

**CITY OF ONTARIO**  
**CITY COUNCIL / HOUSING AUTHORITY AND**  
**ONTARIO PUBLIC FINANCING AUTHORITY**  
**AGENDA**  
**AUGUST 20, 2013**

**Paul S. Leon**  
Mayor

**Jim W. Bowman**  
Mayor pro Tem

**Alan D. Wapner**  
Council Member

**Debra Dorst-Porada**  
Council Member

**Paul Vincent Avila**  
Council Member



**Chris Hughes**  
City Manager

**John E. Brown**  
City Attorney

**Mary E. Wirtes, MMC**  
City Clerk

**James R. Milhiser**  
Treasurer

**WELCOME to a meeting of the Ontario City Council.**

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

**ORDER OF BUSINESS:** The regular City Council / Housing Authority and Ontario Public Financing Authority meeting begins with Closed Session and Closed Session Comment at 6 p.m., Public Comment at 6:30 p.m. immediately followed by the Regular Meeting and Public Hearings. No agenda item will be introduced for consideration after 10:00 p.m. except by majority vote of the City Council.

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

**CALL TO ORDER (*OPEN SESSION*)**

**6:00 p.m.**

***ROLL CALL***

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

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

***CLOSED SESSION***

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Property: APN: 1010-521-28, 221 North Mountain Avenue; City/Authority Negotiator: Chris Hughes or his designee; Negotiating parties: National Bank of California; Under negotiation: Price and terms of payment.
- GC 54956.9 (d)(2), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION:  
*1 or more cases.*
- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *City of Ontario vs. City of Los Angeles, Los Angeles World Airports, and Los Angeles Board of Airport Commissioners, RIC 1306498*

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

***PLEDGE OF ALLEGIANCE***

Mayor pro Tem Bowman

**INVOCATION**

Sr. Pastor Brian E. Kennedy, Mt. Zion Baptist Church

**REPORT ON CLOSED SESSION**

City Attorney

**PUBLIC COMMENTS**

**6:30 p.m.**

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

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

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

**CONSENT CALENDAR**

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

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

**I. APPROVAL OF MINUTES**

Minutes for the regular meetings of the City Council and Housing Authority on July 2 and the City Council, Housing Authority and Ontario Public Financing Authority on July 16, 2013, and approving same as on file in the Records Management Department.

**2. *BILLS/PAYROLL***

**Bills** June 16, 2013 through July 27, 2013 and **Payroll** June 16, 2013 through July 27, 2013, when audited by the Finance Committee.

**3. *AWARD OF A CONSTRUCTION CONTRACT AND A FURNITURE PURCHASE AND INSTALLATION AGREEMENT IN CONNECTION WITH THE EMERGENCY OPERATIONS CENTER PROJECT LOCATED AT 200 NORTH CHERRY AVENUE/R.C. CONSTRUCTION/SYSTEMS SOURCE INC.***

That the City Council take the following actions:

- (A) Award bid and agreement PFD11-CHA-002 General Contractor, to R.C. Construction, of Rialto, California, in the amount of \$2,637,800 for construction of the Emergency Operations Center Project; and authorize the City Manager to execute the contract (on file in the Records Management Department); and
- (B) Award a cooperative purchase agreement PFD11-CHA-030 Furniture Purchase and Installation, to Systems Source Inc., of Irvine California, in the amount of \$1,139,705 for the relocation, acquisition, and installation services of furniture and workstations; and authorize the City Manager to execute the contract (on file in the Records Management Department); and
- (C) Establish a 15% project-wide contingency of \$1,005,782 and authorize its use for any construction contract or professional service agreement associated with this project; and
- (D) Authorize the City Manager to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, easements, reduction of retention accounts, and filing of a notice of completion at the conclusion of all construction related activities.

**4. *A RESOLUTION ORDERING THE SUMMARY VACATION OF A PUBLIC EASEMENT FOR RAILROAD PURPOSES***

That the City Council adopt a resolution ordering the summary vacation of a 15-foot wide public easement for railroad purposes over that portion of Parcel 4 of Parcel Map No. 7338 located approximately 660 feet north of Francis Street and 536 feet west of Parco Avenue.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ORDERING THE SUMMARY VACATION OF A 15-FOOT WIDE PUBLIC EASEMENT FOR RAILROAD PURPOSES LOCATED APPROXIMATELY 660 FEET NORTH OF FRANCIS STREET AND 536 FEET WEST OF PARCO AVENUE.

**5. *AN ORDINANCE LEVYING SPECIAL TAXES WITHIN COMMUNITY FACILITIES DISTRICT NO. 20 OF THE CITY OF ONTARIO***

That the City Council take final action in the formation of Community Facilities District No. 20 of the City of Ontario by adopting an ordinance authorizing the levy of special taxes within the District.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE COMMUNITY FACILITIES DISTRICT NO. 20 OF THE CITY OF ONTARIO.

**6. STUDENT REPRESENTATIVE AND ALTERNATE APPOINTMENTS TO THE RECREATION AND PARKS COMMISSION FOR 2013/14 AND RECOGNITION OF THE CURRENT STUDENT REPRESENTATIVE FOR THE YEAR SERVED 2012/13**

That the City Council confirm Consuelo Guzman, Ontario High School, as the Student Representative and Michael Hernandez, Ontario High School, as the Alternate to the Recreation and Parks Commission for the term to expire June 30, 2014; and recognize Devina Gonzalez, Chaffey High School, for serving as the Student Representative and Fernando Michel, Ontario High School, for serving as the Alternate for the past year.

**7. AN ORDINANCE AMENDING THE ONTARIO DEVELOPMENT CODE, ARTICLE 13 (FILE NO. PDCA13-002), ADDING VARIETY STORES AS A PERMITTED USE WITHIN THE C1, (SHOPPING CENTER COMMERCIAL) ZONING DISTRICT AND A CONDITIONALLY PERMITTED USE IN THE C1 ZONE WITHIN THE EUCLID AVENUE OVERLAY DISTRICT, AND ALLOWING GROCERY STORES WITHIN THE EUCLID AVENUE OVERLAY DISTRICT, CONSISTENT WITH THE UNDERLYING ZONING DESIGNATION**

That the City Council consider and adopt an ordinance approving Development Code Amendment File No. PDCA13-002 adding variety stores as a permitted use within the C1, Shopping Center Commercial Zoning District, and a conditionally permitted use in the C1 zone within the Euclid Avenue Overlay District; and allowing grocery stores within the Euclid Avenue Overlay District, consistent with the underlying zoning designation.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA13-002, A DEVELOPMENT CODE AMENDMENT REVISING TITLE 9 (DEVELOPMENT CODE), ARTICLE 13, TABLE 13-1 (PERMITTED, CONDITIONAL AND ANCILLARY LAND USES – ALL ZONING DISTRICTS) TO ALLOW VARIETY STORES AS A PERMITTED USE WITHIN THE C1 (SHOPPING CENTER COMMERCIAL) ZONING DESIGNATION AND A CONDITIONALLY PERMITTED USE IN THE C1 ZONE WITHIN THE EUCLID AVENUE OVERLAY DISTRICT AND TO ALLOW GROCERY STORES WITHIN THE EUCLID AVENUE OVERLAY DISTRICT CONSISTENT WITH THE UNDERLYING ZONING DESIGNATION, AND MAKING FINDINGS IN SUPPORT THEREOF.

## **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.

**8. AN ORDINANCE APPROVING FILE NO. PDCA13-003, A DEVELOPMENT CODE AMENDMENT PREPARED PURSUANT TO THE STATE HOUSING ACCOUNTABILITY ACT AND SENATE BILL NO. 2, WHICH REVISES CERTAIN PROVISIONS OF TITLE 9 (DEVELOPMENT CODE), CHAPTER 1 (ZONING AND LAND USE REQUIREMENTS), OF THE ONTARIO MUNICIPAL CODE, INCLUDING REVISIONS TO ARTICLE 13 (LAND USE AND SPECIAL REQUIREMENTS), ESTABLISHING PROVISIONS FOR SUPPORTIVE HOUSING, TRANSITIONAL HOUSING, EMERGENCY SHELTERS, AND FARMWORKER HOUSING, AND THE ESTABLISHMENT OF ARTICLE 29 (EMERGENCY SHELTER OVERLAY DISTRICT), CREATING THE EMERGENCY SHELTER OVERLAY DISTRICT, AFFECTING APPROXIMATELY 36.05 ACRES OF LAND GENERALLY LOCATED ON THE NORTH SIDE OF MISSION BOULEVARD, BETWEEN BENSON AND MAGNOLIA AVENUES, WITHIN THE M3 (GENERAL INDUSTRIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS**

That the City Council consider adoption of a resolution approving an Addendum to The Ontario Plan Environmental Impact Report analyzing the environmental effects of the Project, pursuant to State CEQA Guidelines section 15164; and introduce and waive further reading of an ordinance amending certain provisions of Title 9, Chapter 1, of the Ontario Municipal Code, including revisions to Article 13 (Land Use and Special Requirements) and the establishment of Article 29 (Emergency Shelter Overlay District).

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

Written communication.

Oral presentation.

Public hearing closed.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE ONTARIO PLAN ENVIRONMENTAL IMPACT REPORT FOR FILE NO. PDCA13-003, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF (APNs: 1011-211-02, 03, 05, 06, 07, 09, 10 & 12 THROUGH 21; AND 1011-221-00 THROUGH 06, 08 THROUGH 13, 15, 16, 18, 19 & 20).



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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA13-003, A DEVELOPMENT CODE AMENDMENT PREPARED PURSUANT TO THE STATE HOUSING ACCOUNTABILITY ACT AND SENATE BILL NO. 2, WHICH REVISES CERTAIN PROVISIONS OF TITLE 9 (DEVELOPMENT CODE), CHAPTER 1 (ZONING AND LAND USE REQUIREMENTS), OF THE ONTARIO MUNICIPAL CODE, INCLUDING REVISIONS TO ARTICLE 13 (LAND USE AND SPECIAL REQUIREMENTS), ESTABLISHING PROVISIONS FOR SUPPORTIVE HOUSING, TRANSITIONAL HOUSING, EMERGENCY SHELTERS, AND FARMWORKER HOUSING, AND THE ESTABLISHMENT OF ARTICLE 29 (EMERGENCY SHELTER OVERLAY DISTRICT), CREATING THE EMERGENCY SHELTER OVERLAY DISTRICT, AFFECTING APPROXIMATELY 36.05 ACRES OF LAND GENERALLY LOCATED ON THE NORTH SIDE OF MISSION BOULEVARD, BETWEEN BENSON AND MAGNOLIA AVENUES, WITHIN THE M3 (GENERAL INDUSTRIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS, AND MAKING FINDINGS IN SUPPORT THEREOF - APN: 1011-211-02, 03, 05, 06, 07, 09, 10 & 12 THROUGH 21; AND 1011-221-00 THROUGH 06, 08 THROUGH 13, 15, 16, 18, 19 & 20.

