

CITY OF ONTARIO
CITY COUNCIL AND HOUSING AUTHORITY
AGENDA
AUGUST 4, 2015

Paul S. Leon
Mayor

Debra Dorst-Porada
Mayor pro Tem

Alan D. Wapner
Council Member

Jim W. Bowman
Council Member

Paul Vincent Avila
Council Member



Al C. Boling
City Manager

John E. Brown
City Attorney

Mary E. Wirtes, MMC
City Clerk

James R. Milhiser
Treasurer

WELCOME to a meeting of the Ontario City Council.

- All documents for public review are on file with the Records Management/City Clerk's Department located at 303 East B Street, Ontario, CA 91764.
- Anyone wishing to speak during public comment or on a particular item will be required to fill out a blue slip. Blue slips must be turned in prior to public comment beginning or before an agenda item is taken up. The Clerk will not accept blue slips after that time.
- Comments will be limited to 3 minutes. Speakers will be alerted when they have 1 minute remaining and when their time is up. Speakers are then to return to their seats and no further comments will be permitted.
- In accordance with State Law, remarks during public comment are to be limited to subjects within Council's jurisdiction. Remarks on other agenda items will be limited to those items.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council and Staff need to be recognized by the Chair before speaking.

ORDER OF BUSINESS The regular City Council 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

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

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

CLOSED SESSION

- GC 54957.6, CONFERENCE WITH LABOR NEGOTIATOR: Al C. Boling regarding San Bernardino Public Employees Association.
- GC 54956.9 (d)(2), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION: *One (1) case.*
- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *City of Ontario v. City of Los Angeles, Los Angeles World Airports, and Los Angeles Board of Airport Commissioners, RIC 1306498.*

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

PLEDGE OF ALLEGIANCE

Council Member Wapner

INVOCATION

Rabbi David Mattis, Temple Sholom of Ontario

REPORT ON CLOSED SESSION

City Attorney

PUBLIC COMMENTS

6:30 p.m.

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

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

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

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 July 7, 2015, approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills June 14, 2015 through June 27, 2015 and **Payroll** June 14, 2015 through June 27, 2015, when audited by the Finance Committee.

3. A RESOLUTION URGING THE CALIFORNIA STATE LEGISLATURE TO INCREASE FUNDING FOR STATE AND LOCAL TRANSPORTATION PROJECTS

That the City Council adopt a resolution urging the California State Legislature to increase funding for state and local transportation projects.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF ONTARIO, CALIFORNIA, URGING THE CALIFORNIA STATE LEGISLATURE TO INCREASE FUNDING FOR STATE AND LOCAL TRANSPORTATION PROJECTS.

4. A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 18713 LOCATED ON THE SOUTHWEST CORNER OF SAN ANTONIO AVENUE AND FRANCIS STREET

That the City Council adopt a resolution approving an improvement agreement, improvement security and Final Tract Map No. 18713 located on the southwest corner of San Antonio Avenue and Francis Street.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 18713 LOCATED ON THE SOUTHWEST CORNER OF SAN ANTONIO AVENUE AND FRANCIS STREET.

5. A CONSTRUCTION CONTRACT FOR THE WISTERIA STREET RETAINING BLOCK WALL REPLACEMENT PROJECT/ ROADWAY ENGINEERING & CONTRACTING

That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) to Roadway Engineering & Contracting of Mira Loma, California, for the Wisteria Street Retaining Block Wall Replacement Project for the bid amount of \$187,555 plus a 15% contingency of \$28,133 for a total authorized amount of \$215,688; and authorize the City Manager to execute related documents necessary and file a notice of completion at the conclusion of all construction activities.

6. A RESOLUTION ESTABLISHING AN ELECTRIC VEHICLE CHARGING STATION PILOT PROGRAM

That the City Council adopt a resolution establishing an Electric Vehicle Charging Station Pilot Program which includes, but is not limited to, calculation of a charging fee, authorizing the City Manager to modify charging fees in the future based upon actual costs incurred by the City; and consider a three-year period waiving fees to promote public use of electric vehicles.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ESTABLISHING AN ELECTRIC VEHICLE CHARGING STATION PILOT PROGRAM.

7. AN ORDINANCE APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND BROOKCAL ONTARIO, LLC, TO UPDATE CERTAIN INFRASTRUCTURE PROVISIONS OF THE EXISTING DEVELOPMENT AGREEMENT FOR THE DEVELOPMENT OF UP TO 1,146 RESIDENTIAL UNITS AND 10 ACRES OF COMMERCIAL ON 178.66 ACRES OF LAND WITHIN PLANNING AREAS 9A, 10A, 10B AND 11 OF THE AVENUE SPECIFIC PLAN, LOCATED SOUTH OF SCHAEFER AVENUE, NORTH OF EDISON AVENUE (ONTARIO RANCH ROAD), BETWEEN TURNER AVENUE AND HAVEN AVENUE

That the City Council consider and adopt for second reading an ordinance approving an amendment (File No. PDA15-002) to the Development Agreement between the City of Ontario and BrookCal Ontario, LLC, (File No. PDA15-002, on file in the Records Management Department), to update certain infrastructure provisions of the existing development agreement for the development of up to 178.66 acres of land within planning areas 9A, 10A, 10B and 11 of the Avenue Specific Plan, located south of Schaefer Avenue, North of Edison Avenue (Ontario Ranch Road), between Turner Avenue and Haven Avenue.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT (FILE NO. PDA15-002) BETWEEN THE CITY OF ONTARIO AND BROOKCAL ONTARIO, LLC, TO UPDATE CERTAIN INFRASTRUCTURE PROVISIONS OF THE EXISTING DEVELOPMENT AGREEMENT (FILE NO. PDA10-002) FOR THE DEVELOPMENT OF UP TO 1,146 RESIDENTIAL UNITS AND 10 ACRES OF COMMERCIAL ON 178.66 ACRES OF LAND WITHIN PLANNING AREAS 9A, 10A, 10B AND 11 OF THE AVENUE SPECIFIC PLAN, LOCATED SOUTH OF SCHAEFER AVENUE, NORTH OF EDISON AVENUE (ONTARIO RANCH ROAD), BETWEEN TURNER AVENUE AND HAVEN AVENUE AND MAKING FINDINGS IN SUPPORT THEREOF. (APN: 0218-201-05, 0218-201-30, 0218-201-39, 0218-201-42, 0218-201-43 AND 0218-201-45).

8. PURCHASE OF NEW POLICE HELICOPTER AND AVIONIC EQUIPMENT/AIRBUS HELICOPTERS

That the City Council authorize the City Manager to execute a sole source purchase contract with Airbus Helicopters, formerly known as American Eurocopter Company (AEC), of Grand Prairie, Texas in the amount of \$2,750,000 (includes sales tax) for the purchase of a new police helicopter (Model H125); and authorize the City Manager to execute a purchase agreement in the amount \$2,000,000 with Hangar One Avionics (Hangar One), of Carlsbad, California, to transfer the acquisition and installation of specialized avionic equipment from Airbus Helicopters to Hangar One; and authorize a \$50,000 contingency.

9. CONSTRUCTION CONTRACT AND PROFESSIONAL SERVICES AGREEMENT FOR THE CONSTRUCTION, MANAGEMENT AND INSPECTION OF SEWER IMPROVEMENTS IN INLAND EMPIRE BOULEVARD/WEKA, INC./ALBERT A. WEBB ASSOCIATES

That the City Council:

- (A) Approve the plans and specifications, and award Contract No. UT 1516-03 (on file with the Records Management Department) to Weka, Inc. of Highland, California, for the construction of sewer main improvements in Inland Empire Boulevard in the amount of \$842,985, plus a 15% contingency of \$126,448, for a total amount of \$969,433 and authorize the City Manager to execute said contract and file a notice of completion at the conclusion of all construction activities related to the project; and
- (B) Authorize the City Manager to execute a Professional Services Agreement (on file with the Records Management Department) with Albert A. Webb Associates of Riverside, California, to provide construction management and inspection services for sewer main improvements in Inland Empire Boulevard in the amount of \$111,103 plus a 15% contingency of \$16,665 for a total amount of \$127,768.

PUBLIC HEARINGS

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

10. AN ORDINANCE AMENDING SECTION 2-2.302 OF THE ONTARIO MUNICIPAL CODE RELATIVE TO COMPENSATION OF VOTING MEMBERS OF THE PLANNING COMMISSION

That the City Council introduce and waive further reading of an ordinance to consider establishing future compensation for voting members of the Planning Commission be set by resolution of the City Council.

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, AMENDING SECTION 2-2.302 OF THE ONTARIO MUNICIPAL CODE RELATIVE TO COMPENSATION OF VOTING MEMBERS OF THE PLANNING COMMISSION.

11. A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING FILE NO. PDCA11-003, A DEVELOPMENT CODE AMENDMENT PROPOSING A COMPREHENSIVE UPDATE TO THE CITY OF ONTARIO DEVELOPMENT CODE (ONTARIO MUNICIPAL CODE TITLE 9) TO ESTABLISH CONSISTENCY WITH THE ONTARIO PLAN AND VARIOUS CHANGES IN STATE LAWS AND REGULATIONS, AND THE REPEAL OF VARIOUS PROVISIONS OF THE ONTARIO MUNICIPAL CODE TO PROVIDE FOR THE ELIMINATION OF DUPLICATIONS AND INCONSISTENCIES WITH THE PROPOSED DEVELOPMENT CODE

Item continued to the August 18, 2015 City Council meeting beginning at 6:30 p.m.

STAFF MATTERS

City Manager Boling

COUNCIL MATTERS

APPOINTMENT TO THE MUSEUM BOARD OF TRUSTEES

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

ADJOURNMENT

**CITY OF ONTARIO
CLOSED SESSION REPORT**
City Council // Housing Authority // Other // (GC 54957.1)
August 4, 2015

ROLL CALL: Wapner __, Bowman __, Dorst-Porada __, Avila __ Mayor / Chairman Leon __.

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

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

- GC 54957.6, CONFERENCE WITH LABOR NEGOTIATOR: Al C. Boling regarding San Bernardino Public Employees Association.

No Reportable Action	Continue	Approved
//	//	//

Disposition: _____

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

- GC 54956.9 (d)(2), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION:
One (1) case.

No Reportable Action	Continue	Approved
//	//	//

Disposition: _____

**CITY OF ONTARIO
CLOSED SESSION REPORT**

City Council // Housing Authority // Other // (GC 54957.1)

August 4, 2015
(continued)

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

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

No Reportable Action

Continue

Approved

//

//

//

Disposition: _____

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

CITY OF ONTARIO

Agenda Report
August 4, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION URGING THE CALIFORNIA STATE LEGISLATURE TO INCREASE FUNDING FOR STATE AND LOCAL TRANSPORTATION PROJECTS

RECOMMENDATION: That the City Council adopt a resolution urging the California State Legislature to increase funding for state and local transportation projects.

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

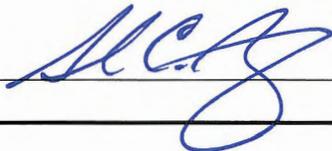
FISCAL IMPACT: None.

BACKGROUND: On June 16, 2015, Governor Jerry Brown called a special session of the California Legislature to address funding fixes for California's roads, highways, and infrastructure. In doing so, the Governor noted that the state's current funding sources fail to adequately fund necessary repair and maintenance work on the state's highway system. In fact, the state's current fuel excise tax is sufficient to fund only \$2.3 billion of work—leaving \$5.7 billion in unfunded repairs each year.

When the Legislature returns from summer recess on August 17, 2015, it is expected to take up legislation, Assembly Bill x1-1 (Alejo), which addresses the transportation funding shortfall. Assembly Bill x1-1, as introduced on June 23, 2015, would offer several solutions to close the shortfall. First, it would require that monies that have been loaned to the State General Fund from transportation funds be repaid by January 1, 2019. Second, it would prohibit the future use of weight fees for loans to the State General Fund. Third, it would appropriate the portion of fuel excise tax revenues that are derived from increases in the motor vehicle fuel excise tax in 2010 to be allocated 44% to the State Transportation Improvement Program, 12% to the State Highway Operation and Protection Program, and 44% to city and county streets and roads. Fourth, it would repeal existing law requiring certain revenues deposited in the State Highway Account that are not restricted as to expenditure by Article XIX of the California Constitution be transferred to the Transportation Debt Service Fund in the State Transportation Fund,

STAFF MEMBER PRESENTING: Al C. Boling, City Manager

Prepared by: David Sheasby
Department: Citywide Administration

City Manager
Approval: 

Submitted to Council/O.H.A. 08/04/2015
Approved: _____
Continued to: _____
Denied: _____

3

thereby providing for these revenues to be used for any transportation purpose authorized by statute, upon appropriation by the Legislature.

Because it is likely that the legislation will undergo significant amendments, staff recommends that the City Council, via resolution, urge the Legislature to apply particular goals and objectives as it considers the legislation in whatever form it ultimately takes.

The recommended goals and objectives include urging the Legislature to:

- Make a significant investment in transportation infrastructure;
- Focus on maintaining and rehabilitating the current system of transportation infrastructure funding;
- Split funding equally between state and local projects;
- Raise revenues across a broad range of options including weight fees;
- Appropriate a portion of diesel tax and cap and trade revenue to high-priority goods movement projects;
- Utilize strong financial accountability requirements to protect the taxpayers' investment; and
- Provide consistent annual funding levels.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF ONTARIO, CALIFORNIA, URGING THE CALIFORNIA STATE LEGISLATURE TO INCREASE FUNDING FOR STATE AND LOCAL TRANSPORTATION PROJECTS.

WHEREAS, California's network of roads and highways are critical to our quality of life and economy; and

WHEREAS, the condition of our deteriorating network of roads is staggering; and

WHEREAS, California's crumbling roads cost motorists nearly \$600 a year per driver for vehicle maintenance; and

WHEREAS, California has the second highest share of roads in "poor condition" in the nation; and

WHEREAS, 58% of state roads need rehabilitation or pavement maintenance; and

WHEREAS, California has 6 out of the 10 cities with the worst road conditions in the nation; and

WHEREAS, 55% of local bridges in California require rehabilitation or replacement; and

WHEREAS, nearly 70% of California's urban roads and highways are congested; and

WHEREAS, without additional funding, 1/4 of local streets and roads will be in failed condition by 2024.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ONTARIO.

SECTION 1. The City of Ontario strongly urges the California State Legislature to:

- (1) Make a significant investment in transportation infrastructure;
- (2) Focus on maintaining and rehabilitating the current system of transportation infrastructure funding;
- (3) Split funding equally between state and local projects;
- (4) Raise revenues across a broad range of options including weight fees;
- (5) Appropriate a portion of diesel tax and cap and trade revenue to high-priority goods movement projects;
- (6) Utilize strong financial accountability requirements to protect the taxpayers' investment;

(7) Provide consistent annual funding levels.

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

PASSED, APPROVED, AND ADOPTED this 4th day of August 2015.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held August 4, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015- duly passed and adopted by the Ontario City Council at their regular meeting held August 4, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
August 4, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 18713 LOCATED ON THE SOUTHWEST CORNER OF SAN ANTONIO AVENUE AND FRANCIS STREET

RECOMMENDATION: That the City Council adopt a resolution approving an improvement agreement, improvement security and Final Tract Map No. 18713 located on the southwest corner of San Antonio Avenue and Francis Street.

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

FISCAL IMPACT: None. All public infrastructure improvements required for this subdivision will be constructed by the developer at its sole cost.

BACKGROUND: Final Tract Map No. 18713, consisting of six residential lots on 1.62 acres, as shown on the attached Exhibit, has been submitted by the developer, Inland Investment Partners, LLC, California (Mr. Jimmy A. Espinoza, Managing Member).

Improvements will include street widening, pavement, curb and gutter, sidewalk, parkway landscaping, sewer main extension, sewer laterals, water main extension, water laterals, fire hydrant, street light, street trees, signing and striping and undergrounding of power lines. Improvements in parkway landscaping will be consistent with current City approved drought measures. The developer has entered into an improvement agreement with the City for Final Tract Map No. 18713 and has posted adequate security to ensure construction of the required improvements.

Tentative Tract Map No. 18713 was approved by the Planning Commission on December 15, 2014.

