacts germane to the Project in question. There is no evidence or supporting information to suggest that the Project would result in or cause potentially significant impacts related to diesel emissions or diesel particulate matter. See also the previous citation to PRC Section 21080, subd. (e) regarding speculation vis-à-vis substantiated evidence.

As previously noted, Mr. Briggs' statements regarding the Ontario Walmart Supercenter EIR are not considered germane to the Tuscana Village Specific Plan Project as they are different projects. Moreover, even though a diesel risk analysis may have been performed for the Ontario Walmart project, arguably even that analysis was unwarranted.² In this regard, direction provided by the SCAQMD indicates that diesel and diesel particulate matter (DPM) risk analyses are likely appropriate for projects generating or attracting substantial concentrated volumes of diesel-emitting sources. Such projects typically include truck stops, distribution warehouses, transit centers, ship hoteling at ports, or train stations. In comparison, the nominal diesel emissions that may result from mixed-use commercial/residential projects such as the Tuscana Village Specific Plan Project (or, for that matter, from the commercial/retail Ontario Walmart Supercenter project) make them unlikely candidates for substantial DPM-source health risks.

Further, the risks associated with diesel particulate matter from all sources have been decreasing steadily over the past years and are expected to further decline as cleaner fuel programs and cleaner diesel fleets come on line. For example, the State is currently implementing comprehensive diesel fleet modernization regulatory programs. Over the past few years, CARB has adopted increasingly stringent regulations applicable to diesel trucks. Examples of such regulations adopted since 2003 include: required use of ultra-low sulfur diesel fuel (2003); heavy-duty truck idling limited to five minutes (2004); adoption of stringent emissions standards for 2010 and subsequent model year heavy-duty diesel engines (2005); new heavy-duty trucks required to be equipped with an automatic engine shutoff device to limit idling time (2005); manufacturers of diesel engines used in medium and heavy-duty trucks required to perform emissions testing (2006); limitations on use of older trucks at ports (2007).

² Even assuming 24-hour per day, 365 days/year, 70-year exposure, the maximum incremental cancer risk resulting from the Ontario Walmart Supercenter Project was estimated at 0.44 persons/million population. (See: *Ontario Wal-Mart [Walmart] Supercenter Subsequent Environmental Impact Report*, SCH 2006101132, Page 4.5-20.) The relevant SCAQMD cancer risk threshold is 10.0 persons /million population.

In December 2008, CARB adopted two new regulations applicable to heavy duty trucks. The first requires all heavy-duty trucks to have a 2010 model year engine or equivalent by 2023. The regulation includes a schedule by which all vehicles are required to be upgraded and/or replaced, e.g., pre-1994 vehicles are required to install a particulate matter (PM) filter by 2011 and be replaced by 2015, while 2009 vehicles are not required to be replaced until 2023. The regulation also includes a separate compliance option which allows trucking companies to upgrade/replace a certain percentage of their fleet each year; although it also requires that all trucks have the equivalent of a 2010 engine by 2023.

The other December 2008 regulation is designed to improve the fuel efficiency of trucks that pull 53-foot or longer box-type trailers, and requires improvements in tractor and trailer aerodynamics, as well as the use of low rolling resistance tires. Unlike most previous diesel truck regulations adopted by CARB, which were focused on reducing PM and oxides of nitrogen (NO_x) emissions, the primary purpose of this regulation was to reduce greenhouse gas (GHG) emissions. In fact, such regulation, which will be phased in beginning in 2010, is known as the "Heavy-Duty Vehicle Greenhouse Gas Measure," and was identified in the Climate Change Scoping Plan approved by the California Air Resources Board (CARB) in December 2008 as one of the measures which will help the state achieve the GHG emission targets set by AB 32. (CARB Scoping Plan, pp. 53-54.) Given ongoing and increasing generalized concerns regarding air pollutants within the Basin, and specific concerns regarding DPM emissions, further and more stringent CARB regulatory actions are anticipated.

Moreover, as noted above, CARB has only recently begun targeting diesel trucks as a source of GHG emissions (rather than as a source of PM and NO_x emissions), and it is likely future CARB regulations will specifically address GHG emissions. Indeed, the Climate Change Scoping Plan approved by CARB calls for further regulation of trucks to achieve greater fuel efficiency, including the adoption of a regulation requiring the "hybridization of medium- and heavy-duty vehicles," in order to achieve greater fuel efficiency. (CARB Scoping Plan, pp. 53-54.)

While CARB has yet to document or propose specific "hybridization" regulation(s), notwithstanding, the Scoping Plan notes that "[h]ybrid trucks would likely achieve the greatest benefits in urban, stop-and-go applications, such as parcel delivery, utility services, transit, and other vocational work trucks." (CARB Scoping Plan, p. 54.) These are likely sources of potential Project-related diesel emissions. Likewise, a presentation given by CARB staff at a May 21, 2009 public workshop to discuss freight efficiency measures suggested that it will apply to "trucks that benefit the most from hybrid technology," such as "garbage trucks, utility trucks, delivery trucks," etc. In summary, to date, CARB's regulatory actions and stance indicate an on-going regulatory focus on reducing freight-related GHG emissions by requiring ever more efficient trucks and/or less carbon-intensive fuels. These regulatory actions would only act to further reduce any nominal diesel emissions impacts that may result from the Tuscana Village Specific Plan Project.

As indicated by the above discussions, preparation of a diesel emissions health risk assessment for the Tuscana Village Specific Plan Project is not only unwarranted, such an assessment would only add to the time and cost of analyses while distracting from, and diminishing focus on, potentially significant environmental issues. This is contrary to the purpose, use and application of environmental analyses stated at PRC §21002.1 (e), excerpted below:

(e): To provide more meaningful public disclosure, reduce the time and cost required to prepare an environmental impact report, and focus on potentially significant effects on the environment of a proposed project, lead agencies shall, in accordance with Section 21100, focus the discussion in the environmental impact report on those potential effects on the environment of a proposed project which the lead agency has determined are or may be significant. Lead agencies may limit discussion on other effects to a brief explanation as to why those effects are not potentially significant.

Lastly, it is noted that, as provided under CEQA Guidelines Section 15204 (a) . . . "CEQA does not require a lead agency to conduct every test or perform all research, study, and experiment recommended or demanded by commenters." The Lead Agency considers the MND analysis of potential air quality impacts to be adequate and appropriate and substantiated by facts and evidence. A Project diesel health risk assessment is not warranted or required.

Briggs Comment 6(a): The City's public hearing notice does not include the statements required by State CEQA Guidelines sections 15168(e)(1) and (2).