**9. RESOLUTIONS REGARDING THE FORMATION OF COMMUNITY FACILITIES DISTRICT NO. 21 OF THE CITY OF ONTARIO (PARKSIDE) AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES WITHIN COMMUNITY FACILITIES DISTRICT NO. 21 OF THE CITY OF ONTARIO (PARKSIDE)**

That City Council take the following actions:

- (A) Adopt a resolution establishing Community Facilities District No. 21 of the City of Ontario (Parkside), authorizing the levy of a special tax within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution calling a special election for Community Facilities District No. 21 of the City of Ontario (Parkside);
- (C) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien; and
- (D) Introduce and waive further reading of an ordinance levying special taxes within Community Facilities District No. 21 of the City of Ontario (Parkside).

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

Written communication.

Oral presentation.

Public hearing closed.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF COMMUNITY FACILITIES DISTRICT NO. 21 OF THE CITY OF ONTARIO (PARKSIDE), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR COMMUNITY FACILITIES DISTRICT NO. 21 OF THE CITY OF ONTARIO (PARKSIDE).

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE COMMUNITY FACILITIES DISTRICT NO. 21 OF THE CITY OF ONTARIO (PARKSIDE).

## **COUNCIL MATTERS**

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



**STAFF MATTERS**

City Manager Hughes

**ADJOURNMENT**

**CITY OF ONTARIO  
CLOSED SESSION REPORT**  
City Council // Housing Authority //  
Ontario Public Financing Authority // Other // (GC 54957.1)  
**August 20, 2013**

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

**STAFF:** City Manager / Executive Director \_\_, City Attorney \_\_

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

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Property: APN: 1010-521-28, 221 North Mountain Avenue; City/Authority Negotiator:  
Chris Hughes or his designee; Negotiating parties: National Bank of California; Under  
negotiation: Price and terms of payment.

No Reportable Action	Continue	Approved
/ /	/ /	/ /

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

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

- GC 54956.9 (d)(2), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION:  
*1 or more cases.*

No Reportable Action	Continue	Approved
/ /	/ /	/ /

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

**CITY OF ONTARIO**  
**CLOSED SESSION REPORT**  
City Council // Housing Authority //  
Ontario Public Financing Authority // Other // (GC 54957.1)  
**August 20, 2013**  
(continued)

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

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

**No Reportable Action**

**Continue**

**Approved**

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

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

# CITY OF ONTARIO

*Agenda Report*  
August 20, 2013

## SECTION: CONSENT CALENDAR

**SUBJECT: AWARD OF A CONSTRUCTION CONTRACT AND A FURNITURE PURCHASE AND INSTALLATION AGREEMENT IN CONNECTION WITH THE EMERGENCY OPERATIONS CENTER PROJECT LOCATED AT 200 NORTH CHERRY AVENUE**

**RECOMMENDATION:** That the City Council take the following actions:

- (A) Award bid and agreement PFD11-CHA-002 General Contractor, to R.C. Construction, of Rialto, California, in the amount of \$2,637,800 for construction of the Emergency Operations Center Project; and authorize the City Manager to execute the contract (on file in the Records Management Department); and
- (B) Award a cooperative purchase agreement PFD11-CHA-030 Furniture Purchase and Installation, to Systems Source Inc., of Irvine California, in the amount of \$1,139,705 for the relocation, acquisition, and installation services of furniture and workstations; and authorize the City Manager to execute the contract (on file in the Records Management Department); and
- (C) Establish a 15% project-wide contingency of \$1,005,782 and authorize its use for any construction contract or professional service agreement associated with this project; and
- (D) Authorize the City Manager to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, easements, reduction of retention accounts, and filing of a notice of completion at the conclusion of all construction related activities.

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

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

Prepared by: David Simpson  
Department: Development Administration

City Manager  
Approval: 

Submitted to Council/O.H.A. 08/20/2013

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

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

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

3



**FISCAL IMPACT:** The Adopted Budget for Fiscal Year 2013-14 includes appropriations of \$7,711,017 for the Emergency Operations Center Project (EOC). The existing appropriations are sufficient to cover the above agreements (\$3,777,505) and the proposed 15% project-wide contingency (\$1,005,782).

**BACKGROUND:** In April 2012, the City Council approved an Architectural Services Agreement with Robert Borders & Associates of Newport Beach, California (RBA) to prepare specifications, construction plans and project management for the proposed project. The EOC Project is comprised of three different tasks. Task 1 is the renovation the City Hall Annex basement into the City's permanent Emergency Operations Center. The improvements will include extensive heating, ventilation and air conditioning modifications, space reconfiguration, and the addition of an emergency dispatch center. Heavy emphasis is placed on communications and information technologies. Task 2 is the reconfiguration of the City Hall Annex's first floor. The work will include new offices, a new break room, upgraded conference rooms and lobbies to accommodate the Fiscal Services, Risk Management and Human Resources departments. Task 3 includes miscellaneous minor improvements to other related City facilities to address operational and organizational needs.

#### **Award of Bids**

RBA completed the construction documents, and lump sum bids (inclusive of all three tasks) were solicited in June 2013. Three bids were received from prequalified bidders for PFD11-CHA-002 General Contractor on July 12, 2013. No protests were filed and a summary of the bid responses follows:

<b>Vendor Name</b>	<b>Location</b>	<b>Bid Amount</b>
R. C. Construction	Rialto, CA	\$2,637,800
W.E. O'Neil	Rancho Cucamonga, CA	\$2,675,382
Turner Construction	Anaheim, CA	\$2,699,000

R.C. Construction is the lowest responsive bidder. They are an established contractor whose recent projects include renovations of the James Madison Elementary School (Anaheim), the Lytle Creek Elementary School (Rialto) and the Pico Branch Library (Santa Monica). Based on the strength of R.C. Construction's bid and related experience, staff recommends that contract PFD11-CHA-002 General Contractor be awarded to R.C. Construction.

Over the last several years the City has renovated several of its facilities including the old Redevelopment offices located at 603 North Euclid Avenue, the Revenue Department's current location at 1333 South Bon View Avenue, City Hall Annex's interim modifications and most recently City Hall. To guarantee maximum interchangeability and uniformity, the workstations installed have been Knoll brand products. The furniture was purchased through Systems Source using a national cooperative purchasing agreement to establish one point of contact for possible future warranty issues while guaranteeing the lowest available price.

Ontario Municipal Code, Section 2-6.11(b)(3), allows for the purchase of supplies and equipment through cooperative purchasing when another governmental agency generally follows the provisions of Government Code Section 54201 through 54204. Cooperative purchasing allows the City to pool its procurement power with other public agencies to obtain pricing lower than would otherwise be possible. Systems Source has agreed to follow the terms and conditions of a competitively public bid award by

Fairfax County, Virginia, through the U.S. Communities Government Purchasing Alliance. Staff recommends City Council approve another cooperative purchase agreement with Systems Source to provide the Knoll furniture, workstations and relocation services in connection with the Emergency Operations Center Project.

In order to deal effectively with unforeseen conditions, it is the City's normal practice to establish a 15% umbrella contingency for most projects. It is recommended a project-wide contingency of \$1,005,782 be established for this project, authorizing the City Manager or his designee to redirect funds between this contingency and any associated project contracts or professional service agreements.



# **CITY OF ONTARIO**

*Agenda Report*  
August 20, 2013

**SECTION:  
CONSENT CALENDAR**

**SUBJECT: A RESOLUTION ORDERING THE SUMMARY VACATION OF A PUBLIC EASEMENT FOR RAILROAD PURPOSES**

**RECOMMENDATION:** That the City Council adopt a resolution ordering the summary vacation of a 15-foot wide public easement for railroad purposes over that portion of Parcel 4 of Parcel Map No. 7338 located approximately 660 feet north of Francis Street and 536 feet west of Parco Avenue.

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

**FISCAL IMPACT:** None. The City did not pay for acquiring the subject right of way and will not incur any cost by vacating this public easement. The applicant has paid the applicable processing fees to defray the City's cost to process this request.

**BACKGROUND:** The applicant, Southern California Edison, has requested that the City vacate the 15-foot wide public easement located along the easterly property line of Parcel 4 of Parcel Map No. 7338, approximately 660 feet north of Francis Street and 536 feet west of Parco Avenue as shown on Exhibits "A" and "B" of the resolution. The subject easement is not needed for any present or future railroad purposes.

Sections 8330 & 8333 of the California Streets and Highways Code authorize the City to summarily vacate (by resolution with no public hearing) a public service easement that has been superseded by relocation or determined to be excess and there are no other public facilities located within the easement.

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

Prepared by: Naiim Khoury  
Department: Engineering

City Manager  
Approval: 

Submitted to Council/O.H.A. 08/20/2013

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

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

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

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ORDERING THE SUMMARY VACATION OF A 15-FOOT WIDE PUBLIC EASEMENT FOR RAILROAD PURPOSES LOCATED APPROXIMATELY 660 FEET NORTH OF FRANCIS STREET AND 536 FEET WEST OF PARCO AVENUE.

WHEREAS, the City Council of the City of Ontario, California, pursuant to Division 9, Part 3, Chapter 4, of the Streets and Highways Code, may summarily vacate an easement under certain conditions specified therein; and

WHEREAS, the public easement for railroad purposes over the easterly portion of Parcel 4 of Parcel Map 7338 in the City of Ontario, County of San Bernardino, State of California, filed in Book 74, Pages 8 through 9, in the County Recorder's Office of said County and located approximately 660 feet north of Francis Street and 536 feet west of Parco Avenue, is not needed for any present or future railroad purposes; and

WHEREAS, Sections 8330 & 8333 of the California Streets and Highways Code authorize the City to summarily vacate (by resolution with no public hearing) a public service easement that has been superseded by relocation or determined to be excess and there are no other public facilities located within the easement; and

WHEREAS, the property owner has requested a vacation of said easement.

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

1. That the above recitals are true and correct.
2. That title to the above-described portion of said easement more specifically described in Exhibit A and depicted on Exhibit B shall be vacated.
3. That the City Clerk of the City of Ontario, California, shall cause a copy of this Resolution to be recorded in the office of the County Recorder of San Bernardino County, California.