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

Prepared by: Miguel Sotomayor
Department: Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 08/04/2015

Approved: _____

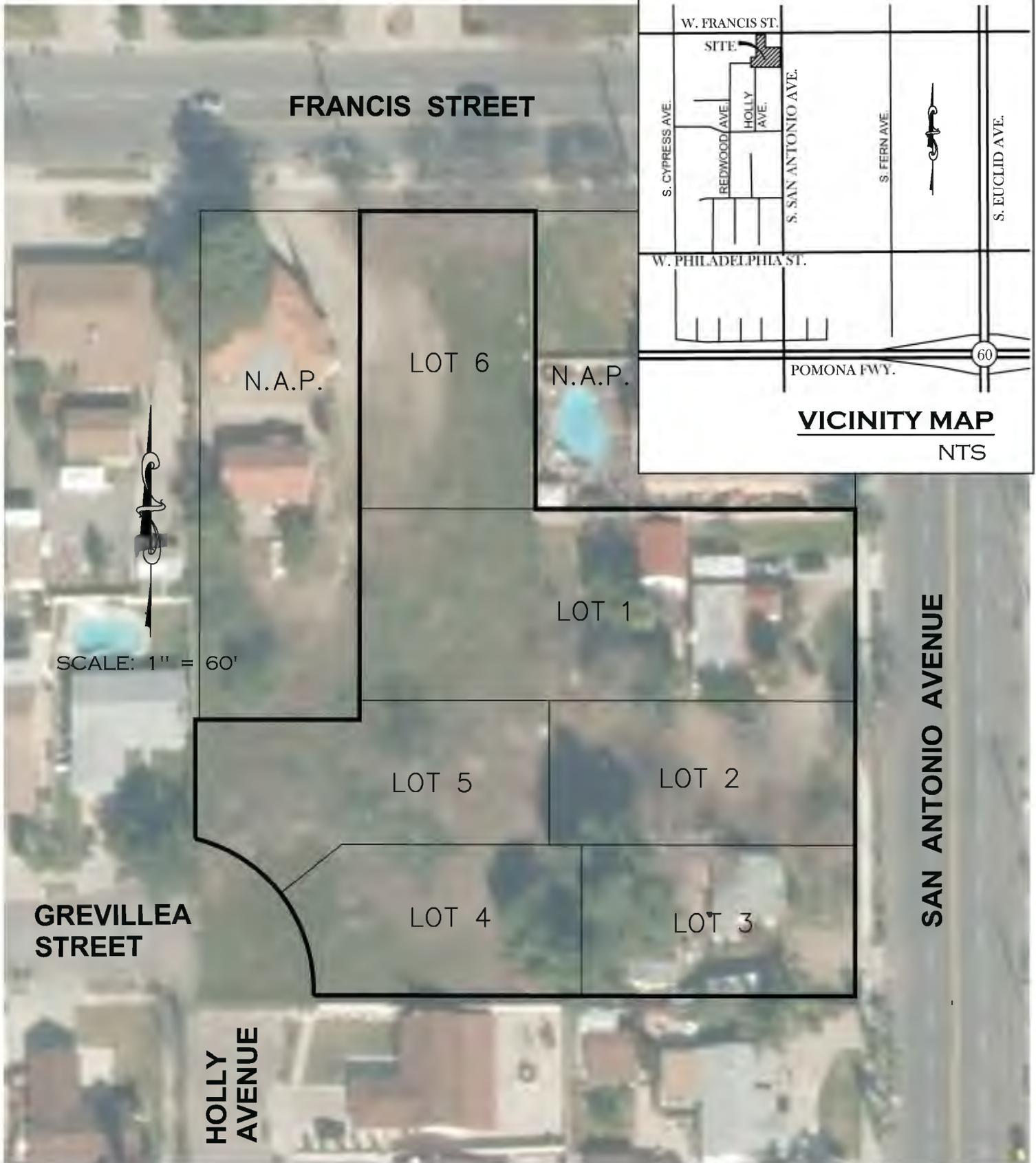
Continued to: _____

Denied: _____

4

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

EXHIBIT



LEGEND:

-  TRACT BOUNDARY
-  PROPOSED LOT LINES / RIGHT OF WAY

**CITY OF ONTARIO
ENGINEERING DEPARTMENT**

FILE NO. TM-18713

APPLICANT: INLAND INVESTMENT PARTNERS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY.

PROJECT: A TRACT MAP TO SUBDIVIDE 1.63 ACRES INTO 6 SINGLE FAMILY RESIDENTIAL LOTS AND A DEVELOPMENT PLAN TO CONSTRUCT 4 SINGLE FAMILY DWELLINGS.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 18713 LOCATED ON THE SOUTHWEST CORNER OF SAN ANTONIO AVENUE AND FRANCIS STREET.

WHEREAS, Tentative Tract Map No. 18713, submitted for approval by the developer, Inland Investment Partners, LLC, California (Mr. Jimmy A. Espinoza, Managing Member) was approved by the Planning Commission of the City of Ontario on December 15, 2014; and

WHEREAS, Tentative Tract Map No. 18713, consists of six residential lots on 1.62 acres, being a subdivision of portion of Lot 44, in Section 31, Township 1 South, Range 7 West, San Bernardino Base and Meridian, as per part of Santa Ana Del Chino recorded in Book 6 of Maps, page 15, inclusive, Records of San Bernardino County, California; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Final Tract Map No. 18713, said developer has offered an improvement agreement, together with good and sufficient security, in conformance with the City Attorney's approved format, for approval and execution by the City; and

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

1. That said improvement agreement be, and the same is, approved and City Clerk is authorized to attest thereto; and
2. That said improvement security is accepted as good and sufficient, subject to approval as to form and content thereof by the City Attorney; and
3. That Final Tract Map No. 18713 be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

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

PASSED, APPROVED, AND ADOPTED this 4th day of August 2015.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held August 4, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015- duly passed and adopted by the Ontario City Council at their regular meeting held August 4, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
August 4, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: A CONSTRUCTION CONTRACT FOR THE WISTERIA STREET RETAINING BLOCK WALL REPLACEMENT PROJECT

RECOMMENDATION: That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) to Roadway Engineering & Contracting of Mira Loma, California, for the Wisteria Street Retaining Block Wall Replacement Project for the bid amount of \$187,555 plus a 15% contingency of \$28,133 for a total authorized amount of \$215,688; and authorize the City Manager to execute related documents necessary and file a notice of completion at the conclusion of all construction activities.

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

FISCAL IMPACT: This project is to be funded using Self Insurance Fund. Roadway Engineering & Contracting submitted the lowest bid of \$187,555. A 15% contingency is recommended due to the potential for additional repair work. If approved, appropriations will be included in the next quarterly budget report to the City Council.

BACKGROUND: The combined retaining and garden wall averages twelve feet in height and was originally built in 1976 as part of a residential subdivision. The wall is supporting the public right of way and separates Wisteria Street from private residential yards. The wall is now showing signs of failure due to poor drainage behind the wall.

The scope of services for the Wisteria Street Retaining Block Wall Replacement Project includes the removal and replacement of the existing wall and foundation with a structurally enhanced wall.

The project also includes improvements to Eighth Street Culvert to block access and minimize a potential safety situation with vagrancy.

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

Prepared by: Bill Braun
Department: Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 08/04/2015
Approved: _____
Continued to: _____
Denied: _____

5

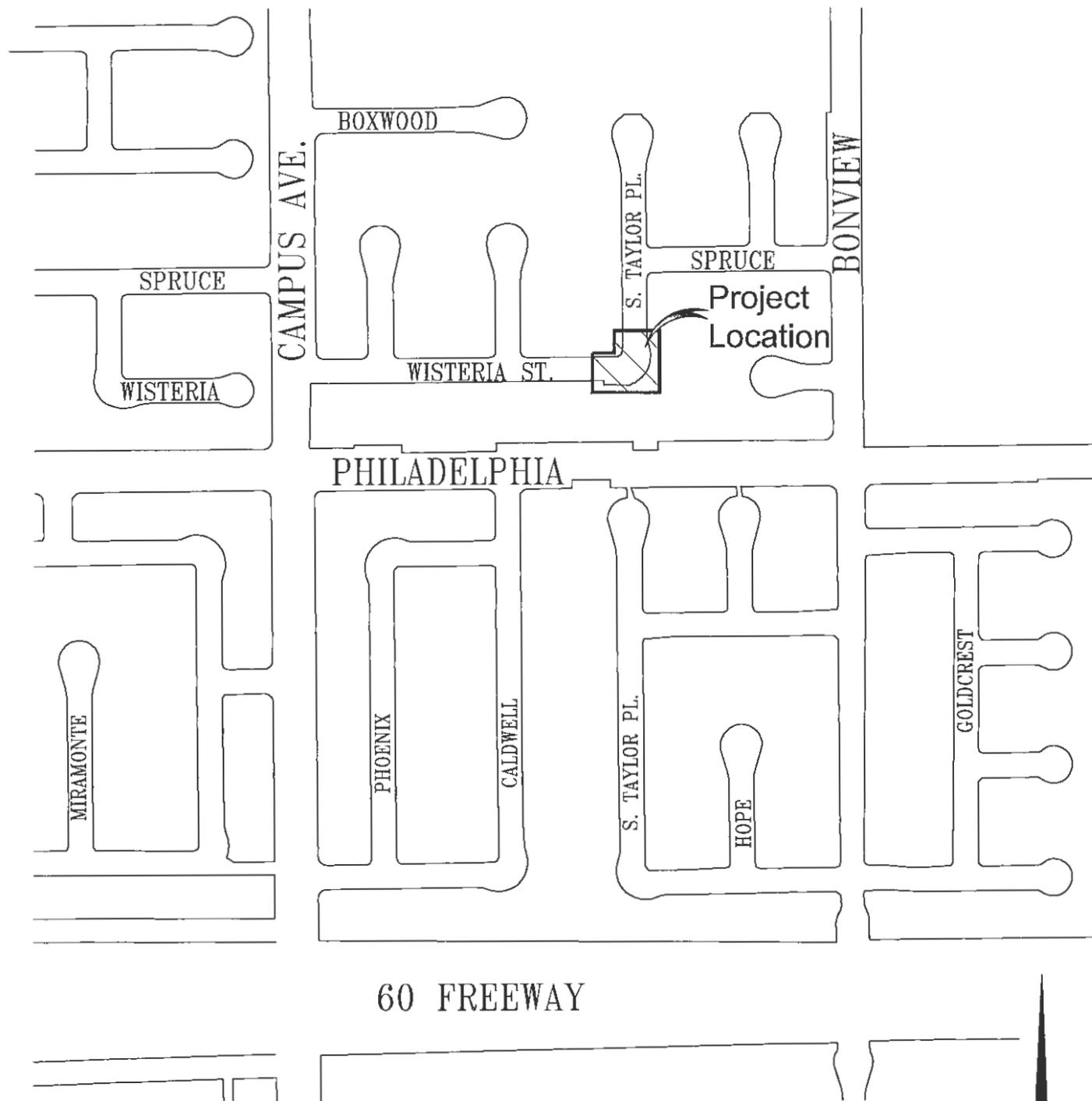
Location maps are attached for reference. It is anticipated that construction will start in August 2015 and be completed by September 2015.

In July 2015, the City solicited bids for this project; and three bids were received. The bid results are:

COMPANY	LOCATION	AMOUNT
Roadway Engineering	Mira Loma, CA	\$ 187,555
Fleming Environmental	Fullerton, CA	\$ 215,970
El Camino Construction	Long Beach, CA	\$ 225,260

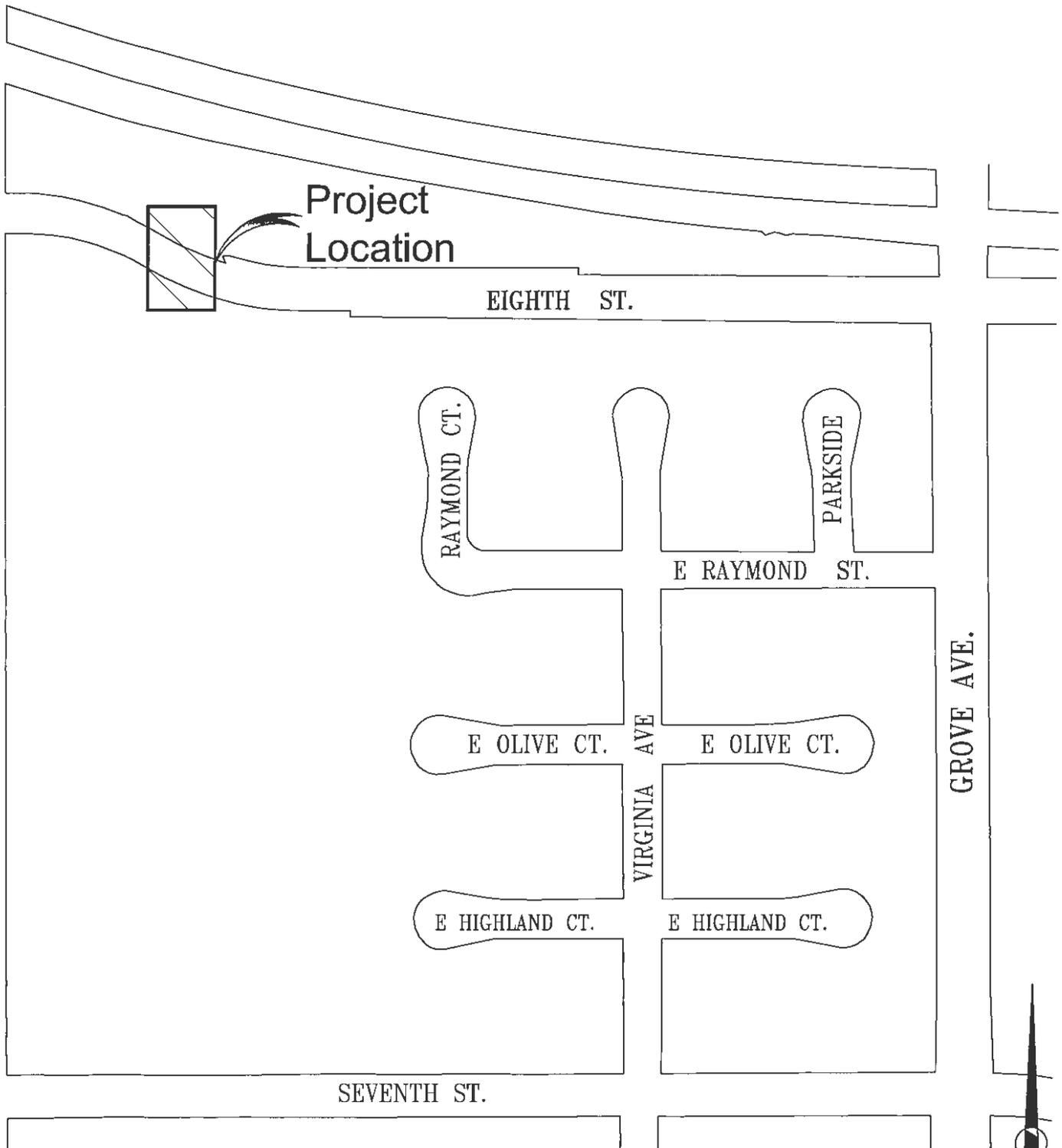
Roadway Engineering & Contracting submitted the lowest responsive bid. Roadway Engineering & Contracting has previously performed work for the City of Ontario in a satisfactory manner.

WISTERIA STREET RETAINING BLOCK WALL REPLACEMENT WISTERIA ST. AND S. TAYLOR PL.



N.T.S.

EIGHTH STREET CULVERT COVERAGE WALL 1,180' WEST OF GROVE AVENUE



CITY OF ONTARIO

Agenda Report
August 4, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION ESTABLISHING AN ELECTRIC VEHICLE CHARGING STATION PILOT PROGRAM

RECOMMENDATION: That the City Council adopt a resolution establishing an Electric Vehicle Charging Station Pilot Program which includes, but is not limited to, calculation of a charging fee, authorizing the City Manager to modify charging fees in the future based upon actual costs incurred by the City; and consider a three-year period waiving fees to promote public use of electric vehicles.

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

FISCAL IMPACT: The total cost for the installation and set-up of the pilot electric charging station was \$28,880 and includes a ChargePoint® Inc. electrical vehicle charging station, a three-year network service plan, a four-year warranty and labor plan, and a five-year station manager support plan. The electric charging station was incorporated into the Civic Center Community Conservation Park Construction Project and will be reimbursed through grant funds. There is no impact to the General Fund.