Response to Briggs Comment 6(a): Such a statement is not required as the City is not relying upon the TOP EIR via the streamlining provisions of State CEQA Guidelines section 15168. Rather, the City makes reference to the TOP EIR via section 15183, and thereby establishing that the further consideration of various significant impacts from that EIR is not needed in connection with the Project. See Response to Briggs Comment 4, above.

Briggs Comment 7: The City has not prepared an adequate water supply assessment ('WSA') for the project under Water Code Section 10910 et seq.

Response to Briggs Comment 7: The Tuscana Village Specific Plan MND identifies the requirements for the preparation of a WSA on pages 4-116 to 4-117. The following text is excerpted from the MND:

Under State regulations (SB 610, adopted in 2002), a Water Supply Assessment (WSA) is required for the Project. More specifically, SB 610 amended the California Public Resources Code to incorporate Water Code findings within the CEQA process for certain types of projects. SB 610 amended the Water Code to broaden the types of information included in Urban Water Management Plans (Water Code Section 10620 *et seq.*) and to add Water Code part 2.10 Water Supply Planning to Support Existing

and Planned Future Uses (Section 10910 *et seq.*). Water Code part 2.10 clarifies the roles and responsibilities of the Lead Agency under CEQA and the “water supplier” with respect to describing current and future supplies compared to current and future demands. Part 2.10 also defines the “Projects” that are subject to a WSA and the Lead Agency’s responsibilities related to the WSA. A WSA is required for the following types of development projects:

- A proposed residential development of more than 500 dwelling units;
- A proposed shopping center or business establishment employing more than 1,000 people or having more than 500,000 square feet of floor space;
- A proposed commercial office building employing more than 1,000 people or having more than 250,000 square feet of floor space;
- A proposed hotel or motel, or both, having more than 500 rooms;
- A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 people, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area;
- A mixed - use development that includes one or more of the uses described above;
- A development that would demand an amount of water equivalent to or greater than the amount of water required by a 500 - dwelling unit project; or
- For Lead Agencies with fewer than 5,000 water service connections, any new development that will increase the number of water service connections in the service area by ten percent or more.

The MND further notes (on page 4-118) that “[t]he City, as the lead agency and the local water purveyor, has contracted for the preparation of the WSA. This document will be available for public review prior to, or concurrent with, the public hearing process.” However, prior to the completion of the referenced WSA, the applicant requested a revision to the Tuscana Village Specific Plan which reduced the size of the project area by over fifty percent.

As indicated in the Tuscana Village Specific Plan Table 4.1, “Land Use Summary,” the proposed land uses under the revised Specific Plan include up to 200 residential units on 7.9 acres, and up to 210,830 square feet of commercial development on 12.1 acres. By way of comparison, the MND assessed land uses that included the same residential development, but anticipated up to 948,731 square feet of commercial and business park uses on approximately 36 acres (Table 2.5-1, “Land Use Summary,” *Tuscana Village Specific Plan Mitigated Negative Declaration*, October 2011).

Using the same criteria identified in the MND (provided by Water Code Section 10910 *et seq.*), the following table summarizes the application of these criteria to the revised Specific Plan project.

Criteria	Applicability Assessment
A proposed residential development of more than 500 dwelling units.	<i>Not applicable.</i> The Tuscana Village Specific Plan proposes up to 200 residential dwelling units.
A proposed shopping center or business establishment employing more than 1,000 people or having more than 500,000 square feet of floor space.	<i>Not applicable.</i> The Tuscana Village Specific Plan proposes up to 210,830 square feet of commercial uses, and is estimated to employ approximately 600 people. ¹
A proposed commercial office building employing more than 1,000 people or having more than 250,000 square feet of floor space.	<i>Not applicable.</i> The Tuscana Village Specific Plan proposes up to 210,830 square feet of commercial uses, of which a maximum of approximately 171,680 square feet could be developed as office uses. ²
A proposed hotel or motel, or both, having more than 500 rooms.	<i>Not applicable.</i> Although hotels and motels are conditionally permitted as part of the Tuscana Village Specific Plan, no hotel or motel uses have been proposed or approved as part of the Project.
A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 people, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area.	<i>Not applicable.</i> Industrial uses are not included as permitted or conditionally permitted uses within the Tuscana Village Specific Plan.
A mixed - use development that includes one or more of the uses described above.	<i>Not applicable.</i> Based on buildout square footage and residential dwelling unit counts, the Tuscana Village Specific Plan project does not meet the criteria for residential, commercial, office, or industrial uses identified above. A mix of land uses involving smaller multipliers would similarly not exceed these criteria.

<p>A development that would demand an amount of water equivalent to or greater than the amount of water required by a 500 - dwelling unit project.</p>	<p><i>Not applicable.</i> California Department of Water Resources (DWR) guidelines indicate that a minimum of 133,911 gallons per day (gpd) of water would be required by a 500-dwelling unit project.³ In comparison, the Tuscana Village Specific Plan project can be expected to demand approximately 75,693 gpd of municipal water at buildout.⁴ Using the DWR guidelines, this amount of water would support the development of up to 282 dwelling units.</p>
<p>For Lead Agencies with fewer than 5,000 water service connections, any new development that will increase the number of water service connections in the service area by ten percent or more.</p>	<p><i>Not applicable.</i> The City of Ontario's 2011 Urban Water Management Plan indicates that the City had more than 33,000 metered water service accounts in 2010.</p>

Notes:

¹ Based on the highest-generating standard of 2.86 employees per 1,000 square feet, provided in the City of Ontario *Urban Water Management Plan* (Ontario Municipal Utilities Company, June 2011).

² Based on the Tuscana Village Specific Plan Table 4-2, "Commercial Property – Interim and Final Buildout Land Uses"

³ The guidelines note that "it is generally acknowledged that one acre-foot of water [325,851 gallons] can serve two to three households on an annual basis; therefore, one dwelling unit typically consumes 0.3 to 0.5 acre-feet of water per year, depending upon several factors, including the regional climate." (Page 3, California Department of Water Resources. Guidebook for Implementation of Senate Bill 610 and Senate Bill 221 of 2001, www.water.ca.gov/pubs/use/sb_610...guidebook/guidebook.pdf).

⁴ Based on water demand projections for General Commercial and High-Density Residential land uses included in Table 3-9 of the City of Ontario *Water and Recycled Water Master Plan* (Final Report, April 2006).