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

PASSED, APPROVED, AND ADOPTED this 20<sup>th</sup> day of August 2013.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

---

BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013-     was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held August 20, 2013 by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2013-     duly passed and adopted by the Ontario City Council at their regular meeting held August 20, 2013.

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

(SEAL)



EXHIBIT "A"  
V-247  
LEGAL DESCRIPTION  
A.P.N. 0113-361-29

THAT PORTION OF PARCEL 4 OF PARCEL MAP NO. 7338, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP BOOK FILED IN BOOK 74, PAGES 8 THROUGH 9, IN THE COUNTY RECORDER'S OFFICE OF SAID COUNTY, DESCRIBED AS FOLLOWS:

THE EASTERLY 15 FEET OF THE SOUTH 6 ACRES OF LOT 5, BLOCK K, ACCORDING TO MAP OF BLACKBURN'S ADDITION TO ONTARIO, AS PER PLAT THEREOF RECORDED IN BOOK 12 OF MAPS, PAGE 55, RECORDS OF SAID COUNTY.

ALL FOUND MONUMENT DESCRIPTIONS, BASIS OF BEARINGS, COURSES, ETC. ARE AS SHOWN ON EXHIBIT "B" ATTACHED HERewith AND MADE A PART HEREOF.

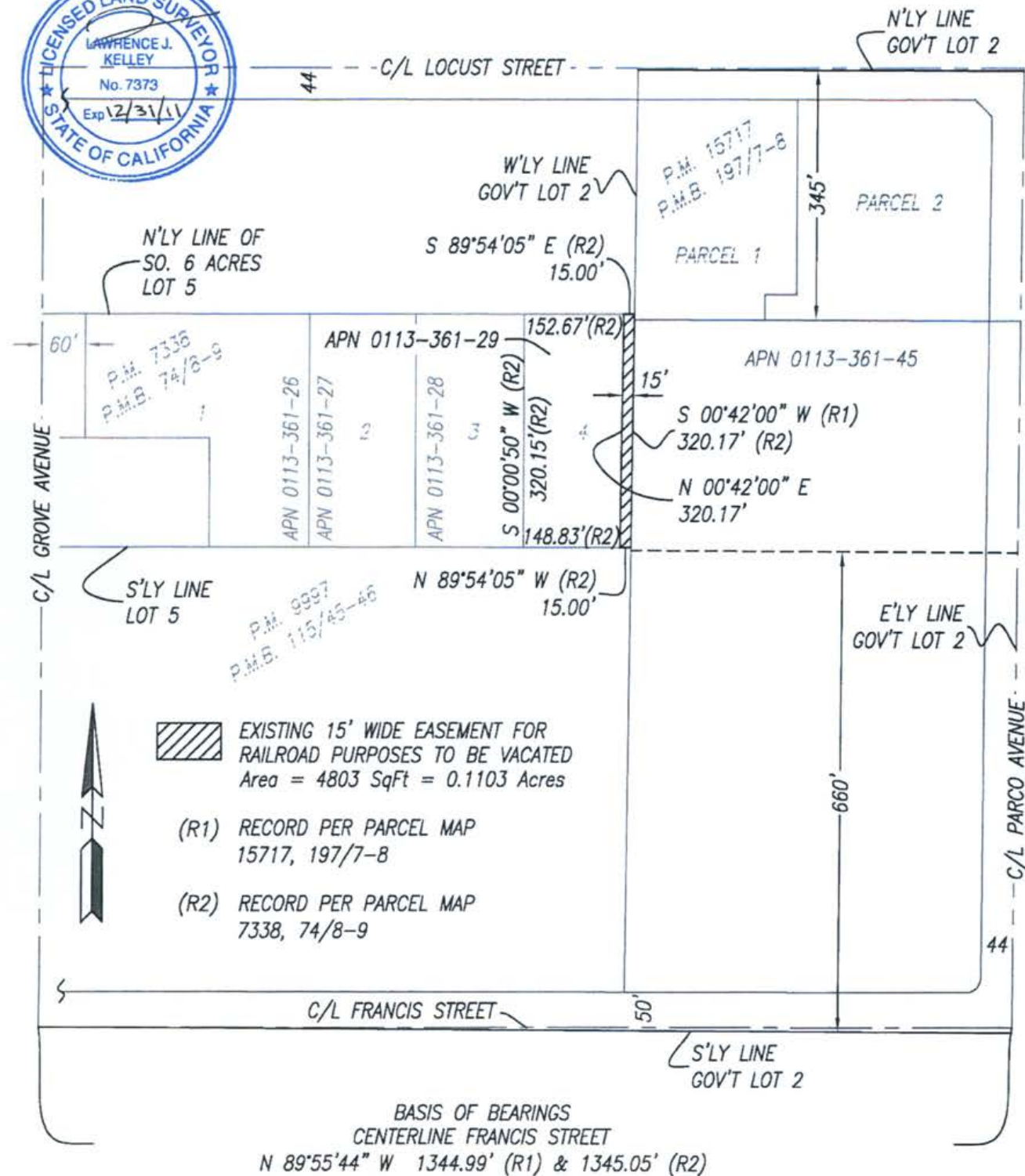
PREPARED BY ME OR UNDER MY DIRECTION

  
LAWRENCE J. KELLEY, P.L.S. No. 7373

DATE 12/7/10

SOUTHERN CALIFORNIA EDISON COMPANY






SOUTHERN CALIFORNIA EDISON COMPANY  
2131 WALNUT GROVE AVENUE  
ROSEMEAD, CA 91770

0 100 200 400  
SCALE IN FEET

SHEET 2 OF 2  
V-247  
EXHIBIT B

PROJECT NAME: ONTARIO SERVICE CENTER		12/6/2010 7:53 AM	M.S. 053-096
MAP & F.B. REF: SCE FB 10668 PGS. 93-95		CITY: ONTARIO	COUNTY: SAN BERNARDINO
DRAWN BY: M. SIUDZINSKI	SURVEYED BY: MORSE-RODRIGUEZ		
DATE: 7/23/2010	LAND INFO.: L.S.	SERIAL NO.:	
WORK ORDER NO.: 800543045		NOTIFICATION NO.: 201160401	File Name: M:\ARCHIVE\DRAWING\ 2010-201003595 .DWG



# CITY OF ONTARIO

*Agenda Report*  
August 20, 2013

## SECTION: CONSENT CALENDAR

**SUBJECT: AN ORDINANCE LEVYING SPECIAL TAXES WITHIN COMMUNITY FACILITIES DISTRICT NO. 20 OF THE CITY OF ONTARIO**

**RECOMMENDATION:** That the City Council take final action in the formation of Community Facilities District No. 20 of the City of Ontario by adopting an ordinance authorizing the levy of special taxes within the District.

**COUNCIL GOALS:** Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downtown on Ontario's Economy and the City's Fiscal Health  
Operate in a Businesslike Manner  
Focus Resources in Ontario's Commercial and Residential Neighborhoods

**FISCAL IMPACT:** The use of Mello-Roos financing for the commercial development of CFD No. 20 is projected to generate approximately \$22,000 per year for funding City services. The proposed maximum tax rate for the project is \$1,523 per acre. The use of Mello-Roos financing for CFD No. 20 will not generate funds for facilities, and bonds will not be issued as part of this formation.

**BACKGROUND:** The Mello-Roos Community Facilities Act of 1982 provides local governments, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to finance various kinds of public infrastructure facilities and government services. The subject project addresses the commercial development of approximately 16.29 acres located on the west side of Mountain Avenue, south of Sixth Street and north of Fifth Street. The services proposed to be financed, in whole or in part, by Community Facilities District No. 20 of the City of Ontario are as follows: (1) the operation and maintenance of the public street lighting facilities and appurtenances that serve the property, and whose installation is identified as part of the project, and (2) the maintenance and servicing of the landscaping and appurtenant improvements of the raised, landscaped median to be constructed by the landowner on Mountain Avenue between Fifth Street and Sixth Street.

**STAFF MEMBER PRESENTING:** Grant D. Yee, Administration Services/ Finance Director

Prepared by: Bob Chandler  
Department: Management Services

City Manager  
Approval: 

Submitted to Council/O.H.A. 08/20/2013

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

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

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

5

On June 4, 2013, the City Council, in accordance with the Mello-Roos Act, took the initial steps in the formation of Community Facilities District No. 20 with the adoption of Resolution No. 2013-035, declaring the City's intention to establish the district and to authorize the levying of special taxes in the district. The resolutions set the public hearing date for the regularly scheduled City Council meeting of July 16, 2013, to consider formation matters. On that date, the City Council conducted the public hearing, adopted the resolutions of formation for the District, and introduced and waived further reading of the ordinance authorizing the levy of special taxes within Community Facilities District No. 20 of the City of Ontario. Adoption of the ordinance will conclude the formation process for the District.



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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE COMMUNITY  
FACILITIES DISTRICT NO. 20 OF THE CITY OF ONTARIO.

WHEREAS, on June 4, 2013, the City Council (the "City Council") of the City of Ontario, California (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, to Establish Community Facilities District No. 20 of the City of Ontario and to Authorize the Levy of Special Taxes" stating its intention to establish Community Facilities District No. 20 of the City of Ontario (the "Community Facilities District") and to finance certain public services (the "Services"); and

WHEREAS, on July 16, 2013, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of Community Facilities District No. 20 of the City of Ontario, Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation") and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for Community Facilities District No. 20 of the City of Ontario," which resolutions established the Community Facilities District, authorized the levy of a special tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of levying a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District; and

WHEREAS, on July 16, 2013, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act.

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

SECTION 1. The City Council hereby authorizes and levies special taxes within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method of Apportionment"). The special taxes are hereby levied commencing in Fiscal Year 2014-2015 and in each fiscal year thereafter until the last fiscal year in which such special taxes are authorized to be levied pursuant to the Rate and Method of Apportionment.

SECTION 2. The City Council may, in accordance with subdivision (b) of Section 53340 of the Act, provide, by resolution, for the levy of the special tax in future tax years at the same rate or at a lower rate than the rate provided by this Ordinance. In no event shall the special tax be levied on any parcel within the Community Facilities District in excess of the maximum tax specified therefor in the Rate and Method of Apportionment.

SECTION 3. The special tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Rate and Method of Apportionment.

SECTION 4. The proceeds of the special tax shall only be used to pay, in whole or in part, the cost of providing the Services and incidental expenses pursuant to the Act.