The pilot program resolution establishes a baseline charging rate of \$0.32/per kilowatt hour (kWh), which is the estimated costs incurred by the City for providing individual charging sessions to the public. ChargePoint® will receive a fee equal to 10% of each charging session. Any charging session proceeds collected will be returned to the City on a monthly basis.

The cost to provide this charging station to the public is estimated to be \$3,497 per year. The estimate is based upon an average of two vehicles using the charging station per day for four hours each.

BACKGROUND: On July 17, 2012, the City Council approved the City's Municipal Climate Action Plan, and the Community Climate Action Plan was approved on December 16, 2014. These plans identify measures to support the development of alternative energy infrastructure to reduce greenhouse gas (GHG) emissions. The installation and operation of an electric vehicle charging station will

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

Prepared by: Julie Bjork
Department: Housing and Municipal Services

City Manager
Approval: 

Submitted to Council/O.H.A. 08/04/2015

Approved: _____

Continued to: _____

Denied: _____

6

continue to build upon the City’s efforts to reduce GHG emissions, improve local air quality, and invest in the City’s infrastructure.

It is estimated that there are approximately 2,397 electric vehicles within San Bernardino County and there are 19 public electrical charging stations within Ontario. This pilot program aims to provide a critically needed electric vehicle charging station within downtown Ontario and will provide the following additional benefits:

- Obtain a competitive advantage for future potential federal and state funding
- Evaluate the demand and usage for an electric charging station
- Assist in the identification and prioritization of future EV charging stations; and
- Evaluate consumer response to a fee-based charging program

It is recommended that the City Council establish a baseline of \$0.32/per kilowatt hour which covers the operating costs.

The recommended baseline rate has been reviewed by an independent consultant, Sage Renewables of Inverness, California. Sage was the energy consultant the City engaged on the solar projects for the Ontario Convention Center and Police Department Building. Listed in the table below are the current charging rates for the sample local municipality-owned stations:

Municipality	Fee	Service Provider
City of Rancho Cucamonga	\$0.32 per kWh*	MobileNOW
City of Riverside	\$0.12 per kWh*	ChargePoint®
City of Claremont	\$0.25 per kWh	ChargePoint®
City of Covina	\$0.39 per kWh	ChargePoint®
City of Cerritos	\$0.49 per kWh	Blink

**These cities charge based upon an hourly rate, which has been converted to an estimated kWh hourly charge for comparison purposes.*

Staff recommends that the City Council consider providing the electric vehicle charging station at no cost to consumers for the first three years, from August 2015 to August 2018. The estimated cost to provide this service to consumers is approximately \$3,497 per year. This pilot program period will allow the opportunity to utilize the system’s data and develop a long term electric vehicle charging strategy for citywide application.

The pilot charging station has been installed in the City Hall parking lot west of the Community Conservation Park. Pursuant to California Vehicle Code section 22511, the two parking spaces in front of the charging station are designated spaces for charging, and will be clearly marked with signs, indicating that vehicles not connected for electric charging purposes may be towed at the owner’s expense.

The City selected ChargePoint®, located in Campbell, California, due to their extensive experience in providing electrical charging stations. ChargePoint® currently has over 20,000 charging locations and provides a cloud-based commercial service plan for easy automated payment processing. The electrical charging station is a Level 2 commercial charging station with two charging ports. The typical electrical vehicle is able to be fully charged within three to four hours. The designated spaces for charging will be clearly marked as a restricted parking area for electrical vehicle charging, as described above, and parking in the designated spaces will be limited to four hours.

The ChargePoint® network also provides the City with the flexibility to eliminate charging fees for City fleet vehicles, which would also eliminate the 10% ChargePoint® service fee for future City electric fleet vehicles.

Within five working days after the approval of the proposed electric vehicle charging station pilot program, staff will prepare, execute and file a CEQA Notice of Exemption with the San Bernardino County Clerk.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,
CALIFORNIA, ESTABLISHING AN ELECTRIC VEHICLE CHARGING
STATION PILOT PROGRAM.

WHEREAS, the City owns certain real property located near City Hall, and part of a conservation park (the "Property").

WHEREAS, the City has purchased an electric vehicle charging station ("Charging Station") which the City intends to install on the Property, and to make available for public use ("Pilot Program").

WHEREAS, the City intends to establish a fee for use by the public of the Charging Station based on the costs incurred by the City in providing the service.

WHEREAS, in order to implement the Pilot Program, the City has entered into a contract with ChargePoint® for cloud-based commercial services and automated payment processing.

WHEREAS, the Charging Station has been installed in the City Hall parking lot west of the Community Conservation Park. Two parking spaces in front of the Charging Station will be reserved for charging ("Designated Spaces").

WHEREAS, in order to ensure efficient and maximum use of the Charging Station, pursuant to Vehicle Code Section 22511, the City desires to provide for towing of vehicles that are parked in the Designated Spaces and that are not connected for electric charging purposes.

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

SECTION 1. Findings. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Approval of Charging Station Pilot Program and Imposition of Charging Fee. The City Council hereby approves the Pilot Program, including the establishment of a fee to be charged to the public for use of the Charging Station.

SECTION 3. Establishment of Charging Fee; Authority of City Manager to Modify Fee. The City Council hereby establishes a baseline charging fee of \$0.32/per kilowatt hour ("Charging Fee"), which fee is based on the costs incurred by the City in providing the service. The City Manager shall have the authority to modify the Charging Fee, at his or her discretion, but in no case shall the charge exceed the costs incurred by the City in providing the service to the public.

SECTION 4. Authority to Provide For Use of Charging Station at No Cost. If directed by the City Council, the City Manager shall waive the Charging Fee for the initial three (3) years of implementation of the Pilot Program, and allow for use of the Charging Station at no cost to users. Any such waiver of the Charging Fee is in the public interest as it promotes greenhouse gas reduction, use of electric vehicles, and allows the City to analyze data and develop a long term electric vehicle charging strategy.

SECTION 5. Designation of Spaces; Parking Policy. The City Council hereby establishes the Designated Spaces for the exclusive purpose of charging and parking a vehicle that is connected for electric charging purposes. Parking in the Designated Spaces shall be limited to a period of up to four (4) hours.

SECTION 6. Towing of Vehicles. Pursuant to California Vehicle Code Section 22511, and provided that the City has posted signage as required herein, after notifying the City Police Department, the City may cause the removal of a vehicle from the Designated Spaces to the nearest garage, as defined in California Vehicle Code section 340, that is owned, leased, or approved for use by the City if the vehicle is not connected for electric charging purposes or exceeds the four hour time limit.

SECTION 7. Posting of Signage. The City Council hereby directs City staff, prior to towing any vehicle from the Designated Spaces, to post signage in accordance with the requirements of California Vehicle Code section 22511.

SECTION 8. Implementation. The City Manager, or his or her designee, is hereby authorized and directed to, on behalf of the City, execute any and all documents, and take any and all action necessary to effectuate the implementation of the Pilot Program in accordance with this Resolution and applicable law.

SECTION 9. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 10. CEQA Compliance. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Resolution is exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Bernardino in accordance with CEQA Guidelines.

SECTION 11. Certification. The City Clerk shall certify to the adoption of this Resolution.

SECTION 12. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this 4th day of August 2015.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held August 4, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015- duly passed and adopted by the Ontario City Council at their regular meeting held August 4, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
August 4, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND BROOKCAL ONTARIO, LLC, TO UPDATE CERTAIN INFRASTRUCTURE PROVISIONS OF THE EXISTING DEVELOPMENT AGREEMENT FOR THE DEVELOPMENT OF UP TO 1,146 RESIDENTIAL UNITS AND 10 ACRES OF COMMERCIAL ON 178.66 ACRES OF LAND WITHIN PLANNING AREAS 9A, 10A, 10B AND 11 OF THE AVENUE SPECIFIC PLAN, LOCATED SOUTH OF SCHAEFER AVENUE, NORTH OF EDISON AVENUE (ONTARIO RANCH ROAD), BETWEEN TURNER AVENUE AND HAVEN AVENUE

RECOMMENDATION: That the City Council consider and adopt for second reading an ordinance approving an amendment (File No. PDA15-002) to the Development Agreement between the City of Ontario and BrookCal Ontario, LLC, (File No. PDA15-002, on file in the Records Management Department), to update certain infrastructure provisions of the existing development agreement for the development of up to 178.66 acres of land within planning areas 9A, 10A, 10B and 11 of the Avenue Specific Plan, located south of Schaefer Avenue, North of Edison Avenue (Ontario Ranch Road), between Turner Avenue and Haven Avenue.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport

Invest in the Growth and Evolution of the City's Economy

Operate in a Businesslike Manner

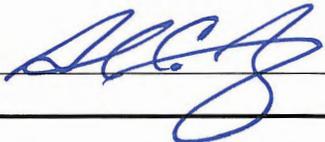
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

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

FISCAL IMPACT: As part of the original Development Agreement, the City will receive Public Service Funding fees plus development impact, compliance processing, licensing, and permitting fees. The Development Agreement requires the developer to construct public infrastructure. The Amendment affects the timing of those infrastructure improvements and does not impact fiscal considerations previously agreed to by the developer and the City.

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Rudy Zeledon
Department: Planning

City Manager
Approval: 

Submitted to Council/O.H.A. 08/04/2015
Approved: _____
Continued to: _____
Denied: _____

7

BACKGROUND: On July 17, 2015, the City Council introduced an Ordinance approving a Development Agreement (File No. PDA05-002) between the City of Ontario and BrookCal Ontario, LLC, to provide the funding for additional City services required to support the development of up to 1,146 residential units and 10 acres of commercial land. The Development Agreement and the proposed Amendment applies to 171.38 acres (Tract Map 18922) of land within Planning Areas 9A, 10A, 10B and 11 of The Avenue Specific Plan, located south of Schaefer Avenue, north of Edison Avenue (Ontario Ranch Road), between Turner Avenue and Haven Avenue (Exhibit “A”).

The Development Agreement granted to BrookCal Ontario, LLC, a vested right to develop the project subject to the terms and conditions of the Development Agreement and The Avenue Specific Plan. The proposed Amendment continues to apply to the same area as the original Development Agreement and incorporates new infrastructure provisions to Phase 1 and 2 of the recycled water requirements and Phase 1 street improvements. The Amendment consists of modifications to Section 1.2 Exhibits (Infrastructure Requirements and Phasing), Section 3.7.6, and Sections 4.31, including Section 4.3.1.1 through 4.3.1.7 to the Development Agreement as follows:

Section 3.7.6 Recycled Water – Modifications to Phase 1 and Phase 2 of the Recycled Water Improvements to:

- Amended Phase 1 recycled water improvements to allow the construction of recycled water lines in either Ontario Ranch Road (Edison Avenue) or Schaefer Avenue from Archibald Avenue to Haven Avenue to serve the Property or another point of connection acceptable to City to serve the Property.
- Allow for a “Well Use Agreement.” The Well Use Agreement will provide for the use of agricultural well water, in-lieu of recycled water, to serve up to the first 100 production units until the full completion of the Phase I recycled water improvements by owner, subject to the following conditions:
 1. The processing of Well Use Agreement Amendment;
 2. A 30 day status report on the completion of permanent recycled water improvements;
 3. The requirement of a bond or deposit for operation and future abandonment of the agriculture well; and
 4. The completion of Phase 1 permanent recycled water improvements and the abandonment of the agriculture well prior to issuance of 100th building permit.
- Amend Phase 2 of the recycled water requirements to divide improvements into “owner’s portion” of Phase 2 recycled water improvements and the “NMC portion” of Phase 2 recycled water improvements. The owner’s portion consists of recycled water line in Haven Avenue from Schaeffer Avenue north to the pressure reduction station at Chino Avenue and in Haven Avenue from Ontario Ranch Road south to the southern Project limits of Phase 4F (Old Edison Avenue) and subject to:
 1. Owner’s portion of Phase 2 recycled water design shall be completed by September 1, 2015;
 2. A deposit from NMC Builders will be required for Phase 2 prior September 1, 2018;

3. Owner to initiate construction of owner's portion of Phase 2 recycled water prior to September 1, 2018, and complete construction by September 1, 2019; and
4. NMC Builders to initiate construction of Phase 2 recycled water improvements by September 1, 2018, and complete Phase 2 by September 1, 2019. If NMC Builders fail to construct Phase 2, then owner shall construct improvements.

Section 4.3.1, including Sections 4.3.1.1, through 4.3.1.7 Public Improvements - Phase 1 circulation is dependent on the completion of Ontario Ranch Road from Milliken Avenue to the project site. The City agrees to issue up to 50 building permits for production units prior to the completion of Ontario Ranch Road, subject to:

- Phase 1 completion of infrastructure improvements (water, sewer and storm drain);
- Owner agrees not to enter into any purchase/sales agreement and in no event shall escrow(s) for the sale of any individual lot(s) within Phase 1 be opened prior to the Owner's substantial completion of all required street improvements to Ontario Ranch Road as part of the Phase 1 improvements as shown on Exhibit F-R Phase 1; and

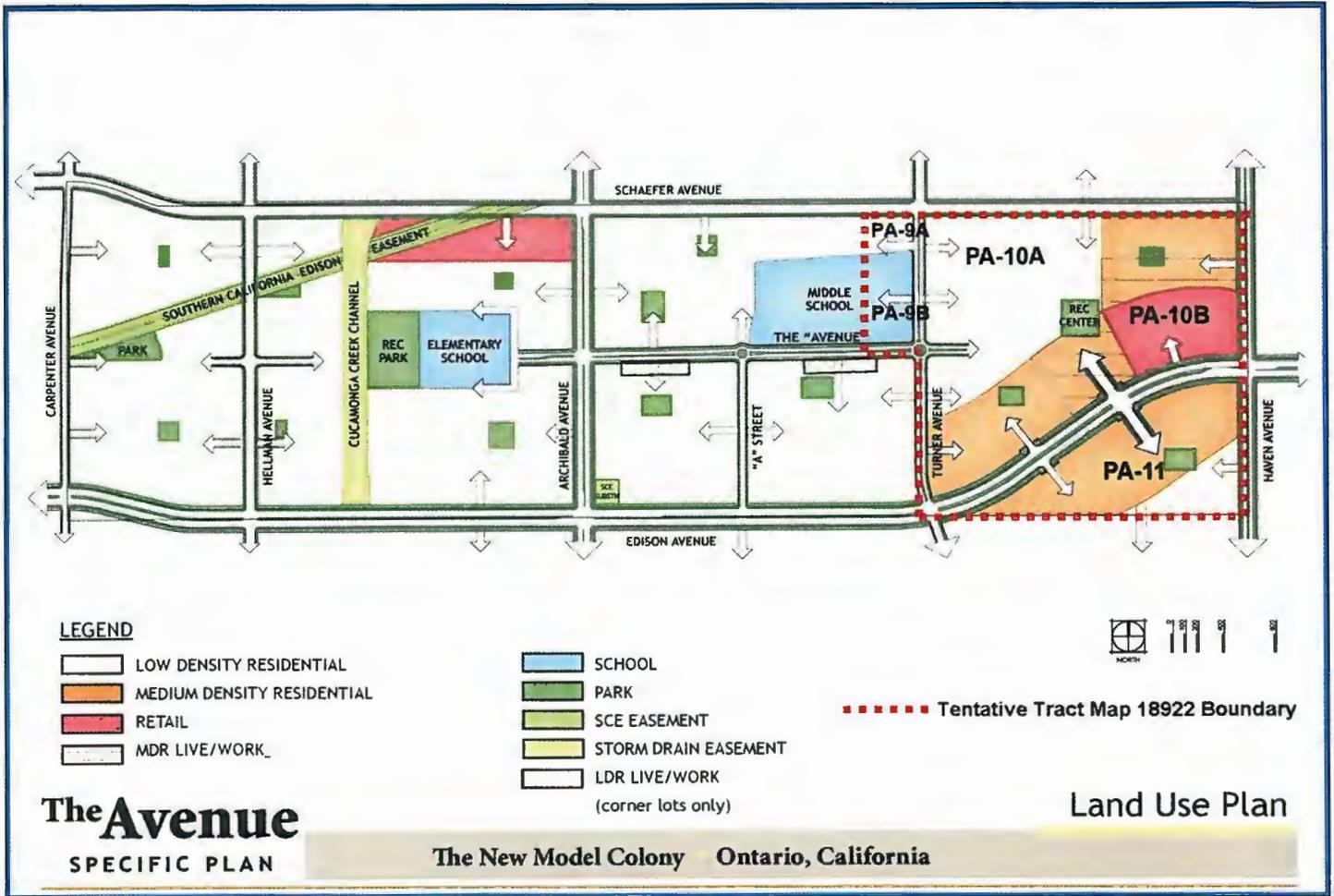
The term of Development Agreement and the Amendment will continue to be for ten years with a five year option and require funding for all new City expenses created by the development of the project. These expenses include Development Impact Fees (DIF) for construction of public improvements (i.e. streets and bridges, police, fire, open space/parks etc.); Public Service Funding to ensure adequate provisions of public services (police, fire and other public services); the creation of a Community Facilities District (CFD) for reimbursement of public improvements and maintenance of public facilities; and the Park/Open Space Policy Plan requirement of five acres per 1,000 projected population through park dedication and/or the payment of in-lieu fees.