As seen in the preceding table, none of the criteria of Water Code Section 10910 *et seq.* are applicable to the current Tuscana Village Specific Plan. On this basis, the City is not required to prepare a WSA for the Project, nor is there a need to circulate a WSA as part of the Project's environmental review. The results and conclusions of the MND are not affected.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC09-002, A ZONE CHANGE TO REZONE APPROXIMATELY 20 ACRES OF LAND FROM R1 (SINGLE-FAMILY RESIDENTIAL) TO SPECIFIC PLAN (TUSCANA VILLAGE), LOCATED AT THE NORTHWEST CORNER OF RIVERSIDE DRIVE AND MILLIKEN AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1083-361-01.

WHEREAS, Pelican Homes ("Applicant") has filed an Application for the approval of a Zone Change, File No. PZC09-002, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to a 20-acre portion of the 44-acre Hamner/SR-60 Mixed Use area, which is generally bound by the CA-60 Freeway on the north, Riverside Drive on the south, Milliken Avenue on the east, and a Southern California Edison (SCE) easement on the west; and

WHEREAS, the property to the north of the Project site, past the CA-60 Freeway, is within the Milliken Industrial Park Specific Plan and is developed with industrial buildings. The property to the south is within the Edenglen Specific Plan and is developed with a mixture of single family and multi-family residential dwelling units. The property to the east is within the City of Eastvale and is developed with industrial buildings. The property to the west is within the Creekside Specific Plan and is developed with single family residential dwelling units; and

WHEREAS, approval of this Ordinance for a Zone Change will result in rezoning a 20-acre portion of the 44-acre Hamner/60 Mixed Use Area from residential to Specific Plan (Tuscana Village); thereby, implementing the Policy Plan (General Plan) component of The Ontario Plan requirement. The balance of the Mixed Use area shall remain under its current zoning; and

WHEREAS, the accompanying Tuscana Village Specific Plan (File No. PSP09-001) establishes land uses, design, and development criteria; and

WHEREAS, the project site is located within the Airport Influence Area of Ontario International Airport and the Project is consistent with the policies and criteria set forth within the Airport Land Use Compatibility Plan; and

WHEREAS, as the first action on the Project, the City Council adopted a Resolution approving a Mitigated Negative Declaration for the Project. The Mitigated Negative Declaration indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a less-than-significant level; and

WHEREAS, on March 19, 2012, the Development Advisory Board of the City of Ontario conducted a hearing, recommending Planning Commission approve the Application; and

WHEREAS, on March 27, 2012, the Planning Commission of the City of Ontario conducted a hearing, recommending City Council approve the Application; and

WHEREAS, on April 17, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project, and continued said hearing on that date; and

WHEREAS, on May 1, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project, and continued the hearing on that date; and

WHEREAS, on May 4, 2012, the Notice of Public Hearing for the Project was published in the *Inland Valley Daily Bulletin*, a newspaper of local circulation; and

WHEREAS, on May 15, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Mitigated Negative Declaration (MND) for the Tuscana Village Specific Plan and supporting documentation. Based upon the facts and information contained in the MND and supporting documentation, the City Council finds the environmental impacts of the Project are either less-than-significant or can be mitigated to a level of less-than-significance pursuant to the mitigation measures outlined in the MND, the Mitigation Monitoring and Reporting Program and the initial study.

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

a. The proposed zone change is consistent with the goals and policies of The Ontario Plan. The zone change implements The Ontario Plan's requirement for developing the Hamner/60 Mixed Use Area under a specific plan.

b. The proposed zone change is reasonable and beneficial, and in the interest of good zoning practice. The zone change will enable the orderly development of a 20-acre site, through the establishment of land uses, development criteria, and infrastructure improvements under a new specific plan.

c. The project site is physically suitable, including, but not limited to parcel size, shape, access, availability of utilities and compatibility with adjoining land uses, for the requested zoning designation and anticipated development. The entire Hamner/60 Mixed Use area encompasses 44-acres in area and is physically suitable to accommodate the proposed 20-acre development.

d. The proposed zone change will not adversely affect the harmonious relationship with adjacent parcels and land uses. The zone change will enable development that is compatible with the surrounding land uses to occur.

e. The proposed zone change will not have a significant adverse impact on the environment. A new specific plan (Tuscana Village) is concurrently being reviewed in conjunction with the zone change. An accompanying Mitigated Negative Declaration (MND) has been prepared which identifies potential environmental impacts and provides mitigation measures that shall be implemented through operational changes or incorporated into the design of the project. As a result, the zone change will not substantially adversely impact the environment.

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

SECTION 4. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid, unconstitutional or otherwise struck-down by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more portions of this ordinance might be declared invalid.

SECTION 5. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 6. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 7. 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.

SECTION 8. This Ordinance shall be become effective thirty (30) days from its adoption.

PASSED, APPROVED, AND ADOPTED this 5th day of June 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held May 15, 2012 and adopted at the regular meeting held June 5, 2012 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 June 5, 2012 and that Summaries of the Ordinance were published on May 22, 2012 and _____, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSP09-001, A SPECIFIC PLAN (TUSCANA VILLAGE) TO MASTER PLAN APPROXIMATELY 20-ACRES OF LAND BY ESTABLISHING LAND USE DESIGNATIONS AND DESIGN GUIDELINES FOR THE PROPERTIES LOCATED AT THE NORTHWEST CORNER OF RIVERSIDE DRIVE AND MILLIKEN AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1083-361-01.

WHEREAS, Pelican Homes ("Applicant") has filed an Application for the approval of a Specific Plan (Tuscana Village), File No. PSP09-001, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to a 20-acre portion of the 44-acre Hamner/SR-60 Mixed Use area, which is generally bound by the CA-60 Freeway on the north, Riverside Drive on the south, Milliken Avenue on the east, and a Southern California Edison (SCE) easement on the west; and

WHEREAS, the property to the north of the Project site, past the CA-60 Freeway, is within the Milliken Industrial Park Specific Plan and is developed with industrial buildings. The property to the south is within the Edenglen Specific Plan and is developed with a mixture of single family and multi-family residential dwelling units. The property to the east is within the City of Eastvale and is developed with industrial buildings. The property to the west is within the Creekside Specific Plan and is developed with single family residential dwelling units; and

WHEREAS, approval of this Ordinance for a Specific Plan (Tuscana Village) will result in the establishment of development criteria, land uses, and design guidelines for a 20-acre portion of the 44-acre Hamner/SR-60 Mixed Use area; and

WHEREAS, the Tuscana Village Specific Plan designates 7.1 acres as Residential with a density of 20.0 – 30.0 dwelling units per acre, 11.3 acres as Commercial (1.0 maximum floor area ratio), and 1.7 acres as public streets; and

WHEREAS, additional development within the Hamner/SR-60 Mixed Use area beyond the designated 20-acre Tuscana Village Specific Plan will require preparation of either a new Specific Plan or annexation into the Tuscana Village Specific Plan. Additionally, a zone change is required to change from the base zoning to Specific Plan; and