SECTION 5. The special tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes, unless another procedure is adopted by the City Council.

SECTION 6. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the Community Facilities District, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the Community Facilities District shall not be affected.

SECTION 7. This Ordinance shall take effect and shall be in force 30 days after the date of its adoption and prior to the expiration of 15 days from the passage thereof shall be published at least once in the *Inland Valley Daily Bulletin*, a newspaper of general circulation, printed and published in the City of Ontario, State of California, together with the names of the City Council members voting for and against the same.

SECTION 8. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 20<sup>th</sup> day of August 2013.

---

PAUL S. LEON, MAYOR

ATTEST:

---

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

---

BEST BEST & KRIEGER LLP  
CITY ATTORNEY



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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. \_\_\_\_\_ was duly introduced at a regular meeting of the City Council of the City of Ontario held July 16, 2013 and adopted at the regular meeting held August 20, 2013 by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

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 August 20, 2013 and that Summaries of the Ordinance were published on July 30, 2013 and \_\_\_\_\_, in the Inland Valley Daily Bulletin newspaper.

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

(SEAL)



# CITY OF ONTARIO

*Agenda Report*  
August 20, 2013

SECTION:  
CONSENT CALENDAR

**SUBJECT: STUDENT REPRESENTATIVE AND ALTERNATE APPOINTMENTS TO THE RECREATION AND PARKS COMMISSION FOR 2013/14 AND RECOGNITION OF THE CURRENT STUDENT REPRESENTATIVE FOR THE YEAR SERVED 2012/13**

**RECOMMENDATION:** That the City Council confirm Consuelo Guzman, Ontario High School, as the Student Representative and Michael Hernandez, Ontario High School, as the Alternate to the Recreation and Parks Commission for the term to expire June 30, 2014; and recognize Devina Gonzalez, Chaffey High School, for serving as the Student Representative and Fernando Michel, Ontario High School, for serving as the Alternate for the past year.

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

**FISCAL IMPACT:** None.

**BACKGROUND:** The Student Representative Program was approved by the City Council in 2002. The Student Representative is a non-voting member of the Recreation and Parks Commission. Since its inception, twenty-one (21) students have participated in the program.

A recruitment process was conducted to include all local high schools and City teen programs. Candidate finalists were invited to the Recreation and Parks Commission meeting on June 24, 2013 for the final step in the recommendation process before being presented to the City Council. These appointments represent the recommendation of the Recreation and Parks Commission.

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

Prepared by: Julie Dorey  
Department: CSA – Recreation/CS

City Manager  
Approval: 

Submitted to Council/O.H.A. 08/20/2013

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

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

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

# CITY OF ONTARIO

*Agenda Report*  
August 20, 2013

SECTION:  
CONSENT CALENDAR

**SUBJECT:** AN ORDINANCE AMENDING THE ONTARIO DEVELOPMENT CODE, ARTICLE 13 (FILE NO. PDCA13-002), ADDING VARIETY STORES AS A PERMITTED USE WITHIN THE C1, (SHOPPING CENTER COMMERCIAL) ZONING DISTRICT AND A CONDITIONALLY PERMITTED USE IN THE C1 ZONE WITHIN THE EUCLID AVENUE OVERLAY DISTRICT, AND ALLOWING GROCERY STORES WITHIN THE EUCLID AVENUE OVERLAY DISTRICT, CONSISTENT WITH THE UNDERLYING ZONING DESIGNATION

**RECOMMENDATION:** That the City Council consider and adopt an ordinance approving Development Code Amendment File No. PDCA13-002 adding variety stores as a permitted use within the C1, Shopping Center Commercial Zoning District, and a conditionally permitted use in the C1 zone within the Euclid Avenue Overlay District; and allowing grocery stores within the Euclid Avenue Overlay District, consistent with the underlying zoning designation.

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

**FISCAL IMPACT:** It is anticipated that a nominal amount of increased sales tax revenue might be achieved if the recommended actions are approved, and the addition of these uses may allow for the leasing of otherwise vacant properties.

**BACKGROUND:** On March 23 and April 26, 2013, the Planning Commission considered an application to amend the Development Code to permit variety stores within the C1, Shopping Center, zoning designation and to allow grocery and variety stores within the Euclid Avenue Overlay. In considering the request, the Commission did not have a concern with permitting grocery stores within the Euclid Avenue Overlay, as their exclusion appeared to be more of an oversight. The Commission focused their attention on variety stores.

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

Prepared by: Scott Murphy  
Department: Planning

City Manager  
Approval: 

Submitted to Council/O.H.A. 08/20/2013

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

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

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

7

After thoroughly discussing the matter, the Planning Commission voted 5-1 to recommend approval of the Development Code Amendment subject to the requirement of a CUP for variety stores less than 10,000 square feet in area. Variety stores 10,000 square feet or larger would be permitted. In arriving at this recommendation, the Commission felt that the smaller users tended to be more problematic and that requiring the CUP would provide the City with an opportunity to review the users on a case-by-case basis.

On July 16, 2013, the City Council held a public hearing at which a resolution was adopted approving the use of an addendum to The Ontario Plan for the project, and at which an ordinance was introduced, approving variety stores as a permitted use in the C-1 (Shopping Center Commercial) Zoning District, and a conditionally permitted use in the C1 zone within the Euclid Avenue Overlay District; and permitting grocery stores within the Euclid Avenue Overlay District, consistent with the underlying zoning designation. It is now appropriate to take final action on this matter.

**ENVIRONMENTAL REVIEW:** Pursuant to CEQA section 21166 and sections 15162 and 15163 of the CEQA Guidelines, an addendum to the Ontario Plan EIR was prepared by the City with regard to the Project (“Addendum”). The Addendum incorporates, by reference, the analysis contained in the Ontario Plan EIR, and addresses only those issues specific to the Project. The City proposes to approve the ordinance as an activity within the TOP, as the activity proposed under the ordinance is within the scope of the TOP, and, as described in the Addendum and the Initial Study, the TOP EIR adequately describes the activity proposed under the ordinance for the purposes of CEQA. The Addendum concludes that the Project will not result in new, or substantially more adverse, significant environmental impacts than those disclosed in The Ontario Plan EIR.



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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA13-002, A DEVELOPMENT CODE AMENDMENT REVISING TITLE 9 (DEVELOPMENT CODE), ARTICLE 13, TABLE 13-1 (PERMITTED, CONDITIONAL AND ANCILLARY LAND USES – ALL ZONING DISTRICTS) TO ALLOW VARIETY STORES AS A PERMITTED USE WITHIN THE C1 (SHOPPING CENTER COMMERCIAL) ZONING DESIGNATION AND A CONDITIONALLY PERMITTED USE IN THE C1 ZONE WITHIN THE EUCLID AVENUE OVERLAY DISTRICT AND TO ALLOW GROCERY STORES WITHIN THE EUCLID AVENUE OVERLAY DISTRICT CONSISTENT WITH THE UNDERLYING ZONING DESIGNATION, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS the One Ontario Plaza ("Applicant") has initiated a Development Code Amendment, File No. PDCA13-002, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application proposes to revise the provisions of Ontario Municipal Code Title 9 (Development Code), Chapter 1 (Zoning and Land Use Requirements), Part 3 (Zoning Districts and Land Use), Article 13 (Land Use and Special Requirements), Table 13-1 (Permitted, Conditional and Ancillary Land Uses – All Zoning Districts) which regulates the establishment of land uses, activities and facilities within each zoning district within the City; and

WHEREAS, the Application proposes to allow variety stores as a permitted use within the C1 (Shopping Center Commercial) zoning designation; and

WHEREAS, the C1 (Shopping Center Commercial) zoning district is to allow “the development of commercial establishments typically found in neighborhood and community shopping centers serving the day-to-day shopping and service needs of local residents.” Further, the corresponding land use in TOP identifies Neighborhood Commercial as “local serving retail, personal service, office, and dining uses, typically located within a predominantly residential neighborhood”; and

WHEREAS, The North American Industry Classification System (“NAICS”) defines variety stores as “establishments primarily engaged in retailing new goods in general merchandise stores (except department stores, discount department stores, warehouse clubs, superstores, and supercenters). These establishments retail a general line of new merchandise, such as apparel, automotive parts, dry goods, hardware, groceries, housewares or home furnishings, and other lines in limited amounts, with none of the lines predominating.” Examples cited include dollar stores and general stores. These uses are consistent with the C1 (Shopping Center Commercial) zoning district; and

WHEREAS, the Application proposes to allow grocery and variety stores as permitted uses within the Euclid Avenue Overlay District; and

WHEREAS, Euclid Avenue Overlay ("EA Overlay") was adopted "to protect and enhance the visual character and quality of Euclid Avenue as one of the City's major scenic resources" and "to ensure that development on sites with Euclid Avenue frontage or having direct access to Euclid Avenue and in the Civic Center area occurs in a manner that is consistent with the policies, principles, and standards of the Scenic Highway Element of the General Plan"; and

WHEREAS, the prohibited uses within the EA Overlay focused on operations that were more intense manufacturing operations, had the potential for outdoor storage, had the potential to generate excessive noise, and/or had the potential to create a nuisance for the community. It was never the intent of the EA Overlay to eliminate retail uses from the corridor; and

WHEREAS, the Application reintroduces retail uses previously allowed within the EA Overlay; and

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

WHEREAS, as the first action on the Project, the City Council adopted an Addendum to The Ontario Plan ("TOP") Environmental Impact Report, previously certified by the Ontario City Council, with a Statement of Overriding Considerations, on January 27, 2010. The Addendum finds that the proposed Application introduces no new significant environmental impacts; and

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

WHEREAS, on March 26, 2013, the Planning Commission of the City of Ontario conducted a duly noticed public hearing to consider the Project, and continued said hearing; and

WHEREAS, on April 23, 2013, the Planning Commission conducted a duly noted public and concluded said hearing on that date. After deliberating the matter, the Commission voted 5-1 to recommend approval of a revised application to the City Council; and

WHEREAS, on July 16, 2013, the City Council conducted a duly noticed public hearing and concluded said hearing on that date. After receiving all public testimony, the Council amended the Planning Commission's recommendation to include variety stores as a permitted use within the C1 and a conditionally permitted use in the C1 zone within the Euclid Avenue Overlay and to allow grocery stores within the Euclid Avenue Overlay consistent with the underlying zoning; and

WHEREAS, on August 20, 2013, the City Council conducted a duly noticed public meeting and concluded said meeting on that date; and

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

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

SECTION 1. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Addendum to TOP Environmental Impact Report, previously certified by the Ontario City Council, with a Statement of Overriding Considerations, on January 27, 2010, and the supporting documentation. Based upon the facts and information contained in the Addendum and supporting documentation, the City Council finds as follows:

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

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

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

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

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

a) The proposed Development Code Amendment is consistent with the goals and policies of the Policy Plan component of The Ontario Plan;

b) The proposed Development Code Amendment is reasonable and beneficial, and in the interest of good zoning practice; and

c) The proposed development code amendment will not have a significant adverse impact on the environment.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council approves File No. PDCA13-002, amending Development Code Chapter 1, Article 13, Table 13-1 to allow variety stores as a permitted use in the C1 (Shopping Center Commercial) zoning district and a conditionally permitted use in the C1 zone within the Euclid Avenue Overlay District and to allow grocery stores within the Euclid Avenue Overlay District consistent with the underlying zoning designation, as shown on Exhibit "A" attached.