Other points addressed by the Agreement include provisions for affordable housing, as required by the Policy Plan, through construction, rehabilitation, or by paying an in-lieu fee, and satisfaction of the Mountain View School District and Chaffey High School District school facilities requirements.

In considering the application at their meeting of June 23, 2015, the Planning Commission found that the Development Agreement Amendment is consistent with State law, The Ontario Plan, the City's Development Agreement policies, and other Development Agreements previously approved for NMC development. As a result, the Planning Commission voted unanimously (7-0) recommending approval of the Development Agreement Amendment to the City Council.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014. This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

EXHIBIT "A"
THE AVENUE SPECIFIC PLAN



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT (FILE NO. PDA15-002) BETWEEN THE CITY OF ONTARIO AND BROOKCAL ONTARIO, LLC, TO UPDATE CERTAIN INFRASTRUCTURE PROVISIONS OF THE EXISTING DEVELOPMENT AGREEMENT (FILE NO. PDA10-002) FOR THE DEVELOPMENT OF UP TO 1,146 RESIDENTIAL UNITS AND 10 ACRES OF COMMERCIAL ON 178.66 ACRES OF LAND WITHIN PLANNING AREAS 9A, 10A, 10B AND 11 OF THE AVENUE SPECIFIC PLAN, LOCATED SOUTH OF SCHAEFER AVENUE, NORTH OF EDISON AVENUE (ONTARIO RANCH ROAD), BETWEEN TURNER AVENUE AND HAVEN AVENUE AND MAKING FINDINGS IN SUPPORT THEREOF. (APN: 0218-201-05, 0218-201-30, 0218-201-39, 0218-201-42, 0218-201-43 AND 0218-201-45).

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

“The Legislature finds and declares that:

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

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

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

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

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

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

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

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

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

WHEREAS, attached to this Ordinance, marked Exhibit “A” and incorporated herein by this reference, is the proposed Amendment to the Development Agreement between BrookCal Ontario, LLC, and the City of Ontario, File No. PDA15-002. Hereinafter in this Ordinance, the Development Agreement is referred to as the “Amendment”; and

WHEREAS, on December 9, 2006, the City Council of the City of Ontario certified The Avenue Specific Plan EIR (SCH #2005071109); and

WHEREAS, on January 16, 2007, the City Council of the City of Ontario adopted Ordinance No. 2851 approving The Avenue Specific Plan; and

WHEREAS, on June 23, 2015, the Planning Commission of the City of Ontario conducted a hearing to consider the Agreement and concluded said hearing on that date. After considering the public testimony, the Planning Commission voted unanimously (7-0) to recommend approval of the Amendment to the Development Agreement to the City Council; and

WHEREAS, as the environmental impacts of this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014. This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference; and

WHEREAS, on July 21, 2015, the City Council of the City of Ontario conducted a public hearing to consider the Amendment to the Development Agreement 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. Based upon substantial evidence presented to the City Council during the above-referenced hearing on July 21, 2015, including written and oral staff reports, together with public testimony, the City Council hereby specifically finds as follows:

a. The Amendment to the Development Agreement applies to 178.66 acres of land within (Tract Map 18922) Planning Areas 9A, 10A, 10B and 11 of The Avenue Specific Plan, generally located south of Schaefer Avenue, north of Edison Avenue, between Turner Avenue and Haven Avenue and is presently vacant; and

b. The properties to the north of the project site are located within Planning Area 9 of the West Haven Specific Plan and are currently vacant and mass graded. The properties to the south of the project site are located within Planning Areas 1- 6 and 9 of the Grand Park Specific Plan and are developed with dairy and agriculture uses. The properties to the east of the project site are located within Planning Areas 14, 15, and 19 of the Rich Haven Specific Plan and are developed with dairy and agriculture uses. The properties to the west of the project site are located within Planning Areas 6A, 8A, and 8B of The Avenue Specific Plan and are developed with dairy and agriculture uses; and

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

c. The Amendment to the Development Agreement consist of modifications to Sections 1.2 Exhibits, Section 3.7.6, and Sections 4.31, including Section 4.3.1.1 through 4.3.1.7 to the Development Agreement as follows:

Section 3.7.6 Recycled Water – Modifications to Phase 1 and Phase 2 of the Recycled Water Improvements to:

- Amended Phase 1 recycled water improvements to allow the construction of recycled water lines in either Ontario Ranch Road (Edison Avenue) or Schafer Avenue from Archibald Avenue to Haven Avenue to serve the Property or another point of connection acceptable to City to serve the Property.
- Allow for a “Well Use Agreement.” The Well Use Agreement will provide for the use of agricultural well water, in-lieu of recycled water, to serve up to the first 100 production units until the full completion of the Phase I recycled water improvements by owner, subject to the following conditions:

1. The processing of Well Use Agreement Amendment;
 2. A 30 day status report on the completion of permanent recycled water improvements;
 3. The requirement of a bond or deposit for operation and future abandonment of the agriculture well; and
 4. The completion of Phase 1 permanent recycled water improvements and the abandonment the agriculture well prior to issuance of 100th building permit.
- Amend Phase 2 of the recycled water requirements to divide improvements into “owner’s portion” of Phase 2 recycled water improvements and the “NMC portion” of Phase 2 recycled water improvements. The owner’s portion consists of recycled water line in Haven Avenue from Schaeffer Avenue north to the pressure reduction station at Chino Avenue and in Haven Avenue from Ontario Ranch Road south to south Project limits of Phase 4F (Old Edison Avenue) and subject to:
 1. Owner’s portion of Phase 2 recycled water design shall be completed by September 1, 2015;
 2. A deposit from NMC Builders will be required for Phase 2 prior September 1, 2018;
 3. Owner to initiate construction of owner’s portion of Phase 2 recycled water prior to September 1, 2018, and complete construction by September 1, 2019; and
 4. NMC Builders to initiate construction of Phase 2 recycled water improvements by September 1, 2018, and complete Phase 2 by September 1, 2019. If NMC Builders fail to construct Phase 2, then owner shall construct improvements.

Section 4.3.1, including Sections 4.3.1.1, through 4.3.1.7 Public Improvements - Phase 1 circulation is dependent on the completion of Ontario Ranch Road from Milliken Avenue to the project site. The City agrees to issue up to 50 building permits for production units prior to the completion of Ontario Ranch Road, subject to:

- Phase 1 completion of infrastructure improvements (water, sewer and storm drain);
- Owner agrees not to enter into any purchase/sales agreement and in no event shall escrow(s) for the sale of any individual lot(s) within Phase 1 be opened prior to the Owner’s substantial completion of all required street improvements to Ontario Ranch Road as part of the Phase 1 improvements as shown on Exhibit F-R Phase 1; and
 - d. The Amendment to the Development Agreement has been prepared in conformance with the goals and policies of The Ontario Plan Policy Plan (General Plan); and

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

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

g. The Amendment to the Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties. The environmental impacts of this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014. This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

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

SECTION 3. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

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

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

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

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

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2015.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3024 was duly introduced at a regular meeting of the City Council of the City of Ontario held July 21, 2015 and adopted at the regular meeting held August 4, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3024 duly passed and adopted by the Ontario City Council at their regular meeting held August 4, 2015 and that Summaries of the Ordinance were published on July 28, 2015 and August 11, 2015, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

EXHIBIT A
Development Agreement

EXHIBIT "A"

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Ontario
303 East "B" Street
Ontario California, California 91764
Attn: City Clerk

Exempt from Fees Per Gov. Code § 6301

Space above this line for Recorder's Use Only

DEVELOPMENT AGREEMENT AMENDMENT

By and Between

City of Ontario, a California municipal corporation;

and

BrookCal Ontario, LLC,

a California limited liability company

August 4, 2015

San Bernardino County, California

**FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT BY AND
BETWEEN THE CITY OF ONTARIO AND BROOKCAL ONTARIO LLC**

This First Amendment (hereinafter "First Amendment") is entered into effective as of the 4th day of August 2015 by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and BrookCal Ontario LLC, a California limited liability company (hereinafter "OWNER").

RECITALS

WHEREAS, the CITY and OWNER have previously entered into a Development Agreement dated June 3, 2014 and recorded in San Bernardino County, California on August 20, 2014 as Instrument No. 2014-0303401 pursuant to Section 65864, et seq., of the Government Code, (hereinafter the "Development Agreement"); and

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

WHEREAS, CITY and the NMC Builders LLC have entered into an agreement that provides that the NMC Builders LLC shall complete the design of a portion of the Master Planned Recycled Water improvements referenced in the Development Agreement as Phase 2 Recycled Water Improvements by September 1, 2015, and the agreement between the CITY and NMC Builders LLC also provides that NMC Builders shall initiate and complete construction the Phase 2 Recycled Water Improvements prior to September 1, 2019 and therefore, CITY and OWNER have agreed to modify certain requirements related to OWNER's responsibility to design and construct the Phase 2 Recycled Water Improvements, and

WHEREAS, the Development Agreement reflects certain assumptions that the consortium of developers, organized as NMC Builders LLC would jointly-fund and construct certain major public infrastructure improvements, including a significant portion of the permanent water facilities, permanent recycled water facilities, major street sections and signalized street intersections that serve the Property and are required to be completed prior to the issuance of building permits for Production Units in Phase 1 and NMC Builders LLC has been delayed in completion of the construction of these permanent facilities and will likely not complete the construction of these permanent facilities prior to OWNER's need for CITY to issue building permits for Production Units for Phase 1; and

WHEREAS, OWNER has requested and CITY has agreed modify certain specified requirements for the completion of Phase 1 Improvements and that may include the use of interim facility connections for recycled water for the Project until the construction of permanent recycled water facilities have been completed by NMC Builders LLC; and

WHEREAS, OWNER has entered into a Subdivision Improvement Agreement to provide security for the funding and completion of the Phase 1, 2, 3, and 4-F improvements that are being constructed by OWNER; and

WHEREAS, OWNER has requested that CITY agree to temporarily defer requirements of the Development Agreement and Conditions of Approval for Tract 18922, including the requirements of the Subdivision Improvement Agreement requiring the completion of the construction certain Phase 1 Improvements; and

WHEREAS, CITY and NMC Builders LLC have entered into the New Model Colony Escrow Instructions and the related Escrow Account Control Agreement to provide CITY with sufficient security for the funding of the Phase I Improvements that are being constructed by NMC Builders LLC; and

WHEREAS, OWNER is requesting that CITY issue building permits for the construction of Model Units and Production Units and OWNER has not completed the construction of certain Phase I Improvements in compliance with the terms of the Development Agreement and Conditions of Approval of Tract 18922; and

WHEREAS, CITY and OWNER have agreed that CITY may issue building permits for the construction of Model Units and Production Units conditioned upon OWNER's completion or substantial completion of alternate Phase 1 improvements and compliance with other CITY requirements.

AGREEMENTS

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

A. Modifications to Section 1.1 – Definitions

The following definitions shall be added or amended in Section 1.1- Definitions as follows and the resulting defined terms shall be renumbered accordingly:

1.1.3 (new) "Completed" and "Completion" with respect to the Phase 1 Improvements, Phase 2 Improvements, Phase 3 Improvements and the Phase 4-F Improvements means that such improvements have been completed in accordance with the approved plans, including any final "punch list" items, as approved in writing by the City Inspector such Improvements are Usable.

1.1.19 (new) "OWNER'S Portion of Phase 2 Recycled Water System Improvements" means the extension of master planned recycled water system improvements in Haven Avenue from Schaefer Avenue north to the Pressure Reduction Station at Chino Avenue and in Haven Avenue from Edison Avenue south to the south Project limits of Phase 4F.

1.1.20 (new) “Phase 1 Recycled Water Improvements” means the extension of the recycled water system to serve the Property as described in the attached Exhibit F-Phase 1-R.

1.1.24 (amended, formerly 1.1.21) “Phase 2 Recycled Water System Improvements” means the extension of master-planned recycled water system improvements in Riverside Drive and Haven Avenue as described in the Attached Exhibit E-R.

1.1.38 (new) “Substantially Completed” and “Substantial Completion” with respect to the Phase 1 Improvements, Phase 2 Improvements, Phase 3 Improvements and Phase 4F Improvements means that such Improvements are substantially complete in accordance with the approved plans and are Usable, notwithstanding any final “punch list” items or nonessential items still required to be completed, unless such items are required for the safe operation of such Improvement, as approved in writing by the City inspector. For purposes of this definition, non-essential items with respect to street Improvements shall include the final asphalt cap and may include other non-essential items including parkway landscaping improvements and sidewalk construction.

1.1.39 (amended) “Usable” shall mean that, with respect to any particular Improvement, the Improvement is actually able to be used for its intended purposes, and includes, for water Improvements connection to the applicable water supply, for sewer Improvements connection to an applicable disposal system, and for recycled water Improvements connection to a treated water supply and distribution system.

B. Modifications to Section 1.2 Exhibits. of the Development Agreement.

The following Exhibits shall be replaced by the following revised Exhibits:

Exhibit “E-R” — Infrastructure Improvements Exhibit (All Phases)

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

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

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

Exhibit “F-R-Phase 4/F” - Phase 4 Improvements Exhibit

C. Modifications to Section 3.7.6.

Section 3.7.6 shall be amended in its entirety to read as follows:

“3.7.6 (a) OWNER agrees that development of the Property shall require the design and construction of permanent master planned recycled water utility infrastructure as described in the revised Exhibit F-R-Phase 1 as the “Phase 1 Recycled Water Improvements,” consisting generally of the construction of permanent master planned recycled water utility infrastructure in either (i) Edison Avenue from Archibald Avenue to Haven Avenue to serve the Property, or (ii) Schaefer Avenue from Archibald Avenue to Haven Avenue to serve the Property as described in the revised Exhibit F-R-Phase 1 or,

(iii) another point of connection acceptable to CITY. If permanent master planned recycled water facilities required to be completed as part of the Phase 1 Recycled Water Improvements are not completed and operational by such time as OWNER is otherwise fully entitled to request Production Unit building permits, CITY shall issue up to a maximum number of one hundred (100) building permits in addition to building permits issued for the Model Units prior to completion of the Phase 1 Recycled Water Improvements. CITY's agreement to issue building permits for up to a maximum number of one hundred (100) Production Unit building permits prior to the completion of the Phase 1 Recycled Water Improvements by OWNER is conditioned upon OWNER's strict compliance with the following covenants and conditions precedent:

i. Following the first date of CITY's issuance of the first building permits for Production Units OWNER shall provide to CITY's City Engineer or his designee, on a periodic basis, not more than each 30 calendar days, a written status report for the completion of the Phase 1 Recycled Water Improvements. Such status report shall include, at a minimum, the information regarding the current status of the construction project and the projected completion date for the construction project.

ii. OWNER shall initiate and diligently pursue CITY approval of a standard amendment to the existing agreement between OWNER and CITY for use of agricultural well water, known as the "Well Use Agreement." The amendment to Well Use Agreement shall provide for the use of agricultural well water in-lieu of recycled water to serve the Property until the full completion of the Phase I Recycled Water Improvements by OWNER.

iii. OWNER shall cease use of agricultural well water in-lieu of recycled water to serve the Property and shall have completed a permanent connection to master planned recycled water facilities prior to, and as a condition precedent to CITY's issuance of any building permits for Production Units beyond the maximum number of one hundred (100) building permits, referenced above.

iv. OWNER shall also provide security, in the form of a Performance Bond, in a form acceptable to the City Engineer to ensure that OWNER shall continue to be responsible to operate and maintain OWNER's agricultural well facilities until permanent master planned recycled water facilities are completed and recycled water is available to serve the Property and that the permanent connection to recycled water is completed and the agricultural well facilities are properly abandoned. The amount of the Performance Bond shall be not less than Twenty-thousand dollars (\$20,000.00). Subject to the terms of Section 6 of the Development Agreement, if, at any time, OWNER fails to perform OWNER's responsibilities for the operation and maintenance of the agricultural well facilities, as required by CITY, OWNER agrees that CITY shall proceed to call, and require performance by, the issuer of the Performance Bond. CITY and OWNER acknowledge that the connection to Recycled Water facilities in Archibald Avenue are required to provide Recycled Water

service to the Project and others are responsible for the completion of the construction of Recycled Water facilities in Archibald Avenue. If such facilities are completed by others and Recycled Water facilities are available for connection of the OWNER's Phase I Recycled Water, OWNER shall complete the construction of the Phase I Recycled Water Improvements prior to September 1, 2015. If such facilities are completed by others and available for connection to serve the Project and OWNER has not completed the Phase 1 Recycled Water Improvements prior to September 1, 2015, OWNER shall be considered to have breached this First Amendment and OWNER agrees that CITY shall proceed to call and require performance by, the issuer of the Performance Bonds for the Project or CITY may complete the construction of the Phase I Recycled Water Improvements and access any funds held in Escrow for the construction of the Phase I Recycled Water Improvements. Additionally, CITY may, without liability, withhold future discretionary or ministerial permits and entitlements for OWNER's Project unless and until the Phase I Recycled Water Improvements are constructed, accepted by the City and operational. CITY shall release the security for the maintenance of the agricultural well facilities, in the form of the Performance Bond, upon completion of the permanent recycled water connection to the Property and the abandonment of the agricultural well facilities.