WHEREAS, the project site is located within the Airport Influence Area of Ontario International Airport and the Project is consistent with the policies and criteria set forth within the Airport Land Use Compatibility Plan; and

WHEREAS, as the first action on the Project, the City Council adopted a Resolution approving a Mitigated Negative Declaration for the Project. The Mitigated Negative Declaration indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a less-than-significant level; and

WHEREAS, on March 19, 2012, the Development Advisory Board of the City of Ontario conducted a hearing to consider the MND, the initial study, and the Project, recommending Planning Commission approve the Application; and

WHEREAS, on March 27, 2012, the Planning Commission of the City of Ontario conducted a hearing to consider the MND, the initial study, and the Project, and recommended that the City Council approve the Application; and

WHEREAS, on April 17, 2012, the City Council of the City of Ontario conducted a hearing to consider the MND, the initial study, and the Project, and continued said hearing on that date; and

WHEREAS, on May 1, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project, and continued the hearing on that date; and

WHEREAS, on May 4, 2012, the Notice of Public Hearing for the Project was published in the *Inland Valley Daily Bulletin*, a newspaper of local circulation; and

WHEREAS, on May 15, 2012, the City Council of the City of Ontario conducted a hearing to consider the MND, the initial study, and the Project, and concluded said hearing on that date;

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

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

SECTION 1. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the MND, the initial study and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the MND, the initial study and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds that all environmental impacts of the Project are either less-than-significant or can be mitigated to a level of less-than-significance pursuant to the mitigation measures outlined in the MND, the Mitigation Monitoring and Reporting Program and the initial study.

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

a. The proposed specific plan is consistent with The Ontario Plan. The specific plan is an implementation requirement of The Ontario Plan. The land use designations and development intensity is consistent with The Ontario Plan.

b. The subject property is physically suitable, including, but not limited to parcel size, shape, access, availability of utilities and compatibility with adjoining land uses, for the requested land use designation and anticipated development. The entire specific plan area includes 20-acres, which is a suitable size to support the proposed development intensity and to provide adequate access, as specified within the Tuscana Village Specific Plan.

c. The proposed specific plan will not be detrimental to the public interest, health, safety, convenience or welfare. In conjunction with the Tuscana Village Specific Plan, a Mitigated Negative Declaration (MND) has been prepared, to address potential safety and environmental issues resulting from the project. Identified issues have been resolved, through incorporation into the project with design changes or have been imposed upon the project as operational conditions. As a result, the specific plan will not be detrimental to the public health and safety.

d. The proposed specific plan will maintain the appropriate balance of land uses within the City. The specific plan designates the project site as Residential, Commercial, and Business Park, each of which are compatible with the surrounding community and existing uses. This mix of specific plan land use designations provides an adequate balance of development.

e. The specific plan will not have significant impacts on the environment nor the surrounding properties. A Mitigated Negative Declaration (MND), which reviews potential environmental project related impacts, has been prepared in conjunction with the Tuscana Village Specific Plan. All identified impacts have been mitigated through either design changes or operational conditions. As a result, this specific plan will not result in creating any significant environmental impacts.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves the Project subject to each and every condition set forth in the Department reports, attached hereto and incorporated herein by this reference.

SECTION 4. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid, unconstitutional or otherwise struck-down by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more portions of this ordinance might be declared invalid.

SECTION 5. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to

attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 6. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 7. 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.

SECTION 8. This Ordinance shall become effective thirty (30) days from its adoption.

PASSED, APPROVED, AND ADOPTED this 5th day of June 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held May 15, 2012 and adopted at the regular meeting held June 5, 2012 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 June 5, 2012 and that Summaries of the Ordinance were published on May 22, 2012 and _____, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE RELATED TO A DEVELOPMENT AGREEMENT (FILE NO. PDA11-001) BETWEEN PANAYIOTIS AND ANDRIANA KATELARIS AND THE CITY OF ONTARIO TO ESTABLISH THE TERMS AND CONDITIONS FOR COMMERCIAL AND RESIDENTIAL DEVELOPMENT OF 20 ACRES WITHIN THE TUSCANA VILLAGE SPECIFIC PLAN

RECOMMENDATION: That the City Council adopt an ordinance approving a Development Agreement (PDA11-001) between Panayiotis and Andriana Katelaris and the City of Ontario regarding the development of 20 acres within the Tuscana Village Specific Plan, generally located at the northwest corner of Milliken Avenue and Riverside Drive (APN: 218-091-09).

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

FISCAL IMPACT: The proposed Development Agreement will provide for the formation of a Community Facilities District to provide funding for additional City services (landscape maintenance, street lights) required to support the Tuscana Village Specific Plan development, thereby mitigating the increased cost associated with such services.

BACKGROUND: On March 27, 2012, the Planning Commission reviewed the proposed Development Agreement ("Agreement") and unanimously recommended it to the City Council for approval. At the meeting of May 15, 2012, the City Council introduced and waived further reading of an ordinance approving a Development Agreement (PDA11-001) between Panayiotis and Andriana Katelaris and the City of Ontario. The Agreement applies to 20 acres of land generally located north of Riverside Drive and west of Milliken Avenue. Approval of this Agreement will grant Panayiotis and Andriana Katelaris ("Owner") a vested right to develop the project as long as they comply with the terms and conditions of the Development Agreement, the Tuscana Village Specific Plan and Mitigated Negative Declaration.

STAFF MEMBER PRESENTING: Jerry L. Blum, Planning Director

Prepared by: Scott Murphy
Department: Planning
City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2012
Approved: _____
Continued to: _____
Denied: _____

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The proposed Agreement applies to the 20 acres of commercial and residential development as shown in Planning Commission Staff Report as Exhibit A – Specific Plan Map. The Agreement grants to the Owner certain rights to develop their project consistent with the Tuscana Village Specific Plan.

The Agreement also funds all additional City expenses created by the introduction of residential development. These expenses include operational costs related to project related City services, including, but not limited to, maintenance of median and neighborhood edge landscaping, and street light maintenance.

The main points of the Agreement are as follows:

Term:	Ten (10) years with a five (5) year option.
Assignment:	Assignable with all terms and conditions applying to the assignee. The City has conditional approval and City will assess a processing fee.
Phasing of Public Improvements:	Identifies the construction timing of various public improvements
Reimbursements:	Provides for reimbursement for the cost of installing infrastructure over-sized to serve other properties. Provides the conditions under which reimbursement will be calculated.
Compliance:	Owner will submit an annual monitoring report which the City will review for compliance. If Owner is found to be in compliance, the City will issue a Certificate of Compliance. If noncompliance is identified, a letter of correction will be issued.
Termination:	The City may terminate the Agreement if substantial evidence is found of noncompliance.