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

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

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

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

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
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 July 16, 2013 and adopted at the regular meeting held \_\_\_\_\_ by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

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

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

(SEAL)

## Exhibit “A”

Table 13-1: Permitted, Conditional, and Ancillary Land Uses – All Zoning Districts (excerpt)

### Use Legend:

P: Permitted Use

C: Conditional Use permit required

U: Refer to underlying zoning district

---: Prohibited

Uses	<i>Professional and Commercial Districts</i>						
	<i>AP</i>	<i>NC</i>	<i>C1</i>	<i>C2</i>	<i>C3</i>	<i>C4</i>	<i>EA</i>
Grocery Stores	---	---	P	C	P	---	U
Variety Stores	---	---	P	C	P	---	C

# CITY OF ONTARIO

*Agenda Report*  
August 20, 2013

## SECTION: PUBLIC HEARINGS

**SUBJECT:** AN ORDINANCE APPROVING FILE NO. PDCA13-003, A DEVELOPMENT CODE AMENDMENT PREPARED PURSUANT TO THE STATE HOUSING ACCOUNTABILITY ACT AND SENATE BILL NO. 2, WHICH REVISES CERTAIN PROVISIONS OF TITLE 9 (DEVELOPMENT CODE), CHAPTER 1 (ZONING AND LAND USE REQUIREMENTS), OF THE ONTARIO MUNICIPAL CODE, INCLUDING REVISIONS TO ARTICLE 13 (LAND USE AND SPECIAL REQUIREMENTS), ESTABLISHING PROVISIONS FOR SUPPORTIVE HOUSING, TRANSITIONAL HOUSING, EMERGENCY SHELTERS, AND FARMWORKER HOUSING, AND THE ESTABLISHMENT OF ARTICLE 29 (EMERGENCY SHELTER OVERLAY DISTRICT), CREATING THE EMERGENCY SHELTER OVERLAY DISTRICT, AFFECTING APPROXIMATELY 36.05 ACRES OF LAND GENERALLY LOCATED ON THE NORTH SIDE OF MISSION BOULEVARD, BETWEEN BENSON AND MAGNOLIA AVENUES, WITHIN THE M3 (GENERAL INDUSTRIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS

**RECOMMENDATION:** That the City Council consider adoption of a resolution approving an Addendum to The Ontario Plan Environmental Impact Report analyzing the environmental effects of the Project, pursuant to State CEQA Guidelines section 15164; and introduce and waive further reading of an ordinance amending certain provisions of Title 9, Chapter 1, of the Ontario Municipal Code, including revisions to Article 13 (Land Use and Special Requirements) and the establishment of Article 29 (Emergency Shelter Overlay District).

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

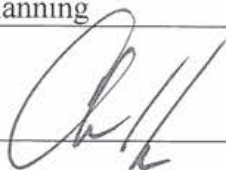
**FISCAL IMPACT:** None.

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

Prepared by: Charles Mercier

Department: Planning

City Manager  
Approval:



Submitted to Council/O.H.A.

08/20/2013

Approved:

Continued to:

Denied:

8

**BACKGROUND:** State Planning and Zoning Law requires the Housing Element of a General Plan of a city to contain, among other things, an assessment of housing needs, including an inventory of land suitable for residential development, and a program with a 5-year schedule of actions that the local government intends to undertake to implement the goals and objectives of the Housing Element. This program is also required to identify adequate sites with zoning that permits single-family and multiple-family housing by right, including farmworker housing, regardless of whether a city has any rural or farm lands within its boundaries.

Senate Bill No. 2, approved in 2007, added emergency shelters to these provisions, and adds provisions to the housing element that would require a local government to identify a zone or zones where emergency shelters are allowed as a permitted use, without a Conditional Use Permit or other discretionary permit.

In fulfillment of these provisions of State law, staff has prepared a Development Code Amendment establishing standards for emergency shelters and farmworker housing. The proposed standards will supplement the City's current transitional shelter housing standards, which address supportive housing, transitional housing, and transitional living centers.

The proposed Development Code Amendment will revise certain provisions of Title 9 (Development Code), Chapter 1 (Zoning and Land Use Requirements), of the Ontario Municipal Code, including:

- (1) Revisions to Article 13 (Land Use and Special Requirements) establishing the "Emergency Shelter" and "Employee (Farmworker) Housing" land uses, and establishing land use standards for each use (see Attachment A: Emergency Shelter and Farmworker Housing Land Use Standards);
- (2) Revision to Table 13-1 (Permitted, Conditional and Ancillary Land Uses – All Zoning Districts), to permit farmworker housing by right within the Agricultural Overlay District and emergency shelters by right within the Emergency Shelter Overlay District; and
- (3) Rescind the current Article 29 (Airport Approach Zoning), which is no longer necessary as a result of adoption of the Ontario International Airport Land Use Compatibility Plan (ALUCP), and establishment of a new Article 29 (Emergency Shelter Overlay District), creating the Emergency Shelter Overlay District on approximately 36.05 acres of land located on the north side of Mission Boulevard, between Benson and Magnolia Avenues.

**COMPLIANCE WITH THE ONTARIO PLAN:** The proposed Development Code Amendment is consistent with the goals and policies contained within the components of The Ontario Plan. More specifically, the goals and policies of The Ontario Plan that are furthered by the proposed project are as follows:

## **LAND USE**

**Goal LU2:** Compatibility between a wide range of uses.

Policy LU2-1: Land Use Decisions. We minimize adverse impacts on adjacent properties when considering land use and zoning requests.

Policy LU2-2: *Buffers*. We require new uses to provide mitigation or buffers between existing uses where potential adverse impacts could occur.

Policy LU2-4: *Regulation of Nuisances*. We regulate the location, concentration and operations of potential nuisances.

Policy LU2-5: *Regulation of Uses*. We regulate the location, concentration and operations of uses that have impacts on surrounding land uses.

## **HOUSING**

**Goal H5:** A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age or other status.

Policy H5-4: *Homeless People*. We partner with non-profit partners to provide emergency shelters, transitional housing, permanent supportive housing, and supportive services for people who are homeless.

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

**ENVIRONMENTAL REVIEW:** Staff is recommending the adoption of an Addendum to The Ontario Plan Environmental Impact Report (SCH No. 2008101140), which was certified by the City Council on January 27, 2010. The Addendum finds that the proposed Development Code Amendment introduces no new significant environmental impacts.



**ATTACHMENT A:  
EMERGENCY SHELTER AND FARMWORKER HOUSING  
LAND USE STANDARDS**

**[1]     General Requirements.** Generally, the land use standards proposed by the Ordinance:

- Establishes concentration requirements, requiring that the facilities are located at least 300 FT from each another.
- No more than one parolee is allowed to live in a facility.
- Facilities must identify whether any boarders are parolees.
- All boarders must sign a Crime Free Lease Addendum as part of their lease or rental agreement.
- Facilities cannot be maintained as a nuisance.
- Facilities are prohibited within the ALUCP safety zones.
- Facilities must remain in compliance with all Development Code and Ontario Municipal Code requirements at all times.

**[2]     Emergency Shelters.**

- The maximum length of stay is 6 months.
- On-site management must be provided.
- On-site security must be provided.
- No more than 20 client beds are allowed
- An intake waiting area equal to a minimum of 10 SF for each client bed must be provided.
- The exterior of intake waiting areas must be screened from public view by a 6-FT high decorative masonry block wall and appropriate landscaping.
- A storage area for client use must be provided equal to a minimum of 7 SF for each client bed.
- At least one facility containing lavatories, toilets and showers must be provided for each 15 client beds.

**[3]     Farmworker Housing.**

- Farmworker housing for 6 or fewer employees, or for one employee and their respective household, are deemed a single-family use.
- Farmworker housing consisting of up to 36 beds in a group quarters, or 12 units or spaces designed for use by a single family or household, is deemed an agricultural use.
- The Planning Commission is granted the authority to authorize additional beds or units by issuance of a Conditional Use Permit, upon finding that the increase is necessary based upon employment demand.
- Farmworker housing is not required to be located on the same site as the qualifying agricultural operation where the farmworkers are employed.
- The minimum lot size for developing new farmworker housing in the Agricultural zone is 10 acres.

**[4] Farmworker Dwelling Units.**

- A dwelling, consisting of housing for up to 6 agricultural employees or one farm employee and their household, is subject to the requirements for single-family dwellings.
- A farmworker dwelling unit cannot be subdivided from the primary lot on which it is located.
- At least one off-street parking space must be provided for each farmworker dwelling unit.

**[5] Farmworker Housing Complex.**

- A minimum of 50 SF of floor area is required for sleeping purposes for each occupant of a group living quarters (barracks and bunkhouses).
- At least one off-street parking space must be provided for each dwelling unit, or one parking space for each 3 beds, whichever is greater, plus one parking space for each housing complex employee.

**[6] Farmworker Verification.**

- Farmworker housing requires the completion of a Farmworker Housing Verification Form prior to building permit submittal, or occupancy of a dwelling, whichever comes first.
- Farmworker housing for 5 or more employees is subject to the permitting requirements of HCD.
- A copy of the HCD permit must be provided to the Planning Department, along with the Verification Form, on an annual basis.

**[7] Location of Farmworker Housing.**

- Farmworker housing must be located at least 75 FT from structures that house livestock or poultry (barns and pens), and at least 200 FT from adjacent residential zoning districts.
- Farmworker housing should not locate on prime and productive agricultural land, unless no other alternative locations exist.

**[8] Maximum Floor Area of Farmworker Housing.** The maximum floor area allowed for a farmworker dwelling unit is 650 SF.