- (b.) OWNER also agrees that OWNER shall be responsible for the design and construction of permanent master planned recycled water utility infrastructure in Haven Avenue from Schaeffer Avenue north to the Pressure Reduction Station at Chino Avenue and in Haven Avenue from Edison Avenue south to south Project limits of Phase 4F as shown on the revised Exhibit E-R (and Exhibit Phase 2-R) and NMC Builders shall be responsible for the design and construction of an additional extension of master planned recycled water infrastructure in Riverside and Haven Avenues (collectively, the "Phase 2 Recycled Water Improvements") to serve the Project as described in the attached Exhibit E-R. OWNER shall complete the design of OWNER's portion of the Phase 2 Recycled Water Improvements prior to September 1, 2015. Prior to September 1, 2018, OWNER shall deposit, or shall have deposited, with NMC Builders an amount equal to the OWNER's capital contribution for the design and construction of the NMC Builders portion of the Phase 2 Recycled Water Improvements to be designed and constructed by NMC Builders. Prior to September 1, 2018 OWNER shall also initiate construction of OWNER's portion of the Phase 2 Recycled Water Improvements. If OWNER has not deposited such amount with NMC Builders, or if NMC Builders has not initiated construction of the NMC Builders portion of the Phase 2 Recycled Water System Improvements, prior to September 1, 2018, OWNER shall initiate and complete the design and construction of both OWNER's portion and the NMC Builders portion of the Phase 2 Recycled Water System Improvements no later than September 1, 2019. OWNER acknowledges and agrees that if OWNER or NMC Builders has not completed the design and construction of both portions of the Phase 2 Recycled Water System Improvements prior to September 1, 2019, then

CITY shall be entitled to withhold issuance of any further building permits for the Project unless and until the design and construction of both portions of the Phase 2 Recycled Water System Improvements are completed. If NMC Builders or others have completed the design and completed construction of the required Phase 2 Recycled Water System Improvements prior to September 1, 2019 then OWNER shall not be required to construct such improvements and OWNER shall not be eligible to receive the special reimbursement described in Section 4.3.3.1.”

D. Modifications to Section 4.3 Timely Construction of Public Improvements.

Section 4.3.1, including Sections 4.3.1.1, through 4.3.1.7 shall be amended as follows:

“4.3.1 Timely Construction of Public Infrastructure. The phasing of the infrastructure construction within the Property shall be as approved by the CITY. OWNER shall be responsible for the timely design, construction and completion of all public infrastructure required for each Phase of the Project as shown on the attached Exhibits for each Phase of the Project. OWNER shall also be responsible for compliance with any and all other tract map conditions. Unless otherwise specified in this Amendment, the Subdivision Agreement or the Tract Map conditions, all other required improvements and all other conditions or requirements of “A” Tract Map 18922 shall be completed and operational prior to, and as a condition precedent to, CITY’s granting of a building permit for Phase 1 Units as shown on Exhibit F-R- Phase 1. Additionally, unless otherwise specified in a Subdivision Agreement or Tract Map conditions, all other required improvements and all other conditions for each “B” Tract Map in the Phase 1 area of Exhibit F-R- Phase 1 shall be completed (or substantially completed in the case of street improvements) and operational prior to, and as a condition precedent to, OWNER requesting and CITY’s granting of any building permit for any Production Unit within each such “B” Tract Map. When OWNER is required to complete only the design of a required improvement as a condition of a phased tract map, the design of such required improvement shall be deemed completed when the design plans have been submitted by OWNER and approved by CITY.

4.3.1.1 OWNER shall design, or design, construct and complete (or substantially complete in the case of street improvements) all public infrastructure required for Phase 1 of the Project as shown on Exhibit F-R Phase 1 prior to, and as a condition precedent to, CITY’s issuance of the first building permit for any Production Unit for the Property. Notwithstanding the above, CITY and OWNER have agreed that if certain street improvements to Edison Avenue as shown on Exhibit F-R-Phase 1 are not substantially complete prior to OWNER’s application to CITY for issuance of building permits for Production Units in Phase 1, CITY shall issue up to fifty (50) Production Unit building permits for Production Units in Phase 1. CITY’s agreement to issue building permits for up to a maximum number of fifty (50) building permits prior to the substantial completion of the street improvements to Edison Avenue by OWNER, or others, is conditioned upon OWNER’s strict compliance with the following covenants and conditions precedent:

i. OWNER shall have completed (or substantially completed in the case of street improvements) other Phase 1 Improvements as shown on Exhibit F-R- Phase 1, including the connection of all Model Units to permanent master planned facilities for water, sewer, and storm drainage.

ii. OWNER shall have completed the Phase 1 Recycled Water improvements to provide the permanent connection to permanent master planned recycled water facilities or OWNER shall be in strict compliance with the requirements of Section 3.7.6.1 i, iii and iv, above.

iii. Owner may engage in marketing activities relating to building permits for the construction of Production Units on individual lots within Phase 1, however, OWNER covenants and agrees that that OWNER shall not enter into any purchase /sales agreements and in no event shall any escrow(s) for the sale of any individual lot(s) within Phase 1 be opened prior to OWNER's substantial completion of all street improvements to Edison Avenue required as part of the Phase 1 Improvements as shown on Exhibit F-R Phase 1.

4.3.1.2 OWNER shall complete the design and initiate construction of OWNER's Portion of the Phase 2 Recycled Water System Improvements as shown on Exhibit F-R – Phase 2, prior to September 1, 2018. If NMC Builders has not completed the design and initiated construction of the NMC Builders portion of the Phase 2 Recycled Water System Improvements prior to September 1, 2018 OWNER shall complete the design and initiate construction of the NMC Builders portion of the Phase 2 Recycled Water System Improvements.

4.3.1.3 OWNER shall complete construction of OWNER's Portion of the Phase 2 Recycled Water System Improvements as shown on the Exhibit F-R-Phase 2 consisting of the extension of the master planned Recycled Water improvements in Haven Avenue from Schaefer Avenue north to the pressure reducing station at Chino Avenue and in Haven Avenue from Edison Avenue south to the south project limits of Phase 4F, prior to September 1, 2019 and if OWNER has initiated construction of the NMC Builders portion of the Phase 2 Recycled Water Improvements OWNER shall complete the construction of the NMC Builders portion of the Phase 2 Recycled Water System Improvements by September 1, 2019. OWNER acknowledges and agrees that if OWNER or NMC Builders has not completed the design and construction of both portions of the Phase 2 Recycled Water System Improvements prior to September 1, 2019, then CITY shall be entitled to withhold issuance of any further building permits for the Project unless and until the design and construction of both portions of the Phase 2 Recycled Water System Improvements are completed.

4.3.1.4 (Retained without modification)

4.3.1.5 OWNER shall design, or design, construct and complete (or substantially complete in the case of street improvements) all public infrastructure in the Phase 2 area as shown in Exhibit F-R-Phase 2 prior to, and as a condition precedent to, CITY's issuance of any building permits for any Phase 2 Units.

Unless otherwise specified in this Amendment, the Subdivision Agreement or Tract Map conditions, all other required improvements and all other conditions or requirements of "A" Tract Map 18922-2 shall be completed and operational prior to, and as a condition precedent to, CITY's granting of a building permit for any Phase 2 Units. Additionally, unless otherwise specified in a Subdivision Agreement and Tract Map conditions, all other required improvements and all other conditions for each "B" Tract Map in the Phase 2 area of Exhibit F-R-Phase 2 shall be completed and operational prior to, and as a condition precedent to, OWNER requesting and CITY's granting of any building permits for Production Units within any such "B" Tract Map.

4.3.1.6 OWNER shall design, construct and complete (or substantially complete in the case of street improvements) all public infrastructure required in the Phase 3 area as shown in Exhibit F-Phase 3, prior to and as a condition precedent to, CITY's issuance of any building permits for any Phase 3 Units. Unless otherwise specified in this Amendment, the Subdivision Agreement or the Tract Map conditions, all other required improvements and all other conditions or requirements of "A" Tract Map 18922-3 shall be completed and operational prior to, and as a condition precedent to, CITY's granting of any building permits for Phase 3 Units. Additionally, unless otherwise specified in a Subdivision Agreement/Tract Map conditions, all other required improvements and all other conditions for each "B" Tract Map in the Phase 3 area of Exhibit F-R Phase 3 shall be completed and operational prior to, and as a conditions precedent to, OWNER requesting and CITY's granting of any building permits for Production Units within any such "B" Tract Map.

4.3.1.7 OWNER shall design, construct and complete (or substantially complete in the case of street improvements) all public infrastructure required in the Phase 4 area as shown in Exhibit F-Phase 4/F, prior to and as a condition precedent to, CITY's issuance of any building permits for any Phase 4 Units, including any commercial retail units. Unless otherwise specified in this Amendment, the Subdivision Agreement or the Tract Map conditions, all other required improvements and all other conditions or requirements of "A" Tract Map 18922-4 shall be completed and operational prior to, and as a condition precedent to, CITY's granting of any building permits for Phase 4 Units, including any commercial retail units. Additionally, unless otherwise specified in a Subdivision Agreement and Tract Map conditions, all other required improvements and all other conditions for each "B" Tract Map in the Phase 4 area of Exhibit F-R-Phase 4F shall be completed and operational prior to, and as a conditions precedent to, OWNER requesting and CITY's granting of any building permits for Production Units within any such "B" Tract Map.

- E. Modification to Section 4.3.1 - Completion of Phase 1 Improvements Section 4.3.1.1 shall also be modified to add the following Sections:

4.3.1.1.1 CITY agrees to issue building permits for Production Units in Phase 1, in addition to building permits issued for the Model Units, prior to the required completion of all of the water improvements for Phase 1 as shown on Exhibit F-Phase 1 of the Development Agreement. CITY's

agreement to issue building permits for Production Units in Phase 1 is conditioned upon OWNER's completion of the water improvements as shown on the revised and modified Exhibit F-R-Phase 1. OWNER agrees that the water improvements in the revised and modified Exhibit F-R- Phase 1 shall include either the construction and completion of water improvements to serve the Phase 1 area including master planned water improvements in Edison Avenue from Archibald Avenue to Turner Avenue or the master planned water improvements in Edison Avenue from Haven Avenue to Milliken Avenue or an alternate point of connection as acceptable to CITY. OWNER also agrees that the revised Phase 1 water improvements shall include the construction and completion of water improvements in Turner Avenue from Edison Avenue to Schaefer Avenue and in Schaefer Avenue to Haven Avenue to provide two connection permanent connection points to the master planned water system as shown on Exhibit F-R- Phase 1. CITY agrees that the master planned water improvements in Haven Avenue from Edison Avenue to Schaefer Avenue previously shown on Exhibit F-Phase 1 of the Development Agreement shall be deferred to Phase 2 as shown on the revised and modified Exhibit F-R- Phase 2.

4.3.1.1.2 CITY agrees to issue building permits for Production Units in Phase 1 in addition to building permits issued for Model Units, prior to the required completion of all of the Phase 1 Recycled Water Improvements for Phase 1 as shown on Exhibit F-Phase 1 of the Development Agreement. CITY's agreement to issue building permits for Production Units in Phase 1 is conditioned upon OWNER's completion of the Phase 1 Recycled Water improvements as shown on the revised and modified Exhibit F-R-Phase 1. OWNER agrees that the recycled water improvements in the revised and modified Exhibit F-R-Phase 1 shall include the construction and completion of recycled water improvements to serve the Phase 1 area including either master planned water improvements in Schaefer Avenue from Archibald Avenue to Turner Avenue or master planned recycled water improvements in Edison Avenue from Archibald Avenue to Turner Avenue to the extent that such recycled water improvements have not been constructed and completed by NMC Builders or others. OWNER also agrees that the revised recycle water improvements shall include the construction and completion of all recycled water improvements as shown on Exhibit F-R- Phase 1. CITY agrees that the master planned recycled water improvements in Haven Avenue from Edison Avenue to Schaefer Avenue previously shown on Exhibit F-Phase 1 of the Development Agreement shall be deferred to Phase 2 as shown on the revised and modified Exhibit F-R- Phase 2.

4.3.1.1.3 CITY agrees to issue building permits for Production Units in Phase 1 in addition to building permits issued for Model Units, prior to the required completion of all of the Phase 1 sewer improvements for Phase 1 as shown on Exhibit F-Phase 1 of the Development Agreement. CITY's agreement to issue building permits for Production Units in Phase 1 is conditioned upon OWNER's completion of the Phase 1 sewer

improvements as shown on the revised and modified Exhibit F-R –Phase 1. OWNER agrees that the sewer improvements in the revised and modified Exhibit F-R–Phase 1 shall include the construction and completion of sewer improvements to serve the Phase 1 area including master planned sewer improvements in Edison Avenue from Archibald Avenue to Turner Avenue and all other sewer improvements as shown on Exhibit F-R- Phase 1. CITY agrees that the master planned sewer improvements in Haven Avenue from Schaefer Avenue to Edison Avenue previously shown on Exhibit F-Phase 1 of the Development Agreement shall be deferred to Phase 2 as shown on the revised and modified Exhibit F-R-Phase 2.

4.3.1.1.4 CITY’s agreement to continue to issue building permits for the Production Units in Phase 1 is also conditioned upon OWNER’s strict compliance with the following covenants and conditions precedent:

i. After CITY’s issuance of the first building permit for either Model Units or Production Units for the Project, OWNER shall provide to CITY’s City Engineer or his designee, on a periodic basis, not more than each 30 calendar days, a written status report for the completion of the all water, sewer and storm drain improvements as shown on the revised and modified Exhibit F-R-Phase 1. Such status report shall include, at a minimum, the information regarding the current status of all construction projects and the projected completion date for the construction projects.

ii. After CITY’s issuance of the first building permit for either Model Units or Production Units for the Project, OWNER shall provide to CITY’s City Engineer or his designee, on a periodic basis, not more than each 30 calendar days, a written report that provides the projected date for OWNER’s request to CITY for the release of the utilities and occupancy of the first Production Unit for the Project.