The Planning Commission considered the application at their meeting of March 27, 2012. At that time, the adjacent property owner raised concerns about the timing, extent and methodology of the reimbursement agreement. Staff addressed many of the questions asked but noted that further discussions could occur with the property owner prior to the City Council meeting. The Planning Commission unanimously approved the application and directed staff to continue working with the adjacent property owners on the Development Agreement language prior to the Council hearing. Staff has been in contact with the property owner and their representatives and believes that the issues have been addressed.

ENVIRONMENTAL REVIEW: The application was reviewed pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared for the Tuscana Village Specific Plan to determine possible environmental impacts. On the basis of the initial study, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of insignificance, a Mitigated Negative Declaration was prepared pursuant to CEQA, the State CEQA Guidelines and

the City of Ontario Local CEQA Guidelines. The application is deemed consistent with the Tuscana Village Specific Plan and Mitigated Negative Declaration and introduces no new significant environmental impacts. The City Council adopted the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program by resolution at their meeting on May 15, 2012 and no further City Council action is required on it.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND PANAYIOTIS AND ANDRIANA KATELARIS, FILE NO. PDA11-001, TO ESTABLISH THE TERMS AND CONDITIONS FOR COMMERCIAL AND RESIDENTIAL DEVELOPMENT OF 20 ACRES WITHIN THE TUSCANA VILLAGE SPECIFIC PLAN, GENERALLY LOCATED AT THE NORTHWEST CORNER OF MILLIKEN AVENUE AND RIVERSIDE DRIVE, AND MAKING FINDINGS IN SUPPORT THEREOF (APN: 218-091-09).

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

“The Legislature finds and declares that:

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

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

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

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

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

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

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

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

WHEREAS, attached to this ordinance, marked Exhibit "A" and incorporated herein by this reference, is the proposed Development Agreement between Panayiotis and Andriana Katelaris and the City of Ontario, File No. PDA11-001 concerning those 20 acres of land generally located at the northwest corner of Milliken Avenue and Riverside Drive and as legally described in the attached Development Agreement. Hereinafter in this ordinance, the Development Agreement is referred to as the "Development Agreement"; and

WHEREAS, as the first action on the Project, the City Council adopted a Resolution approving a Mitigated Negative Declaration for the Tuscana Village Specific Plan and related applications, of which this Project is a part. The Mitigated Negative Declaration indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a less-than-significant level; and

WHEREAS, on the 27th day of March 2012, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and unanimously recommended approval of the application; and

WHEREAS, on the 17th day of April, the City Council of the City of Ontario conducted a duly noticed public hearing and continued said hearing on that date.

WHEREAS, on May 1, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project, and continued the hearing on that date; and

WHEREAS, on May 4, 2012, the Notice of Public Hearing for the Project was published in the *Inland Valley Daily Bulletin*, a newspaper of local circulation; and

WHEREAS, on May 15th, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, on June 5th, 2012, the City Council of the City of Ontario conducted a hearing to adopt the Project, and concluded said hearing on that date; and

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 hereby specifically finds that all facts set forth in the Recitals, Part A, of this ordinance are true and correct.

SECTION 2. Based upon substantial evidence presented to the City Council during the above-referenced hearing on May 15, 2012, including written and oral staff reports, together with public testimony, the City Council hereby specifically finds as follows:

a. The Development Agreement applies to 20 acres of commercial and residential land within the Tuscana Village Specific Plan, generally located at the northwest corner of Milliken Avenue and Riverside Drive; and

b. The properties to the north and south are vacant, the property to the west is developed with residential uses, and the property to the east is developed with industrial uses; and

c. The Development Agreement establishes parameters for the development of the Tuscana Village Specific Plan projects. The Development Agreement also grants Panayiotis and Andriana Katelaris the right to develop; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy plan (General Plan), design guidelines and development standards for the Tuscana Village Specific Plan; and

d. The Development Agreement focuses on the 20 acres of commercial and residential development within the Tuscana Village Specific Plan; and

e. The Development Agreement will provide for development of up to 210,830 square feet of commercial uses and 200 residential units as established by the Tuscana Village Specific Plan; and

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

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

h. This Development Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and,

i. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties but the benefits of the project outweighs the potential environmental impacts and the mitigation of these impacts were addressed in the Mitigated Negative Declaration prepared for the Tuscana Village Specific Plan.

SECTION 3. Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth in paragraphs 1 and 2 above, the Council hereby concludes as follows:

a. The subject property is suitable for the uses permitted in the proposed district in terms of access, size, and compatibility with existing land use in the surrounding area;

b. The proposed Development Agreement will have significant impacts on the environment or the surrounding properties but the benefits of the project outweighs the potential environmental impacts and the environmental impacts have been adequately addressed in the Mitigated Negative Declaration prepared for the Tuscana Village Specific Plan; and

c. The proposed Development Agreement is in conformance with The Ontario Plan Policy Plan (General Plan).

SECTION 4. Based upon the facts and information contained together with all written and oral reports included for the environmental assessment for the application, the City Council finds that the environmental impacts of this Development Agreement were reviewed in conjunction with the Mitigated Negative Declaration prepared for the Tuscana Village Specific Plan. All applicable mitigation measures adopted with the adoption by the City Council of the Mitigated Negative Declaration will become a condition of project approval.

SECTION 5. Based upon the findings and conclusions set forth in paragraphs 1, 2, 3 and 4 above, the City Council hereby approves the Development Agreement subject to each and every condition set forth in the Tuscana Village Specific Plan, incorporated by this reference.

SECTION 6. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 7. 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.

SECTION 8. This Ordinance shall be become effective thirty (30) days from its adoption.

PASSED, APPROVED, AND ADOPTED this 5th day of June 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held May 15, 2012 and adopted at the regular meeting held June 5, 2012 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 June 5, 2012 and that Summaries of the Ordinance were published on May 22, 2012 and _____, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
PUBLIC HEARINGS

SUBJECT: A SPECIFIC PLAN AMENDMENT (FILE NO. PSPA12-002) TO THE ONTARIO GATEWAY SPECIFIC PLAN TO ALLOW A 45 FOOT TALL, 745 SQUARE FOOT, FREEWAY ORIENTED PYLON DIGITAL SIGN

RECOMMENDATION: That the City Council adopt a resolution, approving an Addendum to the Ontario Gateway Specific Plan Environmental Impact Report analyzing the environmental effects of the Project, pursuant to State CEQA Guidelines section 15164, and adopt a resolution approving File No. PSPA12-002 amending the Ontario Gateway Specific Plan allowing a 45 foot tall, 745 square foot, freeway oriented pylon digital sign for Fletcher Jones of Ontario located along the southeast corner of Haven Avenue and the I-10 Freeway.