**[9] Removal of Farmworker Housing.** Farmworker housing is subject to removal (or conversion to another approved use) within 45 days following cessation of the agricultural employment for which the farmworker dwelling units are needed.

**[10] Facilities to Accommodate Recreational Vehicles, Tents or Other Mobile Camping Equipment for Farmworkers.**

- Permits for the installation of permanent facilities to accommodate mobilehomes and recreational vehicles must be obtained from the City prior to installation.
- The use of tents, recreational vehicles, or other mobile camping equipment by farmworkers is allowed for a maximum of 30 days within any 180-day period. A permit to operate from HCD is required for 5 or more workers.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE ONTARIO PLAN ENVIRONMENTAL IMPACT REPORT FOR FILE NO. PDCA13-003, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF (APNs: 1011-211-02, 03, 05, 06, 07, 09, 10 & 12 THROUGH 21; AND 1011-221-00 THROUGH 06, 08 THROUGH 13, 15, 16, 18, 19 & 20).

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study and approved for circulation an Addendum for Planning File No. PDCA13-003 (the "Addendum"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively "CEQA"); and

WHEREAS, Planning File No. PDCA13-003 (the "Project") analyzed under the Addendum consists of a Development Code Amendment which rescinds current Ontario Development Code Article 29 (Airport Approach Zoning) and establishes a new Article 29 (Emergency Shelter Overlay District), which (1) creates the Emergency Shelter Overlay District affecting approximately 37 acres of land generally located on the north side of Mission Boulevard, between Benson and Magnolia Avenues, within the M3 (General Industrial) and C3 (Commercial Service) zoning districts; and (2) establishes provisions for supportive housing, transitional housing, emergency shelters, and farmworker housing, for very low, and low or moderate-income households (APNs: 1011-211-02, 03, 05, 06, 07, 09, 10 & 12 through 21; and 1011-221-00 through 06, 08 through 13, 15, 16, 18, 19 & 20); and

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

WHEREAS, in January 2010, the City Council certified the Ontario Plan ("TOP") Final Environmental Impact Report ("EIR") (SCH # 2008101140), adopted an update on the Ontario General Plan and the Preferred Land Use Plan, made Mitigation Findings and adopted a Statement of Overriding Considerations pursuant to CEQA; and

WHEREAS, the TOP EIR contains an analysis of the environmental setting of the City at the time of its certification, including the 37± acres of land identified as "Emergency Shelter Overlay District". The TOP EIR also analyzes the environmental impact of allowing for land use flexibility and interim developments in order to achieve the TOP Vision and evaluates and analyzes the principles, goals and policies enumerated in the Addendum that are furthered and carried out by the Project; and

WHEREAS, the City proposes to approve the Project as an activity within the TOP, and to rely on the certified TOP EIR for CEQA compliance because the activity proposed under the Ordinance is within the scope of the TOP and the TOP EIR adequately describes the activity for the purposes of CEQA; and

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

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

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

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

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

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

SECTION 2. THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby approve the Addendum prepared for the Project and find, pursuant to CEQA Guideline Sections 15162 and 15164, that the Project will not result in any new, increased or substantially different impacts, other than those previously considered and addressed in the TOP EIR and that no changes or additions to the TOP EIR analyses are necessary, nor is there a need for any additional mitigation measures (Planning File No. PDCA13-003).



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

PASSED, APPROVED, AND ADOPTED this 20th day of August 2013.

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

ATTEST:

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

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held August 20, 2013 by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2013-        duly passed and adopted by the Ontario City Council at their regular meeting held August 20, 2013.

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MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA13-003, A DEVELOPMENT CODE AMENDMENT PREPARED PURSUANT TO THE STATE HOUSING ACCOUNTABILITY ACT AND SENATE BILL NO. 2, WHICH REVISES CERTAIN PROVISIONS OF TITLE 9 (DEVELOPMENT CODE), CHAPTER 1 (ZONING AND LAND USE REQUIREMENTS), OF THE ONTARIO MUNICIPAL CODE, INCLUDING REVISIONS TO ARTICLE 13 (LAND USE AND SPECIAL REQUIREMENTS), ESTABLISHING PROVISIONS FOR SUPPORTIVE HOUSING, TRANSITIONAL HOUSING, EMERGENCY SHELTERS, AND FARMWORKER HOUSING, AND THE ESTABLISHMENT OF ARTICLE 29 (EMERGENCY SHELTER OVERLAY DISTRICT), CREATING THE EMERGENCY SHELTER OVERLAY DISTRICT, AFFECTING APPROXIMATELY 36.05 ACRES OF LAND GENERALLY LOCATED ON THE NORTH SIDE OF MISSION BOULEVARD, BETWEEN BENSON AND MAGNOLIA AVENUES, WITHIN THE M3 (GENERAL INDUSTRIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS, AND MAKING FINDINGS IN SUPPORT THEREOF - APN: 1011-211-02, 03, 05, 06, 07, 09, 10 & 12 THROUGH 21; AND 1011-221-00 THROUGH 06, 08 THROUGH 13, 15, 16, 18, 19 & 20.

WHEREAS, the City ("Applicant") has initiated Application for the approval of a Development Code Amendment, File No. PDCA13-003, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, State of California Planning and Zoning Law requires the Housing Element of the General Plan to contain, among other things, an assessment of housing needs, including an inventory of land suitable for residential development, and a program with a 5-year schedule of actions that the City is undertaking, or intends to undertake, to implement the goals and objectives of the Housing Element. This program is also required to identify one or more zones where emergency shelters and employee housing, (including farmworker housing) are allowed as a permitted use, without a requirement for approval of a conditional use permit, or any other discretionary permit; and

WHEREAS, State of California Planning and Zoning Law requires that a city shall not deny a housing development project, including supportive housing, transitional housing, emergency shelters, and farmworker housing, for very low, low, or moderate income households, or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible, unless certain findings are clearly established, based upon substantial evidence in the record; and

WHEREAS, with the Employee Housing Act (commencing with California Health and Safety Code Section 17000) declares that it is the policy of the State that each county and city shall permit and encourage the development and use of sufficient numbers and types of employee housing facilities, intended to serve agricultural

employees, as are commensurate with local need. Furthermore, the State standards relating to employee housing and labor camps supersede any ordinance or regulations enacted by any city or county; and

WHEREAS, an amendment is proposed to the provisions of Ontario Municipal Code Title 9, Chapter 1, Part 5 (Overlay District Regulations), establishing Article 29 (ES (Emergency Shelter) Overlay District) of the Ontario Development Code, which creates the ES Overlay District and establishes its purpose, applicability, and allowed land uses, and the development standards and guidelines of the district; and

WHEREAS, an amendment is proposed to the provisions of Ontario Municipal Code Title 9, Chapter 1, Part 3, Article 13 (Land Use and Special Requirements), which establishes provisions for employee housing intended to serve agricultural workers. The proposed amendment establishes the land use, and prescribes the standards that may be applied pursuant to California Health and Safety Code Sections 17021.5 and 17021.6; and

WHEREAS, the proposed ES Overlay District affects approximately 36.05 acres of land located on the north side of Mission Boulevard, between Benson and Magnolia Avenues, and is presently occupied with a mix of detached single-family dwellings, motels, automotive retail uses, warehouse/distribution and storage facilities, trailer sales, interim agricultural uses (field crops), a batch plant, truck/trailer parking and dispatching, contractors yards, and vacant properties; and

WHEREAS, the zoning and land use on properties surrounding the area affected by the proposed ES Overlay District is as follows:

- The area north of the proposed Emergency Shelter Overlay District is within the M3 (General Industrial) zoning district and includes a mix of industrial and nonconforming single-family residential land uses, and vacant properties;
- The area south of the proposed Emergency Shelter Overlay District, across Mission Boulevard, is within the C3 (General Commercial) and R2 (Medium Density Residential) zoning districts, and includes a mix of single-family and multi-family residential land uses, commercial land uses, and vacant properties;
- The area to the east of the proposed Emergency Shelter Overlay District is within the C1 (Shopping Center Commercial) and C3 (General Commercial) zoning districts, and is developed with a mix of single-family residential land uses, self storage facilities, and a retail shopping center; and
- The area to the west of the proposed Emergency Shelter Overlay District is within an unincorporated area of San Bernardino County, which is zoned CS (Commercial Service) and IC (Industrial Commercial), and includes a mix of heavy commercial and light industrial land uses, and vacant properties.

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



WHEREAS, the environmental impacts of this project were reviewed in conjunction with an Addendum to The Ontario Plan Environmental Impact Report (SCH No. 2008101140), which was certified by the Ontario City Council on January 27, 2010. The Addendum finds that the subject Application introduces no new significant environmental impacts; and

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

WHEREAS, on July 23, 2013, the Ontario Planning Commission conducted a duly noticed public hearing and issued Resolution No. PC13-033 recommending the City Council approve the subject Development Code Amendment; and

WHEREAS, on August 20, 2013, the Ontario City Council conducted a hearing to consider the subject Development Code Amendment, and concluded said hearing on that date; and

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

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

SECTION 1. As the decision-making body for the subject Development Code Amendment, the City Council has reviewed and considered the information contained in the Addendum to The Ontario Plan Environmental Impact Report (SCH No. 2008101140), which was certified by the Ontario City Council on January 27, 2010, and supporting documentation. Based upon the facts and information contained in the Addendum and supporting documentation, the City Council finds as follows:

- a. The Addendum contains a complete and accurate reporting of the environmental impacts associated with the subject Development Code Amendment; and
- b. The Addendum was completed in compliance with CEQA and the Guidelines promulgated thereunder; and.
- c. The Addendum reflects the independent judgment of the City Council; and
- d. All previously adopted mitigation measures that are applicable to the subject Development Code Amendment are incorporated herein by reference.

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

a. The subject Development Code Amendment is consistent with the goals, policies, plans, and exhibits of the Policy Plan (General Plan) component of The Ontario Plan; and

b. The subject Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

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

SECTION 4. Repeal and replace Ontario Municipal Code Title 9, Chapter 1, Part 5, Article 29 (Airport Approach Zoning), to read as shown in Exhibit 1.

SECTION 5. The following definitions shall be added to Ontario Municipal Code Section 9-1.0200 (Definitions), in correct alphabetical order:

“Emergency Shelter. Has the same meaning as defined in HSC § 50801(e).”

“Employee (Farmworker) Housing. Has the same meaning as defined in HSC § 17008.”

“Supportive Housing. Has the same meaning as defined in HSC § 50675.14(b).”