4.3.1.1.5 CITY agrees to issue building permits for Production Units in Phase 1 in addition to building permits issued for Model Units, prior to the required completion of all of the Phase 1 street and circulation system improvements for Phase 1 as shown on Exhibit F-Phase 1 of the Development Agreement. CITY’s agreement to issue building permits for Production Units in Phase 1 is conditioned upon OWNER’s substantial completion of the street and circulation system improvements as shown on the revised and modified Exhibit F-R –Phase 1. OWNER agrees that the street and circulation system improvements in the revised and modified Exhibit F-R – Phase 1 shall include the construction and substantial completion of street and circulation system improvements to serve the Phase 1 area including street and circulation system improvements for a portion of Edison Avenue and Turner Avenue as shown on the revised and modified Exhibit F-R- Phase 1. CITY agrees that the street and circulation system improvements for Haven Avenue from Edison Avenue to Schaefer Avenue previously shown on Exhibit F-Phase 1 of the Development Agreement shall be deferred to Phase 2 as shown on the revised and modified Exhibit F-R-

Phase 2. OWNER also agrees that OWNER shall be responsible for the construction of street and circulation system improvements to serve the Property as shown in the revised and modified Exhibit F-R-Phase 1 and no building permit for Production Units in Phase 1 shall be issued by CITY for the Project prior to the completion of the street and circulation system improvements for the Project. Notwithstanding the above, CITY and OWNER have agreed that if certain street improvements to Edison Avenue as shown on Exhibit F-R-Phase 1 are not substantially complete prior to OWNER's application to CITY for issuance of building permits for Production Units in Phase 1, CITY shall issue up to fifty (50) building permits for Production Units in Phase 1. CITY's agreement to issue building permits for up to a maximum number of fifty (50) Production Unit building permits prior to the substantial completion of the street improvements to Edison Avenue by OWNER, or others, is conditioned upon OWNER's strict compliance with the following covenants and conditions precedent:

- i. OWNER shall have completed (or substantially completed in the case of street improvements) other Phase 1 Improvements as shown on Exhibit F-R-Phase 1, including the connection of all Model Units to permanent master planned facilities for water, sewer, and storm drainage.
- ii. OWNER shall have completed the Phase 1 Recycled Water improvements to provide the permanent connection to permanent master planned recycled water facilities or OWNER shall be in strict compliance with the requirements of Section 3.7.6.1 i, ii, iii and iv, above.
- iii. Owner may engage in marketing and sales activities relating to building permits for the construction of Production Units on individual lots within Phase 1, however, OWNER covenants and agrees that that OWNER shall not enter into any purchase or sales agreements and in no event shall any escrow(s) for the sale of any individual lot(s) within Phase 1 be opened prior to OWNER's substantial completion of all street improvements to Edison Avenue required as part of the Phase 1 Improvements as shown on Exhibit F-R Phase 1.

4.3.1.1.6 OWNER and CITY agree that the remaining funds deposited by NMC Builders LLC into the Escrow Account, the "NMC Deposit" to fund, among other things, OWNER's Phase 1 Improvements may not be sufficient to complete the design and construction of OWNER's required improvements. OWNER shall perform all other requirements of the Tract Map conditions for Tract Map 18922 and any other requirements of any Subdivision Agreements, including the provision of performance bonds, as required by CITY. Additionally, if OWNER fails to initiate and/or make reasonable progress or complete construction of the Phase I Improvements as required herein, OWNER shall be considered to be in default of the Development Agreement, and CITY shall have no obligations thereafter to authorize the release of utilities or approve any further certificates of occupancy for Production Units or issue additional building permits."

F. Modification to Section 4.3.3.1 – City Reimbursement for the NMC Portion of the Phase 2 Recycled Water Improvements.

Section 4.3.3.1 shall be amended as follows:

“4.3.3.1 CITY Reimbursement for the NMC Portion of the Phase 2 Recycled Water System Improvements. If OWNER is required to design and construct the NMC Builders portion of the Phase 2 Recycled Water System Improvements, CITY agrees that the provisions of the DIF Credit and Reimbursement Agreement referenced above shall also include a requirement for a special reimbursement from CITY to OWNER upon completion and acceptance by CITY of the NMC Builders portion of the Phase 2 Recycled Water System Improvements. The amount of the reimbursement shall be forty-four percent (44%) of the eligible design and construction costs for the segment of the Phase 2 Recycled Water System Improvements located in Riverside Avenue between Haven Avenue and Archibald Avenue. At this time the estimated eligible costs for the design and construction of this segment of the NMC Builders portion of the Phase 2 Recycled Water System Improvements is one million, eight hundred thousand dollars (\$1,800,000). The actual amount of the special reimbursement shall be determined upon completion and acceptance of the NMC Builders portion improvements by CITY and shall be based upon the actual eligible costs for the design and construction of the improvements or the estimated costs in CITY’s DIF Program for the improvements, whichever is less.”

G. All remaining Sections of the Development Agreement and the remaining Exhibits thereto, shall not be affected by this First Amendment.

H. Additional Documents/ Actions. The City Manager is authorized to approve and execute any documents and to take any actions necessary to effectuate the purposes of this First Amendment to the Development Agreement.

I. Defined Terms/Other Provisions. Unless otherwise defined herein, capitalized terms contained in this First Amendment shall have the meanings ascribed to them in the Development Agreement. Except as expressly amended herein, all provisions of the Development Agreement, as supplemented, restated and amended, shall remain.

J. Integration. This First Amendment reflects the complete understanding of the parties with respect to the subject matter hereof. To the extent this First Amendment conflicts with the Development Agreement, this First Amendment supersedes such previous document. In all other respects, the parties hereto re-affirm and ratify all other provisions of the Development Agreement as amended. This First Amendment shall be recorded against the Property within 30 calendar days

K. Indemnification. OWNER hereby agrees to indemnify, defend and hold harmless the CITY, its officials, officers, employees, agents, contractors and volunteers from and against any and all claims, suits or proceedings arising from or related to CITY’s entering into, or carrying out, this First Amendment. This indemnification includes the payment of all penalties, fines, judgments, awards, decrees, attorney’s fees and related costs or expenses incurred by the CITY.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date the ordinance adopting this First Amendment becomes effective ("Effective Date").

**SIGNATURE PAGE
TO FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**

**BROOKCAL ONTARIO LLC
"OWNER"**

Brookcal Ontario LLC, a California limited liability company

By: _____

Name:

Title: Authorized Representative

Date: _____

"CITY"

CITY OF ONTARIO

By: _____

Al C. Boling, City Manager

Date: _____

ATTEST:

City Clerk, Ontario

APPROVED AS TO FORM:
BEST, BEST & KRIEGER LLP

City Attorney

EXHIBIT "A"
TO DEVELOPMENT AGREEMENT

Legal Description of Property

Real Property in the City of Ontario, County of San Bernardino, State of California, described as follows:

APN: 0218-201-42-0-000

Parcel 1 of Parcel Map No. 5022, in the County of San Bernardino, State of California, as per plat recorded in Book 47 of Parcel Maps, Pages 87 and 88, records of said County.

APN: 0218-201-43-0-000

Parcel 2 of Parcel Map No. 5022, in the County of San Bernardino, State of California, as per plat recorded in Book 47 of Parcel Maps, Pages 87 and 88, records of said County.

APN: 0218-201-39-0-000

Parcel 2 of Parcel Map No. 2764, in the County of San Bernardino, State of California, as per plat recorded in Book 24 of Parcel Maps, Pages 44 and 45, records of said County.

APN: Portion of 0218-201-05-0-000

The east $\frac{1}{2}$ of the northwest $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of Section 14, Township 2 South, Range 7 West, San Bernardino Meridian, in the City of Ontario, County of San Bernardino, State of California, according to the official plat thereof.

APN: Portion of 0218-201-05-0-000

The west $\frac{1}{2}$ of the northwest $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of Section 14, Township 2 South, Range 7 West, San Bernardino Meridian, in the City of Ontario, County of San Bernardino, State of California, according to the official plat thereof.

APN: 0218-201-45-0-000

Parcel 2 of Parcel Map No. 14273, in the County of San Bernardino, State of California, as shown by map on file in Book 169, Pages 63 and 64 of Parcel Maps, records of San Bernardino County, California.

APN:0218-201-30-0-000

The northwest $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of Section 14, Township 2 South, Range 7 West, San Bernardino Meridian, in the City of Ontario, County of San Bernardino, State of California, according to the United States government township plat thereof approved by the Surveyor General December 30, 1881.

EXHIBIT "B" TO DEVELOPMENT AGREEMENT The Avenue Specific Plan

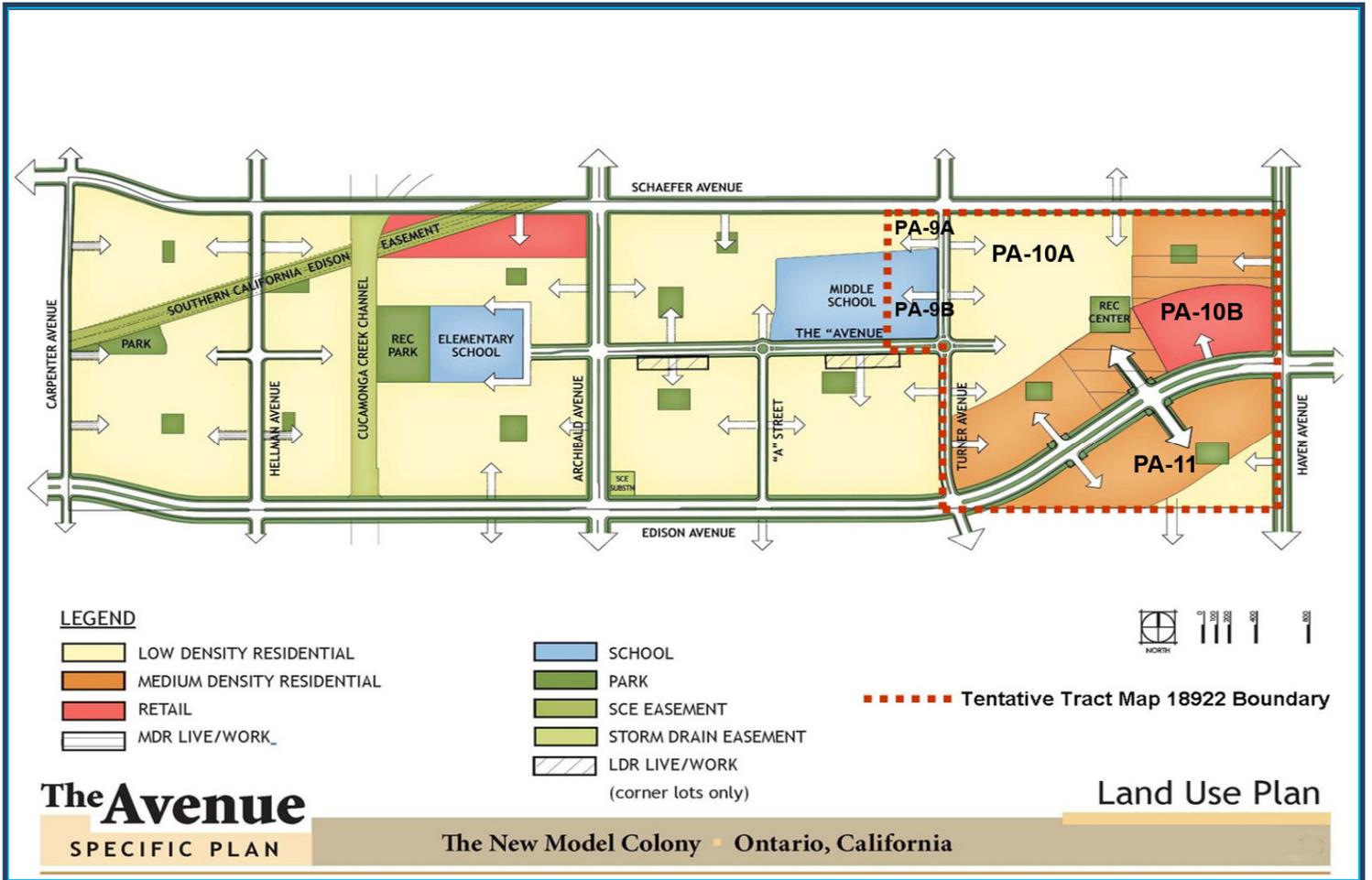


EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Existing Development Approvals

On November 28, 2006, the Planning Commission:

- a) Issued Resolution No. PC06-141 recommending City Council adopt and certify The Avenue Specific Plan Environmental Impact Report;
- b) Issued Resolution No. PC06-143 recommending City Council approval of The Avenue Specific Plan (PSP05-003).

On December 9, 2006, the City Council:

- a) Adopted Resolution No. 2006-131 certifying The Avenue Specific Plan Environmental Impact Report (SCH No. 2005071109)

On January 16, 2007, the City Council:

- a) Adopted Ordinance No. 2851 approving The Avenue Specific Plan (PSP05-003)

On February 2, 2010, the City Council:

- a) Adopted Resolution No. 2010-010 certifying the Supplemental Environmental Impact Report for an amendment to The Avenue Specific Plan (File No. PSPA07-004)
- b) Adopted Resolution No. 2010-011 approving an amendment to The Avenue Specific Plan (File No. PSPA07-004)

On April 8, 2014, the Planning Commission:

- a) Adopted Resolution No. PC14-022 recommending City Council approval of the BrookCal Ontario, LLC, Development Agreement File No. PDA10-002
- b) Adopted Resolution No. PC14-023 approving Tentative Tract Map 18922 (Referred to as the "A" Map)

On June 3, 2014 the City Council:

- a) Adopted Ordinance No. 2989 approving the BrookCal Ontario, LLC, and Development Agreement File No. PDA10-002

On August 28, 2014, the Planning Commission:

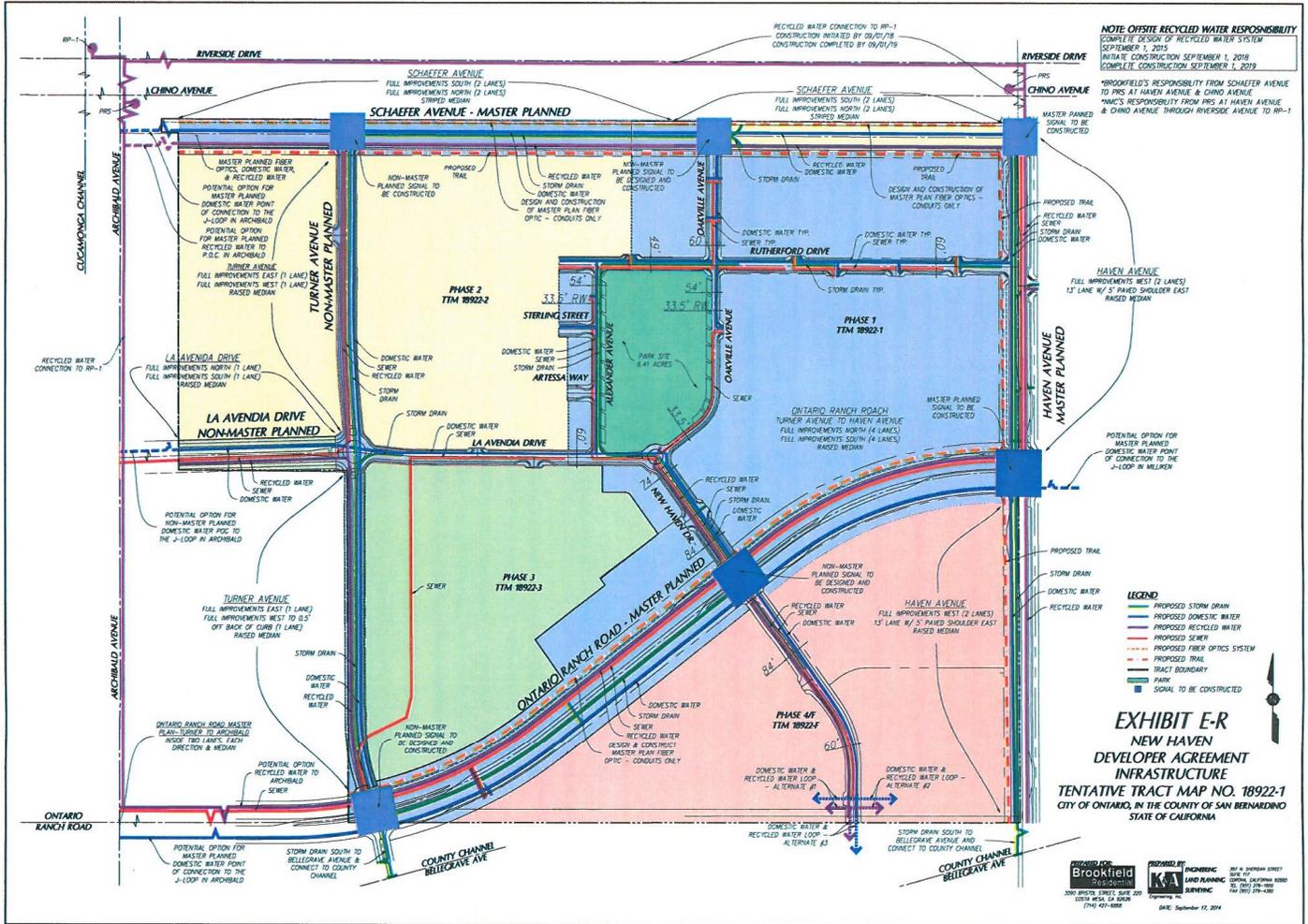
- a) Adopted Resolution No. PC14-078 approving Tentative Tract Map 18991
- b) Adopted Resolution No. PC14-079 approving Tentative Tract Map 18992
- c) Adopted Resolution No. PC14-080 approving Tentative Tract Map 18993
- d) Adopted Resolution No. PC14-081 approving Tentative Tract Map 18994