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
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: The project site is currently under construction with a new 80,000 square foot Mercedes Benz vehicle dealership. The addition of the proposed sign will provide additional visibility for the dealership, resulting in the potential for increased sales for the dealership and increased sales tax revenue for the City.

BACKGROUND: At the time the Ontario Gateway Specific Plan was approved, only one 45 foot tall pylon sign was allowed for the entire 40 acre Specific Plan area. The intent of allowing only one sign was for all future developments of the area to utilize the same freeway sign. The applicant is requesting an amendment to now allow a second 45 foot tall, 745 square foot, freeway (digital) sign that would be used exclusively by Fletcher Jones of Ontario, an 80,000 square foot Mercedes Benz dealership that is currently under construction.

STAFF MEMBER PRESENTING: Jerry L. Blum, Planning Director

Prepared by: Luis E. Batres
Department: Planning
City Manager Approval: 

Submitted to Council/O.H.A. 06/05/2012
Approved: _____
Continued to: _____
Denied: _____

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The proposed sign would be located within a landscape planter area along the north portion of the parking lot. The 45 foot tall sign would be constructed of steel, with an exterior aluminum cover (Alucobond) finish which would be painted light gray and Mercedes Benz blue. The top of the sign would read "Experience The Fletcher Jones Difference!", and the digital sign area would measure approximately 15 feet x 25 feet. The electronic digital area would be a full color LED display. The sign would feature accent aluminum bands around the reader board and reveals along the base. The base of the sign would feature a two tone silver metallic finish to further add interest. The top white letters of the sign would be routed and back lit with white LED lights.

At their meeting of April 24, 2012, the Planning Commission conducted a public hearing on the proposed Specific Plan Amendment. Following the public hearing, the Planning Commission voted to recommend City Council approval of the Specific Plan Amendment. The Commissioners concluded the proposed amendment to allow a freeway sign for a new vehicle dealership is consistent with allowances for other dealerships within the City. Recent approvals include the Ontario Auto Center (75 feet tall), Citrus Ford (75 feet tall) and Mark Christopher (58 feet tall). In addition, a new car dealership, like Mercedes Benz by Fletcher Jones of Ontario, will be a regional business, drawing from beyond the city limits. Therefore, it is vital that the dealership be identified by customers traveling from out of the area. The Commissioners also found that the materials of the sign and the design are in keeping with the high design standards that the City has established.

ENVIRONMENTAL REVIEW: Pursuant to CEQA section 21166 and sections 15162 and 15163 of the CEQA Guidelines, an addendum to the Ontario Gateway Specific Plan EIR (No. SCH#2006091039) was prepared by the City with regard to the Project ("Addendum"). The Addendum incorporates, by reference, the analysis contained in the Ontario Gateway Specific Plan EIR, and addresses only those issues specific to the Project. The City proposes to approve the Resolution as an activity within the Ontario Gateway Specific Plan. As described in the Addendum and the Initial Study, the Ontario Gateway Specific Plan EIR adequately describes the activity proposed under the Resolution for the purposes of CEQA. The Addendum concludes that the Project will not result in new, or substantially more adverse, significant environmental impacts than those disclosed in the Ontario Gateway Specific Plan EIR.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE ONTARIO GATEWAY SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT FOR FILE NO. PSPA12-002, 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: 210-212-55, 56, 57, 58, 59, 60).

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study and approved for circulation an Addendum for Planning File No. PSPA12-002 (the "Addendum"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively "CEQA"); and

WHEREAS, Planning File No. PSPA12-002 (the "Project") analyzed under the Addendum consists of a Specific Plan Amendment to the Ontario Gateway Specific Plan, to allow a 45 foot tall, 745 square foot, freeway oriented pylon sign (digital sign) for Fletcher Jones of Ontario, a new vehicle dealership for property generally located along the southeast corner of Haven Avenue and I-10 Freeway; and

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

WHEREAS, on June 19, 2007, the Ontario City Council certified the Ontario Gateway Specific Plan Final Environmental Impact Report (SCH # 2006091039), made Mitigation Findings and adopted a Statement of Overriding Considerations pursuant to CEQA; and

WHEREAS, the Ontario Gateway Specific Plan Environmental Impact Report contains of an analysis of the environmental setting of the project site at the time of its certification, including the approximately 40 acre master plan for the Ontario Gateway Specific Plan site. The Ontario Gateway Specific Plan EIR analyzed the environmental impacts of the various alternatives for the development of the site and analyzed the principles and goals in Addendum that are furthered and carried out by the Project; and

WHEREAS, pursuant to CEQA Section 21166 and Sections 15162 and 15163 of the CEQA Guidelines, an Addendum to Ontario Gateway Specific Plan EIR was prepared by the City with regard to the Project ("Addendum"). The Addendum incorporates, by reference, the analysis contained in the Ontario Gateway Specific Plan EIR, and addresses only those issues specific to the Project. The Addendum concludes that the project will not result in impacts beyond what was previously analyzed in the Ontario Gateway Specific Plan EIR, because the project does not have new environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly.

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

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

WHEREAS, the Addendum for the Project and the Ontario Gateway Specific Plan EIR is on file in the Planning Department, located at 303 East B Street, Ontario, CA 91764, is available for inspection by any interested person at that location and is, by this reference, incorporated into this Resolution as if fully set forth herein.

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

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

SECTION 2. THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby approve the Addendum prepared for the Project and find, pursuant to CEQA Guideline sections 15162 and 15164, that the Project will not result in any new, increased or substantially different impacts, other than those previously considered and addressed in the Ontario Gateway Specific Plan EIR and that no changes or additions to the Ontario Gateway Specific Plan EIR analyses are necessary, nor is there a need for any additional mitigation measures (Planning File No. PSPA12-002).

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

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

PASSED, APPROVED AND ADOPTED this 5th day of June 2012.

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. 2012- _____ was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held June 5, 2012 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. 2012-_____ duly passed and adopted by the Ontario City Council at their regular meeting held June 5, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSPA12-002, AN AMENDMENT TO THE ONTARIO GATEWAY SPECIFIC PLAN TO ALLOW A SECOND FREEWAY ORIENTED PYLON SIGN (DIGITAL SIGN), 45 FOOT TALL AND 745 SQUARE FEET IN AREA, FOR FLETCHER JONES OF ONTARIO FOR PROPERTY LOCATED ALONG THE SOUTHEAST CORNER OF HAVEN AVENUE AND THE I-10 FREEWAY, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 210-212-55, 56, 57, 58, 59, 60.