“Transitional Living Centers. A facility for homeless persons, which varies by program and facility. The length of stay and services provided vary by program. Some transitional living facilities are simply shared houses with minimal supervision, while others may provide meals, medical care, employment assistance, case management, and other similar homeless services.”

SECTION 6. Section 9-1.1305, Transitional Shelter Housing, shall be amended to read as follows:

**“Transitional Shelter Housing.** The following standards shall govern the establishment and operation of Transitional Shelter Housing facilities, including Emergency Shelters, Employee (Farmworker) Housing, Supportive Housing, Transitional Housing, and Transitional Living Centers:

**A. General Requirements.**

**1.** No portion of any Transitional Shelter Housing facility shall be located within 300 FT of another such facility that is constructed, or that is approved for construction.

**2.** Transitional Shelter Housing facilities shall observe State and Federal Fair Housing regulations and standards.

**3.** No more than one Federal, State, or Youth Authority parolee shall be allowed to live in a Transitional Shelter Housing facility.

4. An application submitted for approval of a Transitional Shelter Housing facility shall identify whether any boarders are currently Federal, State, or Youth Authority parolees. Owners and/or operators of Transitional Shelter Housing shall update the information required by this Section anytime a person that is a Federal, State, or Youth Authority parolee is provided accommodations at the facility.

5. All Transitional Shelter Housing facilities shall require boarders to sign a Crime Free Lease Addendum as part of their lease or rental agreement, which provides that any criminal violations perpetrated by boarders shall be grounds for termination of the written or oral lease, sublease, or agreement under which they reside at the temporary/transitional shelter or housing.

6. Transitional Shelter Housing facilities shall be operated in full compliance with all applicable requirements of this Development Code. Violation of any local, State, or Federal laws by individual boarders while on the premises shall be grounds for Conditional Use Permit (if applicable pursuant to Table 13-1 of this Development Code) and/or business license revocation, including but not limited to, violations of PC § 3003.5.

7. No Transitional Shelter Housing facility shall be maintained as a nuisance. The conduct of any temporary/transitional shelter or housing within the City in violation of any of the terms of this Article or other applicable provisions of this Development Code found and declared to be a public nuisance, and the City Attorney or the District Attorney may, in addition or in lieu of prosecuting a criminal action hereunder, commence an action or proceeding for the abatement, removal and enjoinder thereof, in the manner provided by law; and shall take other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate or remove such temporary/transitional shelter or housing, and restrain and enjoin any person from conducting, operating or maintaining an temporary/transitional shelter or housing contrary to the provisions of this Article or Development Code.

8. Any owner, operator, manager, employee or independent contractor of a Transitional Shelter Housing facility violating or permitting, counseling, or assisting the violation of any of the provisions of this Article or applicable provisions of this Development Code regulating Transitional Shelter Housing facilities shall be subject to any and all civil and criminal penalties pursuant to OMC Title 1, Chapter 2 (Penalty Provisions), and/or administrative citations pursuant to OMC Title 1, Chapter 5 (Administrative Citations). All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.

9. For those Transitional Shelter Housing facilities that require Conditional Use Permit approval pursuant to Table 13-1 of this Development Code, violation of any of provision of this Section, or the Conditional Use Permit authorizing the Transitional Shelter Housing facility, shall be grounds for revocation of the Conditional Use Permit. In revoking a Conditional Use Permit, the procedures contained in § 9-1.0955 (Revocation: Termination of Use) of this Development Code shall be followed.

**10.** Transitional Shelter Housing facilities, excepting farmworker housing in compliance with Subsection C (Farmworker Housing) of this Section, shall be prohibited within the ALUCP safety zones.

**11.** Transitional Shelter Housing facilities shall be in compliance with all requirements of this Development Code at all times, as well as any applicable provisions of the Ontario Municipal Code, including obtaining any other permits or licenses, such as building permits or a business license, required before establishing, expanding or maintaining the use.

**B.** Emergency Shelters. When allowed by Table 13-1 (Permitted, Conditional and Ancillary Land Uses—All Zoning Districts) of this Development Code, Emergency Shelters shall be subject to the following standards:

**1.** The maximum length of stay for an Emergency Shelter client shall be 6 months.

**2.** On-site management shall be provided during the hours that the Emergency Shelter is in operation.

**3.** On-site security shall be provided during the hours that the Emergency Shelter is in operation.

**4.** No more than 20 client/tenant beds shall be allowed within any Emergency Shelter.

**5.** An intake waiting area equal to a minimum of 10 SF for each client/tenant bed shall be provided.

**6.** The exterior of the intake waiting areas shall be screened from public view by a 6-FT high decorative masonry block wall and appropriate landscaping.

**7.** A storage area for use by clients/tenants shall be provided at a rate of 7 SF for each client/tenant bed. A storage area is not required to be provided adjacent to the respective client/tenant bed.

**8.** An emergency shelter shall provide lavatory, toilet and shower facilities adequate for the number of clients/tenants served; however, a minimum of one such facility shall be provided for each 15 client/tenant beds.

**C.** Employee (Farmworker) Housing. When allowed by Table 13-1 (Permitted, Conditional and Ancillary Land Uses—All Zoning Districts) of this Development Code, farmworker dwelling units and farmworker housing complexes shall be subject to the requirements of this Subsection.



**1. General Requirements.**

**a.** Every person, or agent, or officer thereof, which constructs, operates, or maintains Farmworker Housing, shall comply with the requirements of this Section, and all applicable health, safety, and building codes and standards.

**b.** Farmworker Housing shall be designed, constructed and maintained in conformance with the Employee Housing Act (commencing with HSC § 17000), CCR Titles 24 and 25, and the California Building Code.

**c.** A Farmworker Housing unit providing accommodations for 6 or fewer employees, or for one employee and their respective household, shall be deemed a single-family structure.

**d.** A Farmworker Housing Complex consisting of up to 36 beds in a group quarters, or 12 units or spaces designed for use by a single family or household, shall be deemed an agricultural use.

**e.** Farmworker Housing shall not include hotels, motels, boarding houses, bed and breakfast inns, rooming houses, dormitories, or other similar uses that would imply that the employee housing is a business run for profit, or differs in any way from a single-family dwelling or an agricultural use.

**f.** Farmworker housing provided by the employer and maintained in connection with the work, or place where work is being performed, shall comply with all provisions of California Health and Safety Code Section 17008(a). Farmworker housing not maintained in connection with any workplace, and provided by someone other than an agricultural employer, shall comply with all provisions of California Health and Safety Code Section 17008(b).

**g.** Farmworker Housing for agricultural employees and their families shall be allowed subject to the same fees applicable to any other agricultural use. In the event the Farmworker Housing is converted to another use, the units shall be subject to all applicable Development Code standards in existence at the time of conversion.

**h.** All Farmworker Housing shall comply with all City regulations and permitting requirements, including, but not limited to, building construction, sewage disposal, water supply, NPDES, and storm water quality control, prior to occupancy of the housing units.

**i.** No person shall construct, reconstruct, erect, install, relocate, or alter any building used for human habitation, building accessory thereto, or other housing accommodations, intended to be used for Farmworker Housing, or any electrical, mechanical, or plumbing equipment installed in Farmworker Housing, without first obtaining all necessary City permits.

j. Farmworker housing is not required to be located on the same site as the qualifying agricultural operation where the farmworkers are employed.

k. The minimum lot size for Farmworker Housing shall be 10 acres.

**2. Farmworker Dwelling Unit.**

a. Housing for up to 6 agricultural employees or one farm employee and his or her household is an allowed use in the AG Overlay District.

b. A farmworker dwelling unit is subject to all requirements relevant to this Development Code, which are applicable to single-family dwellings, including, but not limited to, site and building development standards, off-street parking requirements, security standards, wall and fencing requirements, and landscaping requirements. At least one off-street parking space, shall be provided for each dwelling unit.

c. A farmworker dwelling unit provided pursuant to Subparagraph C.1.c of this Section shall not be required to be located on the same site as the qualifying agricultural operation where the farmworkers are employed.

d. A farmworker dwelling unit shall meet the standards for single-family dwellings contained in Section 6.01.010 (Residential Zoning Districts) of this Development Code, and applicable requirements of the Ontario Building Code.

e. A farmworker dwelling unit shall not be subdivided from the primary lot on which it is located.

f. At least one off-street parking space shall be provided for each farmworker dwelling unit.

**3. Farmworker Housing Complex.**

a. A farmworker housing complex, with up to 36 beds in group quarters or 12 units designed for use by single families or households, which comply to the standards for single-family dwellings contained in Section 6.01.010 (Residential Zoning Districts) of this Development Code, is an allowed use in the AG Overlay District.

b. A minimum of 50 SF of floor area shall be provided for sleeping purposes for each occupant of group living quarters, such as barracks and bunkhouses, within a farmworker housing complex.

c. At least one off-street parking space shall be provided for each dwelling unit, or one parking space for each 3 beds, whichever is greater, plus one off-street parking space for each farmworker housing complex employee.

#### **4. Farmworker Verification.**

**a.** All new permanent farmworker dwelling units and farmworker housing complexes shall require the completion of a Farmworker Housing Verification Form prior to building permit application submittal.

**b.** The Farmworker Housing Verification Form shall include information regarding the housing type, number of dwelling units or beds, length of occupancy, number of occupants, occupants' employment information, and, for farmworker housing for 5 or more workers, proof that a permit to operate from the California Department of Housing and Community Development (HCD) has been obtained and maintained (see Paragraph C.8 of this Section).

**c.** The verification form shall be submitted annually, by May 15th of each year, to the Planning Director, in a form acceptable to the Planning Director, that all the dwelling units or sleeping quarters are being rented to, and occupied by, persons who meet the following agricultural employee employment criteria:

(1) Tilling and cultivation of the soil associated with commercial crop production;

(2) Raising, production, and cultivation of commercial livestock for the production of food and/or fiber;

(3) Growing and harvesting of any commercial agricultural or horticultural commodities;

(4) Commercial raising of bees, fur-bearing animals or poultry;

(5) Preparation and processing of farm products for market; or

(6) Timber or forestry operations.