On June 23, 2015, the Planning Commission:

- a) Adopted Resolution No. PC15-040 recommending City Council approval of the BrookCal Ontario, LLC, Development Agreement Amendment File No. PDA15-002

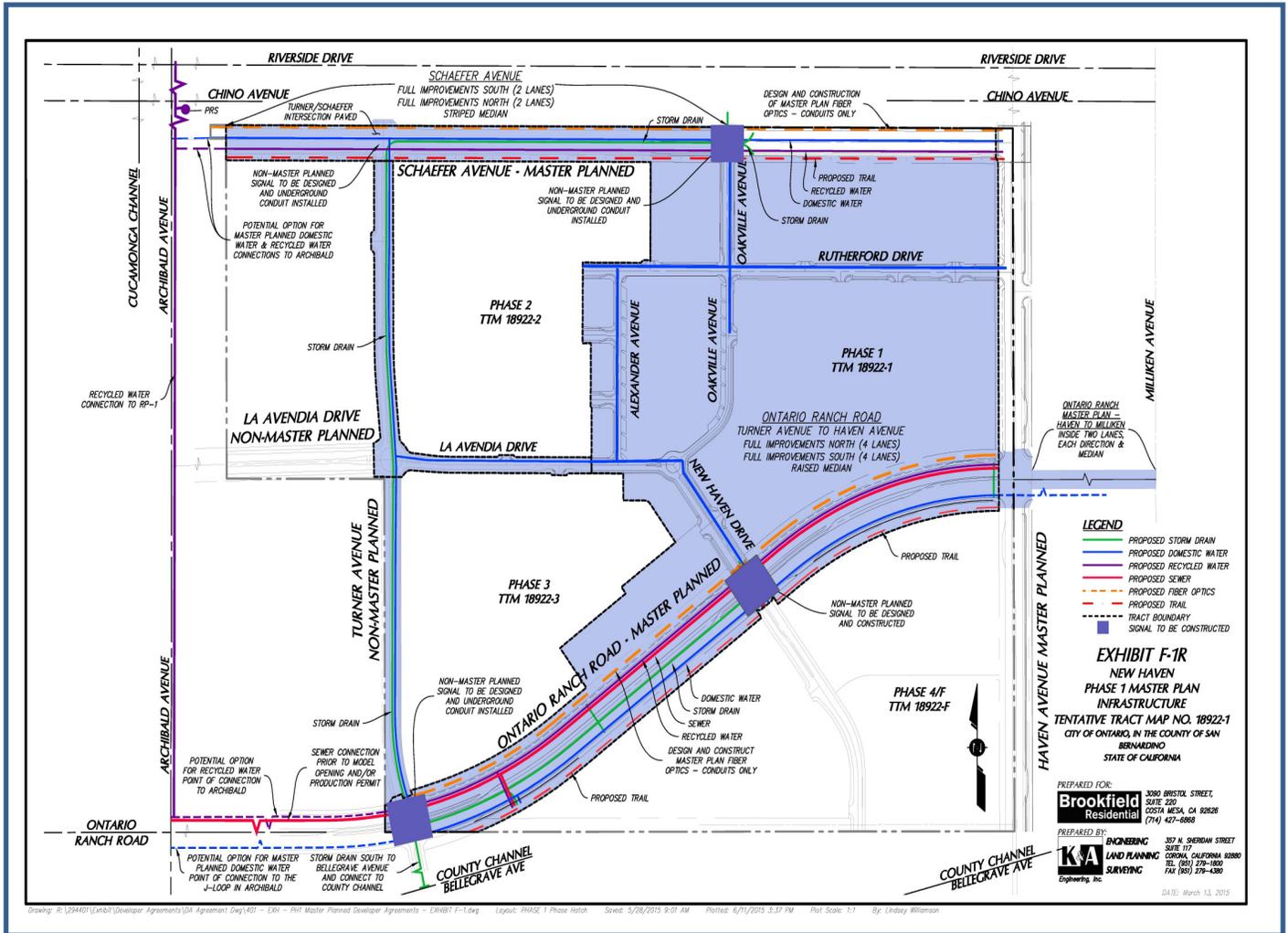
Exhibits E-R TO DEVELOPMENT AGREEMENT

Required Infrastructure Improvements



Exhibits F-R TO DEVELOPMENT AGREEMENT

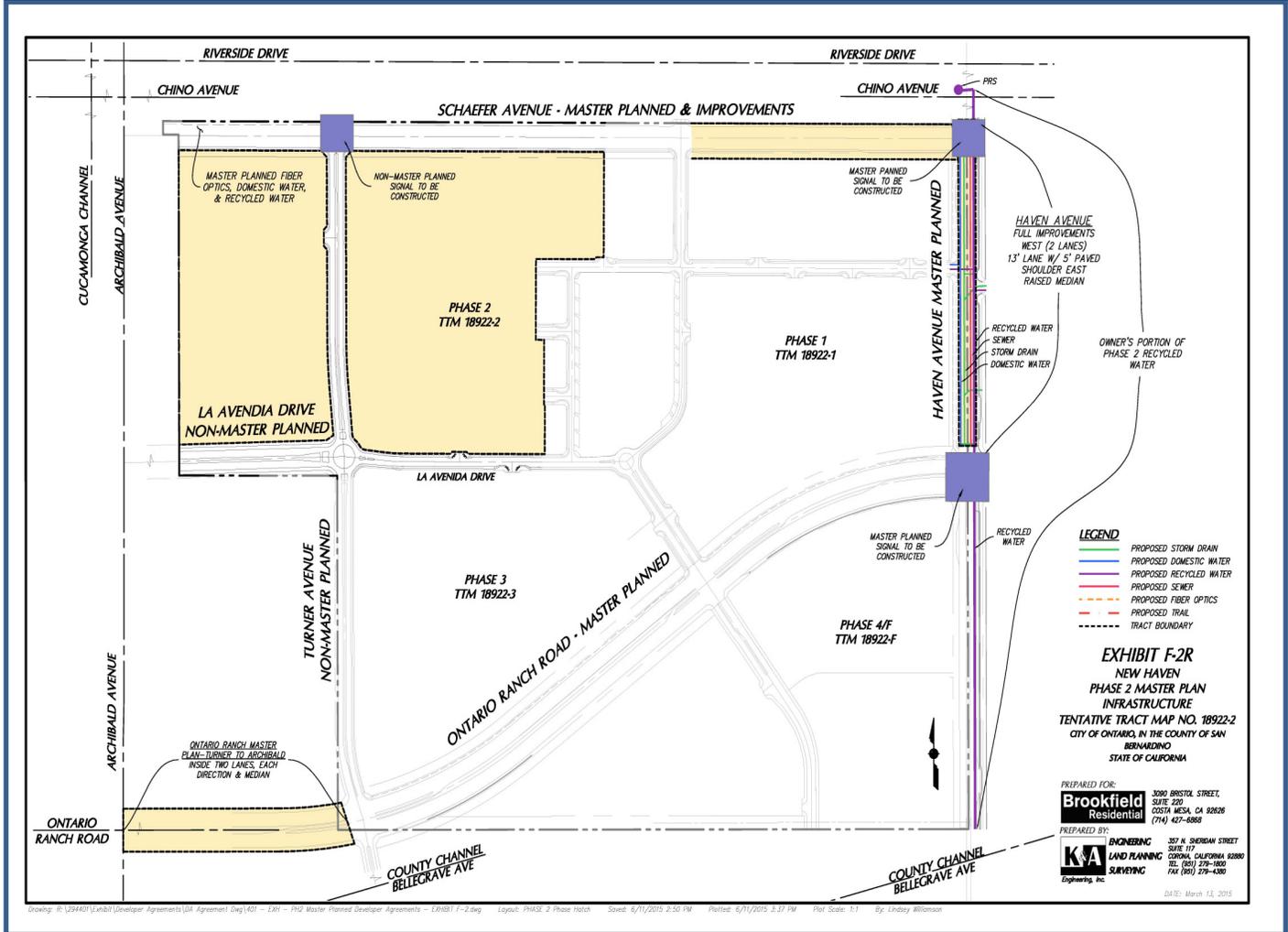
Phase 1 Master Plan Required Infrastructure Improvements



Drawing: R:\294401\14161\Developer Agreements\DA Agreement Dwg\1401 - EDR - PR1 Master Plan\Phase 1\Phase 18922-1.dwg Layout: PHASE 1 Phase 18922-1 Sheet: 5/28/2015 9:01 AM Plotfile: 6/7/2015 3:37 PM Plot Scale: 1:1 By: Lindsay Williams

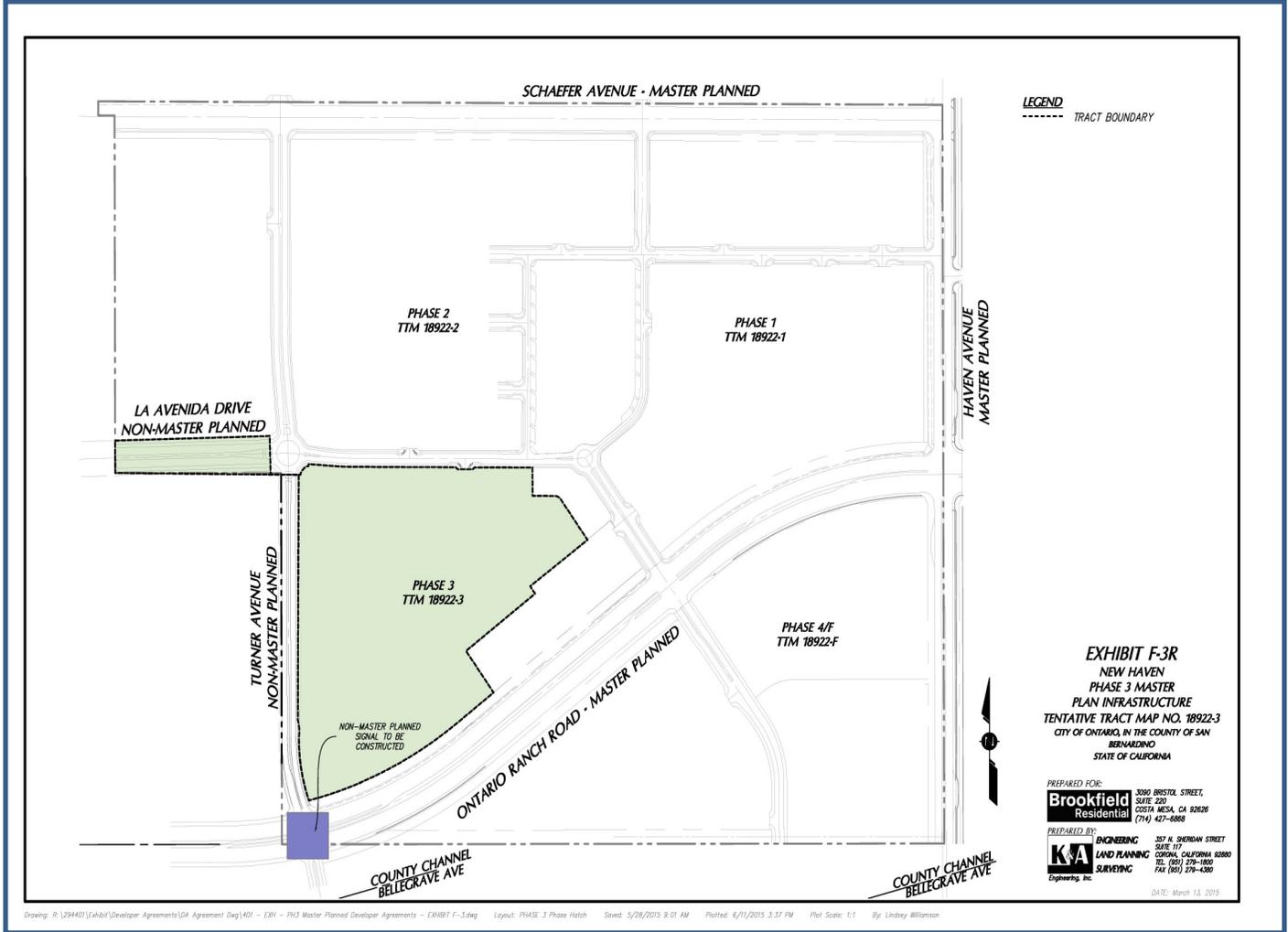
Exhibits F-R TO DEVELOPMENT AGREEMENT

Phase 2 Master Plan Required Infrastructure Improvements



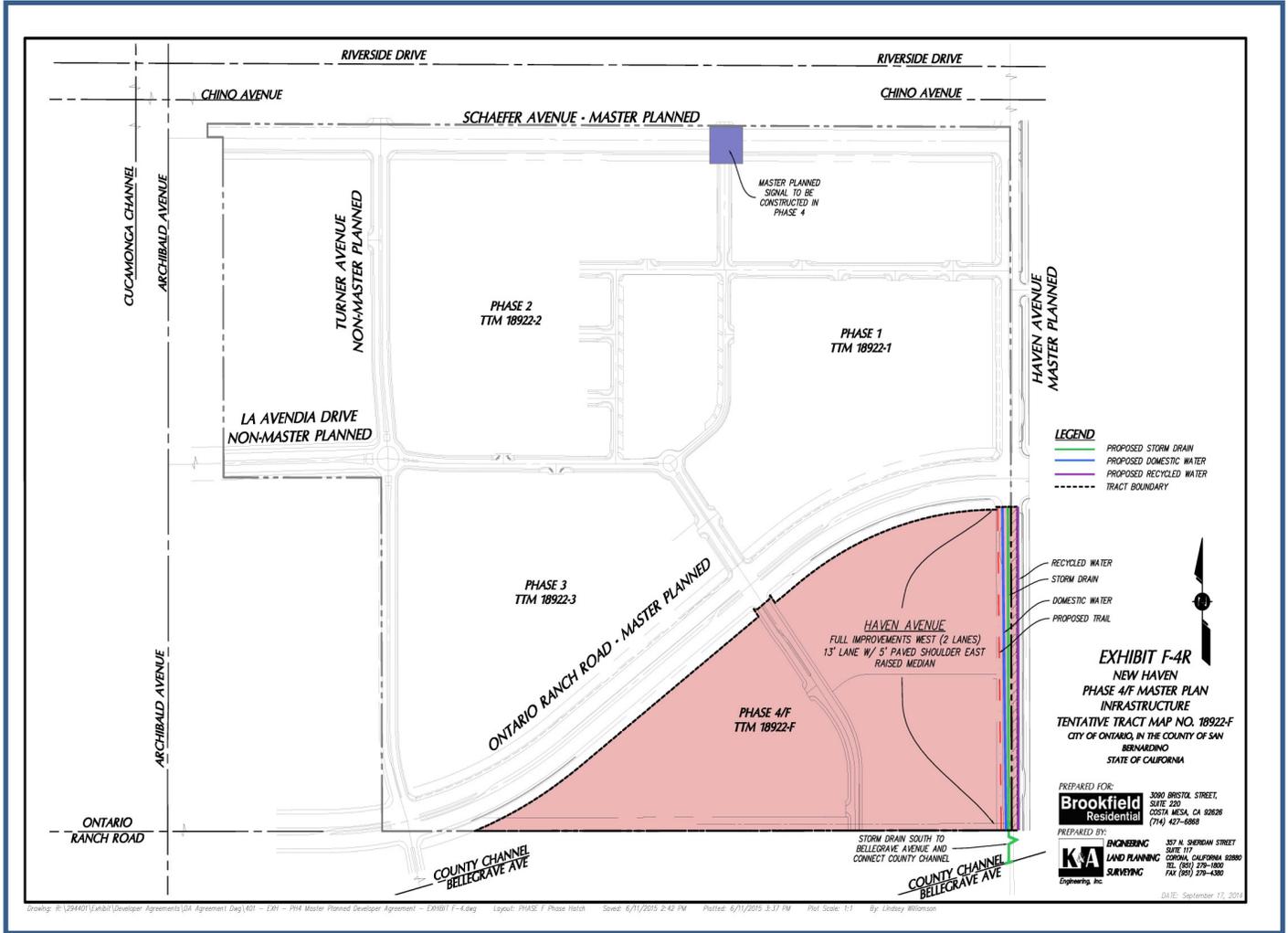
Exhibits F-R TO DEVELOPMENT AGREEMENT

Phase 3 Master Plan Required Infrastructure Improvements



Exhibits F-R TO DEVELOPMENT AGREEMENT

Phase 4 Master Plan Required Infrastructure Improvements



CITY OF ONTARIO

Agenda Report
August 4, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: PURCHASE OF NEW POLICE HELICOPTER AND AVIONIC EQUIPMENT

RECOMMENDATION: That the City Council authorize the City Manager to execute a sole source purchase contract with Airbus Helicopters, formerly known as American Eurocopter Company (AEC), of Grand Prairie, Texas in the amount of \$2,750,000 (includes sales tax) for the purchase of a new police helicopter (Model H125); and authorize the City Manager to execute a purchase agreement in the amount \$2,000,000 with Hangar One Avionics (Hangar One), of Carlsbad, California, to transfer the acquisition and installation of specialized avionics equipment from Airbus Helicopters to Hangar One; and authorize a \$50,000 contingency.