WHEREAS, YOUNG ELECTRIC SIGN COMPANY ("Applicant"), has filed an Application for the approval of a Specific Plan Amendment, File No. PSPA12-002, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to property generally located on approximately 40 acres along the southeast corner of Haven Avenue and the I-10 Freeway; and

WHEREAS, the project site is currently developed with a 6 story, full service Embassy Suites Hotel. An 80,000 square foot Mercedes Benz vehicle dealership is currently under construction; and

WHEREAS, the subject property is approximately 40 acres in size and is located along the southeast corner of the I-10 Freeway and Haven Avenue. The project site is situated within an urbanized area, which is characterized by a mixture of land uses.

WHEREAS, to the north side of the project, it is developed with the I-10 freeway and office development, to the east side of the project is developed with an industrial trucking operation, to the south is developed with railroad tracks and industrial type uses, and to the west is developed with Haven Avenue and a mixed-use development; and

WHEREAS, the Applicant is requesting approval of an Amendment to the Ontario Gateway Specific Plan to allow a second freeway oriented pylon sign (digital sign), 45 feet tall and 745 square feet in area, for Fletcher Jones of Ontario, a vehicle dealership generally located along the southeast corner of Haven Avenue and I-10 Freeway; and

WHEREAS, the proposed 45 foot tall sign is consistent with the height permitted for freeway signs allowed by the Ontario Development Code, the Ontario Gateway Specific Plan design guidelines, and shares characteristics common with other signs allowed within the City; and

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

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

WHEREAS, as the first action on the Project, the City Council adopted a Resolution approving an Addendum to the Ontario Gateway Specific Plan EIR. The Addendum concludes that the Project will not result in new, or substantially more adverse, significant environmental impacts than those disclosed in the Ontario Gateway Specific Plan EIR; and

WHEREAS, on April 24, 2012, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and recommended approval of the proposed application to City Council; and

WHEREAS, on June 5, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date; and

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

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

SECTION 1. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

- a. None of the circumstances requiring preparation of a subsequent or supplemental EIR to the Ontario Plan EIR (as specified in CEQA Section 21166 and CEQA Guidelines 15162 and 15163) are present; and
- b. This CEQA determination reflects the independent judgment of the City Council.

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

- a. The project is compatible with those on adjoining sites in relation to location of structures, with particular attention to privacy, views, any physical constraint identified on the site and the characteristics of the area in which the site is located. The proposed Amendment to allow a 45 foot tall, 745 square foot, freeway oriented pylon (digital) sign will be compatible with other similar signs that have been approved by the City, such as that of the Auto Center (75 feet tall), Citrus Ford (75 feet tall) and Mark Christopher (58 feet tall), therefore no negative environmental impacts are anticipated.

The proposed sign is consistent in size and scale to the other previously pylon signs and will be compatible, and no more objectionable than other signs allowed on adjacent sites. The proposed sign is located such that it will not impact views of, or views from, adjacent sites and uses.

b. The project will complement and/or improve upon the quality of existing development in the vicinity and the minimum safeguards necessary to protect the public health, safety and general welfare have been required of the proposed project. The proposed Amendment will allow Fletcher Jones of Ontario, a new 80,000 square foot vehicle dealership to advertise their vehicles in a manner consistent with previous approval for other dealerships such as the Auto Center (75 feet tall), Citrus Ford (75 feet tall) and Mark Christopher (58 feet tall).

c. This application introduces no new significant environmental impacts. As described in the City Council Resolution approving an addendum to the Ontario Gateway Specific Plan EIR. The proposed request is only to allow a 45 foot tall, 745 square foot, freeway oriented pylon (digital) sign for a new dealership that is currently under construction. The proposed size and scale of the new sign is consistent with the first sign that was approved for the area and is also consistent with other signs that have been approved for other existing dealerships, such as the Auto Center (75 feet tall), Citrus Ford (75 feet tall) and Mark Christopher (58 feet tall).

d. The proposed project is consistent with the development standards set forth in the Development Code and the Ontario Gateway Specific Plan. The proposed request is only to amend the Ontario Gateway Specific Plan to allow a 45' tall, 745 square foot sign (freeway oriented pylon digital sign) for an 80,000 square foot Mercedes Benz dealership that is currently under construction.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves the application and adopts the environmental determination pursuant to State CEQA Guidelines.

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

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

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

PASSED, APPROVED, AND ADOPTED this 5th day of June 2012.

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. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held June 5, 2012 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. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held June 5, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
PUBLIC HEARINGS

SUBJECT: AN ORDINANCE REPEALING AND RESERVING SECTION 4-15.03 AND AMENDING SECTION 4-15.05 OF THE ONTARIO MUNICIPAL CODE

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance repealing and reserving Section 4-15.03 of the Ontario Municipal Code regarding the solicitation of employment in public rights-of-way and amending Section 4-15.05 of the Ontario Municipal Code regarding the penalties for violations of Section 4-15.03 and 4-15.04.

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
Operate in a Businesslike Manner

FISCAL IMPACT: This action will not result in any change to current practices or procedures. Accordingly, there is no fiscal impact.

BACKGROUND: Periodically City staff reviews the various provisions of the Ontario Municipal Code (OMC) in light of current operations, anticipated future circumstances, changes in legislation and recent court decisions which may affect the applicability of the OMC. This routine cleanup process has identified that OMC Section 4-15.03 is outdated and inconsistent with both current and anticipated future City enforcement practices. Accordingly, staff recommends repealing this Section 4-15.03 of the OMC and reserving the section for future use; as well as making necessary amendments to Section 4-15.05 to remove references to the repealed provisions.

STAFF MEMBER PRESENTING: Al C. Boling, Deputy City Manager

Prepared by: Al Boling, Deputy City Manager

Department: Citywide Administration\

City Manager

Approval: 

Submitted to Council/O.H.A. 06/05/2012

Approved: _____

Continued to: _____

Denied: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, REPEALING AND RESERVING ONTARIO MUNICIPAL CODE SECTION 4-15.03 PROHIBITING SOLICITATION OF EMPLOYMENT IN PUBLIC RIGHTS-OF-WAY AND AMENDING SECTION 4-15.05 REGARDING THE PENALTIES FOR VIOLATIONS OF SECTIONS 4-15.03 AND 4-15.04.