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

FISCAL IMPACT: On June 17, 2015, the City Council approved the proposed budget for Fiscal Year 2015-16 which included \$3,700,000 for the purchase of a new helicopter to be funded from the Public Safety Equipment Replacement Fund. Staff is requesting appropriations of \$1,100,000 for necessary equipment and applicable taxes to complete the operational outfitting of this helicopter. The total purchase price of a new replacement H125 helicopter, including equipment and training for the pilots, is \$4,750,000. The additional funding requested will include \$50,000 that will serve as a contingency with restricted use in accordance with the approved purchase. If approved the associated appropriations adjustments will be presented in the Fiscal Year 2015-16 First Quarter Budget to the City Council.

BACKGROUND: As part of the FY 2015-16 Annual Operating Budget, the City Council authorized funding for the procurement of an additional helicopter to replace the older of two helicopters currently in service with the Police Department's Aviation Unit.

The sole source acquisition of another H125 helicopter from Airbus Helicopters is recommended based on its cost effectiveness and technical features. The H125 helicopter has a longer useful life, higher resale value, and requires less maintenance than helicopters made by other manufacturers. Moreover,

STAFF MEMBER PRESENTING: Brad Kaylor, Police Chief

Prepared by: Eric Weidner
Department: Police

City Manager
Approval: 

Submitted to Council/O.H.A. 08/04/2015

Approved: _____

Continued to: _____

Denied: _____

8

Airbus Helicopter's technical capability, reliability, safety features, quality control, and availability of parts are superior compared to other helicopter manufacturers. The purchase of another H125 would ensure standardization of the City's Air Support Unit fleet. This consistency will allow for interchangeability of training, tools and equipment as well as enhance officer safety since all airships will remain the same. Approximately 85% of all new helicopters purchased by law enforcement agencies are manufactured by Airbus Helicopters.

Equipment to completely outfit the helicopter for service includes the high-definition camera system, a microwave camera downlink transmitter, and a digital enhanced mapping system. This will eliminate the need for flight crews to transfer equipment from one helicopter to another, improving mission readiness and decreasing the likelihood of damage to the equipment and helicopter from frequent dismounting and re-mounting of equipment to the airframe. Completely outfitting this helicopter will help ensure that the regional downlink capabilities will operate without interruption.

During the acquisition of the AS350B2 in 2011, the installation of avionic equipment was transferred to Hangar One because of their completion timeline, cost effectiveness and convenient Southern California location. In addition, the Carlsbad location is beneficial for any follow-up warranty work that may be required. Hangar One is a leading avionics company and is based at McClellan-Palomar Airport. The company is an FAA-certified repair station and an authorized sales and service center for manufacturers of avionic equipment for both law enforcement and private business aircrafts. In an effort to maintain conformity to avionic equipment, staff recommends that the City award the acquisition and installation agreement for the necessary avionic equipment to Hangar One.

Hangar One is a member of the Airborne Law Enforcement Association and is familiar with new technologies needed by law enforcement agencies to perform crime prevention, safety and rescue missions. Hangar One's other law enforcement clients include the Los Angeles County Sheriff's Department, City of San Diego, California Highway Patrol, U.S. Customs and Border Protection, Drug Enforcement Agency, Stanislaus County, Placer County and the City of Tucson.

CITY OF ONTARIO

Agenda Report
August 4, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: CONSTRUCTION CONTRACT AND PROFESSIONAL SERVICES AGREEMENT FOR THE CONSTRUCTION, MANAGEMENT AND INSPECTION OF SEWER IMPROVEMENTS IN INLAND EMPIRE BOULEVARD

RECOMMENDATION: That the City Council:

- (A) Approve the plans and specifications, and award Contract No. UT 1516-03 (on file with the Records Management Department) to Weka, Inc. of Highland, California, for the construction of sewer main improvements in Inland Empire Boulevard in the amount of \$842,985, plus a 15% contingency of \$126,448, for a total amount of \$969,433 and authorize the City Manager to execute said contract and file a notice of completion at the conclusion of all construction activities related to the project; and
- (B) Authorize the City Manager to execute a Professional Services Agreement (on file with the Records Management Department) with Albert A. Webb Associates of Riverside, California, to provide construction management and inspection services for sewer main improvements in Inland Empire Boulevard in the amount of \$111,103 plus a 15% contingency of \$16,665 for a total amount of \$127,768.

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

FISCAL IMPACT: This project is included in the City's current Development Impact Fee program, and sufficient funds are available in the Old Model Colony Sewer Impact Fund. The recommended combined contract awards to Weka, Inc. and Albert A. Webb Associates are \$954,088, plus a 15% contingency of \$143,113 for a total of \$1,097,201. If approved, appropriations will be included in the next quarterly budget update presented to City Council. There is no impact to the General Fund.

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Katie Gienger
Department: MU/Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 08/04/2015

Approved: _____

Continued to: _____

Denied: _____

9

BACKGROUND: The City’s Sewer Master Plan identifies new and replacement infrastructure required to provide sewer service within the City. A new sewer pipeline in Inland Empire Boulevard is included in the master plan to provide sewer service to the Meredith International Center Specific Plan area. The proposed project consists of the installation of approximately 1,600 linear feet of 12-inch and 15-inch sewer pipeline, an interim sewer lift station, and 1,000 linear feet of 4-inch sewer force main. The lift station and force main are necessary to cross two flood control channels located in the project area. A location map is provided for reference.

In July 2014, proposals were solicited for the preparation of plans and specifications for the design of the sewer main in Inland Empire Boulevard. Albert A. Webb Associates was awarded the contract based upon their qualifications, successful completion of similar projects, and ability to meet the project schedule. Award of the construction management and inspection services was deferred to coincide with the construction phase of the project. Approval of the professional services agreement with Albert A. Webb Associates will maintain continuity of the project and complete the award of this phase of the contract.

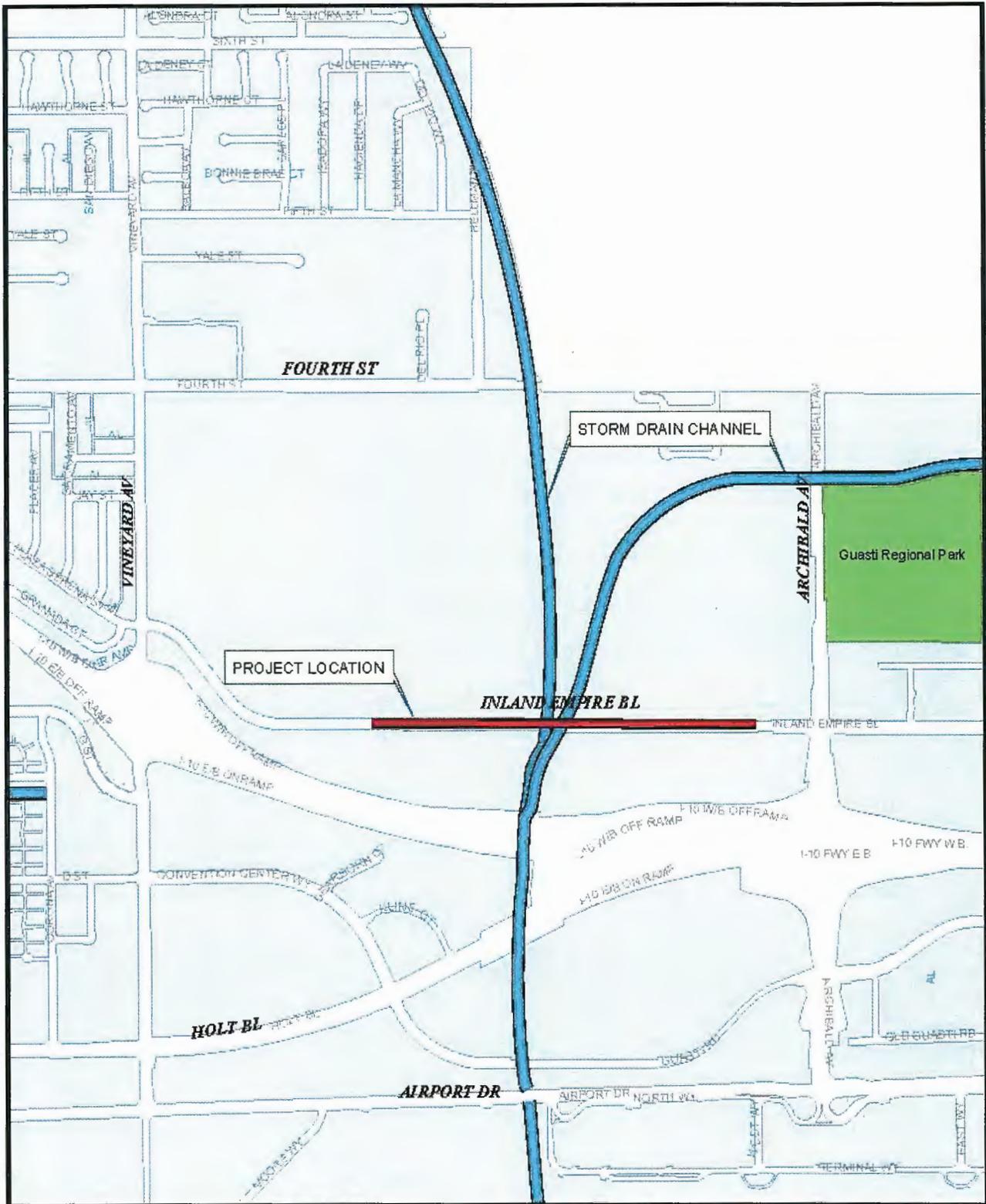
On June 18, 2015, ten bids were received for construction of Sewer Main Improvements in Inland Empire Boulevard. The bids ranged from \$842,985 to \$1,872,081 and are summarized below.

<u>Bidder</u>	<u>Location</u>	<u>Amount</u>
Weka, Inc.	Highland, CA	\$842,985
Norstar Plumbing & Engineering, Inc.	Alta Loma, CA	\$868,979
Christensen Brothers General	Apple Valley, CA	\$903,916
Mike Bubalo Construction Co., Inc.	Baldwin Park, CA	\$989,172
C.P. Construction Co., Inc.	Ontario, CA	\$1,016,129
Bali Construction, Inc.	S. El Monte, CA	\$1,052,489
Universal Pipeline, Inc.	Menifee, CA	\$1,120,882
Utah Pacific Construction Co.	Murrieta, CA	\$1,195,110
MNR Construction, Inc.	Baldwin Park, CA	\$1,473,522
Ramona, Inc.	Arcadia, CA	\$1,872,081

Staff recommends award to Weka, Inc. of Highland, California, based on their expertise and ability to perform the work in a timely manner and successful completion of this type of work in the past.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were reviewed in conjunction with the Meredith International Centre Specific Plan Amendment Environmental Impact Report (SCH #2014051020). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City’s “Guidelines for the Implementation of the California Environmental Quality Act (CEQA)” provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

CONTRACT NO. UT 1516-03
SEWER IMPROVEMENTS - INLAND EMPIRE BLVD.
FY 2015-2016



CITY OF ONTARIO

Agenda Report
August 4, 2015

SECTION:
PUBLIC HEARINGS

SUBJECT: AN ORDINANCE AMENDING SECTION 2-2.302 OF THE ONTARIO MUNICIPAL CODE RELATIVE TO COMPENSATION OF VOTING MEMBERS OF THE PLANNING COMMISSION

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance to consider establishing future compensation for voting members of the Planning Commission be set by resolution of the City Council.

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

FISCAL IMPACT: None.

BACKGROUND: Ontario Municipal Code Section 2-2.302 currently sets the compensation amount for voting members of the Ontario Planning Commission. This section of the Code has been amended four times, the latest being in 1997, by Ordinance 2630, to set compensation at \$75 for attendance at each publicly noticed meeting of the Planning Commission.

Compensation for voting members of Ontario's other boards and commissions — the Library Board of Trustees, Museum Board of Trustees, and the Recreation and Parks Commission — may be set by resolution, whereas compensation for the Planning Commission is uniquely set by ordinance. Staff recommends that the City Council set future Planning Commission compensation by resolution, bringing it into conformity with the processes for all other Ontario commissions.

If approved, a resolution will be presented to the City Council for consideration of new compensation amounts for the voting members of the Planning Commission, as well as a resolution to consider the establishment of compensation amounts for the voting members of the Library Board of Trustees, the Museum Board of Trustees, and the Recreation and Parks Commission. The recommended compensation amounts will take into consideration the recognition of time spent performing due

STAFF MEMBER PRESENTING: Al C. Boling, City Manager

Prepared by: David Sheasby

Department: Citywide Administration

City Manager

Approval: 

Submitted to Council/O.H.A. 08/04/2015

Approved: _____

Continued to: _____

Denied: _____

10

diligence and research for the respective commissions, as well as the substantial upswing in development activity in the Ontario Ranch area.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTION 2-2.302 OF THE ONTARIO MUNICIPAL CODE RELATIVE TO COMPENSATION OF VOTING MEMBERS OF THE PLANNING COMMISSION.

WHEREAS, Section 2-2.302 of the Ontario Municipal Code currently sets the compensation for voting members of the Ontario Planning Commission at \$75 for attendance at each publicly noticed meeting of the Commission, including publicly noticed workshops and briefings; and

WHEREAS, compensation for the voting members of Ontario's Library Board of Trustees, Museum Board of Trustees, and the Recreation and Parks Commission can be set by resolution; and

WHEREAS, the City Council now desires to have uniformity in the processes for setting compensation for all of Ontario's boards and commissions; and

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

SECTION 1. Findings. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Ontario Municipal Code Section 2-2.302 is repealed in its entirety and is amended to read as follows:

Sec. 2-2.302. Membership: Compensation.

The City Council shall from time to time by Resolution set the compensation amount for each voting member of the Planning Commission for attendance at each publicly noticed meeting of the Commission, including publicly noticed workshops and briefings.

SECTION 3. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings and this Ordinance are based are located at the City Clerk's office located at 303 East "B" Street, Ontario, CA 91764. The custodian of these records is the City Clerk.

SECTION 4. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 5. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

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

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2015.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

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

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. _____ 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
August 4, 2015

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING FILE NO. PDCA11-003, A DEVELOPMENT CODE AMENDMENT PROPOSING A COMPREHENSIVE UPDATE TO THE CITY OF ONTARIO DEVELOPMENT CODE (ONTARIO MUNICIPAL CODE TITLE 9) TO ESTABLISH CONSISTENCY WITH THE ONTARIO PLAN AND VARIOUS CHANGES IN STATE LAWS AND REGULATIONS, AND THE REPEAL OF VARIOUS PROVISIONS OF THE ONTARIO MUNICIPAL CODE TO PROVIDE FOR THE ELIMINATION OF DUPLICATIONS AND INCONSISTENCIES WITH THE PROPOSED DEVELOPMENT CODE.

Item continued to the August 18, 2015 City Council meeting beginning at 6:30 p.m.

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Charles Mercier
Department: Planning

City Manager
Approval: 

Submitted to Council/O.H.A. 08/04/2015

Approved: _____

Continued to: _____

Denied: _____

11