WHEREAS, the City Council of the City of Ontario previously adopted Section 4-15.03 of Chapter 15 of the Ontario Municipal Code prohibiting solicitation in public rights-of-way by Ordinance 2587; and

WHEREAS, the City Council of the City of Ontario previously adopted Section 4-15.05 of Chapter 15 of the Ontario Municipal Code regarding the penalties for violations of Sections 4.15.03 and 4-15.04 by Ordinance 2723; and

WHEREAS, the Ontario Police Department has never enforced Section 4-15.03 nor has the Police Department penalized any individual under Section 4-15.05 of Chapter 15 of the Ontario Municipal Code since the adoption of these Sections; and

WHEREAS, the Ontario Police Department has utilized other available state and local legislation to enforce the primary concerns and community issues which were of issue when Section 4-15.03 of Chapter 15 of the Ontario Municipal Code was originated; and

WHEREAS, the City Council of the City of Ontario wishes to update its Municipal Code to comport with its current law enforcement practices; and

WHEREAS, the City Council of the City of Ontario now seeks to repeal and reserve Section 4-15.03 of Chapter 15 of the Ontario Municipal Code prohibiting solicitation in public rights-of-way and seeks to amend Section 4-15.05 of Chapter 15 of the Ontario Municipal Code regarding the penalties associated with a violation of Section 4-15.03.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council of the City of Ontario hereby finds and determines that the forgoing Recitals of this Ordinance are true and correct and are hereby incorporated into this Ordinance as fully set forth herein.

SECTION 2. Repealed. Section 4-15.03 of Chapter 15 of the Ontario Municipal Code, entitled "Prohibition of solicitation in public rights-of-way," is hereby repealed in its entirety and is of no further force or effect.

SECTION 3. Reserved. Section 4-15.03 of Chapter 15 of the Ontario Municipal Code is hereby reserved for future use.

SECTION 4. Amended. Section 4-15.05 of Chapter 15 of the Ontario Municipal Code is hereby amended to delete reference to Section 4-15.03 and shall now read:

“Violation of § 4-15.04 of this chapter is hereby deemed to be a misdemeanor and punishable according to the provisions of Chapter 2 of Title 1 of this Municipal Code.”

SECTION 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable. The City Council of the City of Ontario hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 6. Signature and Attestation. In accordance with California Government Code Section 36932, this Ordinance shall be signed by the Mayor of the City of Ontario and attested to by the City Clerk of the City of Ontario.

SECTION 7. Publication; Effective Date. In accordance with California Government Code Section 36933, within fifteen (15) days of the passage of this Ordinance, the City Clerk of the City of Ontario shall cause this Ordinance to be published, at least once, in a newspaper of general circulation published and circulated in the City of Ontario, California. This Ordinance shall take effect thirty (30) days after the date of adoption.

SECTION 8. 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 _____ 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held June 5, 2012 and adopted at the regular meeting held _____, 2012 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)

CITY OF ONTARIO

Agenda Report
June 5, 2012

SECTION:
ADMINISTRATIVE REPORTS/
DISCUSSION/ACTION

SUBJECT: AN ORDINANCE AMENDING THE CONTRACT WITH THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) FOR LOCAL POLICE AND FIRE MEMBERS

RECOMMENDATION: That the City Council adopt an ordinance amending the City's contract with the California Public Employees' Retirement System (CalPERS) to provide a second tier 3% at age 55 retirement formula for police and fire safety members entering membership for the first time in a safety classification after the effective date of the contract amendment.

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 modification to the retirement formula will result in a reduction in the City's employer contribution rate. Decreases in the employer rate will occur as employees are hired into the second tier. Based on the actuarial Cost Analysis Reports prepared by CalPERS the ultimate expected annual cost decrease is 2.3% for police safety members and 2.1% for fire safety members. These ultimate cost reductions would be realized through turnover when all employees are covered by the second tier formula.

BACKGROUND: On May 15, 2012, City Council introduced an ordinance, now being submitted for adoption without modification, to amend the contract with CalPERS. The amendment would provide a second tier 3% at age 55 retirement formula for police and fire safety members entering membership for the first time in safety classifications after the effective date of this contract amendment. Adoption of this ordinance completes the process to amend the City's contract with CalPERS.

In order to effectively recruit and retain highly qualified police officers and firefighters, the City offers a competitive total compensation package and has contracted with CalPERS to provide a defined benefit

STAFF MEMBER PRESENTING: Al C. Boling, Deputy City Manager

Prepared by: Stacey Cue
Department: Human Resources

City Manager
Approval: 

Submitted to Council/O.H.A. 06/05/2012

Approved: _____

Continued to: _____

Denied: _____

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retirement program. The current retirement program includes a retirement formula of 3% at age 50. On May 1, 2012 the City Council approved new Memoranda of Understanding (MOU) with the Ontario Police Officers Association, Ontario Police Management Group, Ontario Firefighters Association and Ontario Fire Management Group. All four bargaining units worked collaboratively with the City to reduce future retirement costs. The result of these efforts is to provide for a reduced retirement formula of 3% at age 55 retirement formula for local police and fire safety members hired by the City after the effective date of the contract amendment.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF ONTARIO AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, it is a goal of the City Council to 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, and

WHEREAS, the City's sworn police and fire safety represented employee groups include employees that are covered by the contract between the City of Ontario and the California Public Employees' Retirement System (PERS) for local Safety members; and

WHEREAS, through a collaborative effort the City has reached agreement with the safety represented employee groups to reduce future retirement costs; and

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend the contract with PERS is the adoption by the governing body of the public agency of an ordinance to authorize such amendment; and

WHEREAS, the City Council has previously adopted Resolution No. 2012-023; a Resolution of Intent to approve an amendment to the contract between the Board of Administration of the California Public Employees' Retirement System and the City Council of the City of Ontario, and

WHEREAS, such Resolution of Intent provided for the Section 21363.1 (3% @ 55 Full formula) for local Safety members entering membership for the first time in the safety classification after the effective date of the amendment to the contract.

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

SECTION 1. That an amendment to the contract between the City Council of the City of Ontario California and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made a part hereof as though herein set out in full.

SECTION 2. The Mayor of the City of Ontario California is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

SECTION 3. This Ordinance shall take effect thirty (30) days after the date of its adoption, and prior to the expiration of fifteen (15) days from the passage thereof shall be published at least once in the Inland Valley Daily Bulletin, a newspaper of general circulation, published and circulated in the City of Ontario and thenceforth and thereafter the same shall be in full force and effect. 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 5th day of June 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held May 15, 2012 and adopted at the regular meeting held June 5, 2012 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 June 5, 2012 and that Summaries of the Ordinance were published on May 22, 2012 and _____, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)