For the purposes of this Subsection, the term "agricultural employee" shall mean a person who works full or part-time (24 or more hours per week) in the service of bona fide commercial agricultural operations, in any of the branches of farming, which includes, but is not limited to:

**d.** At a minimum, the verification form shall contain the following information:

(1) Entity responsible for housing maintenance and upkeep;

(2) Description of whether the housing will be based on a permanent, temporary, and/or seasonal basis;

(3) Total number of people to be housed on-site at any one time;

(4) Description of the housing, including, whether the structures will be permanent and/or temporary, intended as units for families, one person or several persons, and cost of the units and utilities to the workers;

(5) Location(s) where the employees will work;

(6) Assessment of how much water will be used by the proposed development and description of how water is proposed to be supplied to the housing and how the water system complies with all applicable state and local potable water supply requirements; and

(7) Description of the sewage disposal method, such as septic systems, to be used to service the housing, and how the sewage disposal method complies with all applicable state and local potable water supply requirements.

**5. Location of Housing.**

a. Farmworker housing shall be located no less than 75 FT from barns, pens, or other structures that house livestock or poultry.

b. Farmworker housing must be located off prime and productive agricultural land, unless no other alternative locations exist on-site.

c. Farmworker housing shall be set back a minimum of 200 FT from the property line of any adjacent residential zoning district.

**6. Maximum Floor Area for Farmworker Dwelling Units.** The maximum floor area allowed for a farmworker dwelling unit shall be 650 SF. As used in this Paragraph, the term "floor area" shall mean the living area of a dwelling, exclusive of any garage or carport, which is measured from the outside surfaces of exterior walls or walls between living areas and a garage.

**7. Removal of Housing.** Farmworker housing is subject to removal (or conversion to another approved use) within 45 days following cessation of the agricultural employment for which the farmworker dwelling units are needed. This provision shall not apply if it can be shown that elimination of the agricultural use for no more than 24 months is related to the long-term functioning of agriculture on the site(s) used to establish the farmworker housing need (e.g., crop rotation, disease, replanting, etc.).

**8. State Reporting Requirements.** Farmworker housing for 5 or more employees is subject to permitting requirements of the California Employee Housing Act. The property owner shall obtain and maintain all required permits from the State Department of Housing and Community Development (HCD), pursuant to the Employee Housing Act and CCR, Title 25, Division 1, Chapter 1, § 600 through § 940, prior to the occupancy of the farmworker housing units. A copy of the HCD permit shall be provided to the Planning Director within 14 days following permit issuance, or at the time of building permit application submittal, whichever is earlier.

**9. Maximum Number of Housing Units Allowed.** No more than 36 beds in a group quarters or 12 farmworker dwelling units or spaces designed for use by a single family or household shall be allowed on a single lot of record. The Planning Commission may authorize additional beds or units, or a combination thereof, by issuance of a Conditional Use Permit pursuant to Article 9 (Conditional Use Permits) of this Development Code, based upon specific findings that document the necessity for the number of approved beds and/or farmworker dwelling units requested.

**10. Facilities to Accommodate Recreational Vehicles, Tents or Other Mobile Camping Equipment.**

**a.** Permits for the installation of appropriate permanent facilities to accommodate mobilehomes and recreational vehicles shall be obtained from the City prior to installation.

**b.** The use of tents, recreational vehicles, or other mobile camping equipment by farmworkers shall not occur for a period of more than 30 days within any 180 day period. Incidental camping shall be conducted so as not to create any health, fire or other safety hazards. For 5 or more workers, a permit to operate from HCD must be obtained and maintained pursuant to Paragraph C.8 of this Section.

**SECTION 7.** Table 13-1 (Permitted, Conditional and Ancillary Land Uses—All Zoning Districts), Residential Uses, K. Temporary Shelters, shall be amended pursuant to Exhibit 2.

**SECTION 8.** If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid, unconstitutional or otherwise struck-down by a court of competent jobs, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more portions of this ordinance might be declared invalid.

**SECTION 9.** 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 10.** 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 11.** The City Clerk shall certify to the adoption of this ordinance.



SECTION 12. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

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

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
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 \_\_\_\_\_, 2013 by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

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)

## EXHIBIT 1

### Article 29:

## ES (Emergency Shelter) Overlay District

---

#### Sections:

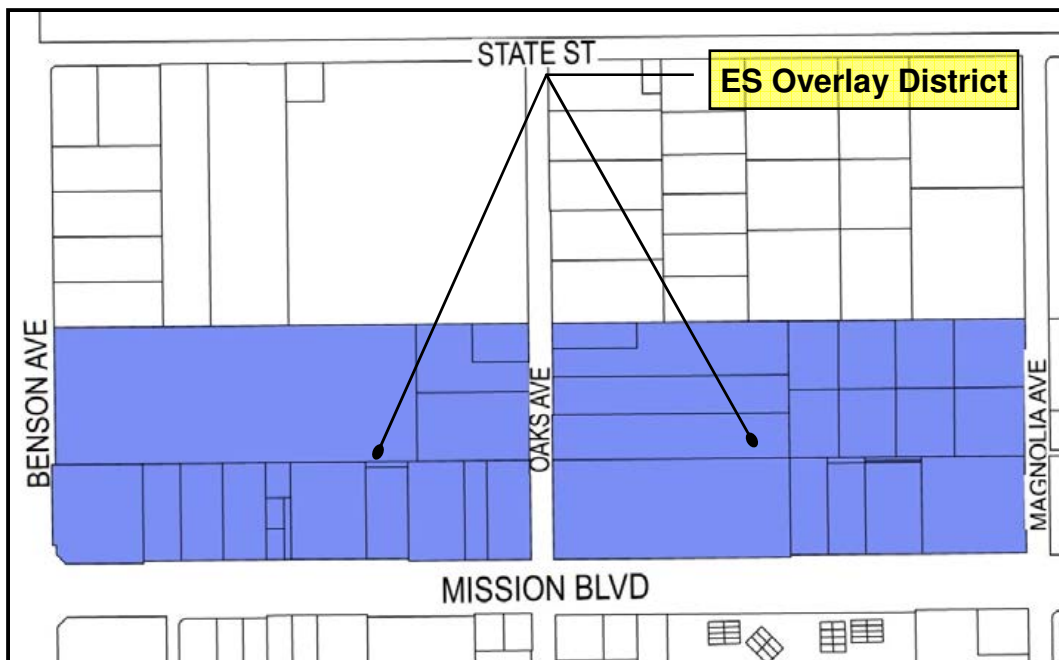
- Sec. 9-1.2900: Purpose
- Sec. 9-1.2905: Applicability
- Sec. 9-1.2910: Allowed Land Uses
- Sec. 9-1.2915: Development Standards and Guidelines

### Sec. 9-1.2900: Purpose

The purpose of the ES Overlay District is to accommodate Emergency Shelters, Supportive Housing, Transitional Housing, and Transitional Living Centers pursuant to the Housing Element of the Policy Plan (General Plan) component of the Ontario Plan.

### Sec. 9-1.2905: Applicability

The ES Overlay District established by this Article shall apply to properties generally located on the north side of Mission Boulevard, between Benson and Magnolia Avenues, as shown on Figure 29-1 (ES Overlay District Boundaries), below.



*Figure 29-1: ES Overlay District Boundaries*

### Sec. 9-1.2910: Allowed Land Uses

Within the ES Overlay District, Emergency Shelters, Supportive Housing, Transitional Housing, and Transitional Living Centers are permitted by right of being within the correct zoning district.

**Sec. 9-1.2915: Development Standards and Guidelines**

Within the ES Overlay District, all land uses shall be subject to the development standards and guidelines applicable to the underlying zoning district, and the special requirements contained in Sec. 9-1.1305, Transitional Shelter Housing, of this Development Code, as applicable.

## EXHIBIT 2

### Amendments to Table 13-1 (Permitted, Conditional and Ancillary Land Uses—All Zoning Districts):

Uses	Residential Zoning Districts							Professional and Commercial Zoning Districts							Industrial Zoning Districts			Other Zoning Districts				Additional Regulations
	AR	RE	R1	R1.5	R2	R3	HDR 45	AP	NC	C1	C2	C3	C4	EA	M1	M2	M3	AG	PF	OS	MH	
RESIDENTIAL USES																						
K. Transitional Housing Shelters																						
1. Emergency Shelters	---	---	---	C	C	C	---	---	---	---	C	C	---	---	P	C	C	---	C	---	C	See Sec. 9-1.1305; Transitional Shelter Housing
2. Employee (Farmworker) Housing																						
(i) Farmworker Dwelling Units (for 6 or fewer employees)	P	P	P	P	P	P	---	---	---	---	---	---	---	---	---	---	---	P	---	---	---	
(ii) Farmworker Housing Complex (up to 36 beds or 12 units or spaces)	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	P	---	---	---	
3. Supportive Housing	P	P	P	P	P	P	---	---	---	---	C	C	---	---	P	C	C	---	C	---	P	
4. Transitional Housing	P	P	P	P	P	P	---	---	---	---	C	C	---	---	P	C	C	---	C	---	P	
5. Transitional Living Centers	---	---	---	---	---	---	---	---	---	---	---	---	---	---	C	C	C	---	---	---	---	



# CITY OF ONTARIO

*Agenda Report*  
August 20, 2013

**SECTION:  
PUBLIC HEARING**

**SUBJECT: RESOLUTIONS REGARDING THE FORMATION OF COMMUNITY FACILITIES DISTRICT NO. 21 OF THE CITY OF ONTARIO (PARKSIDE) AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES WITHIN COMMUNITY FACILITIES DISTRICT NO. 21 OF THE CITY OF ONTARIO (PARKSIDE)**

**RECOMMENDATION:** That City Council take the following actions:

- (A) Adopt a resolution establishing Community Facilities District No. 21 of the City of Ontario (Parkside), authorizing the levy of a special tax within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution calling a special election for Community Facilities District No. 21 of the City of Ontario (Parkside);
- (C) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien; and
- (D) Introduce and waive further reading of an ordinance levying special taxes within Community Facilities District No. 21 of the City of Ontario (Parkside).

**COUNCIL GOALS:** Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downtown on Ontario's Economy and the City's Fiscal Health  
Operate in a Businesslike Manner  
Focus Resources in Ontario's Commercial and Residential Neighborhoods

**FISCAL IMPACT:** The use of Mello-Roos financing for the residential development of CFD No. 21 is projected to generate approximately \$50,000 per year for funding City services. The proposed

**STAFF MEMBER PRESENTING:** Grant D. Yee, Administrative Services/Finance Director

Prepared by: Bob Chandler  
Department: Management Services

City Manager  
Approval: 

Submitted to Council/O.H.A. 08/20/2013

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

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

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

9

maximum tax rates to be assessed on the residences are \$210 for each detached unit and \$164 for each attached unit. The use of Mello-Roos financing for the Parkside Development will not generate funds for facilities, and bonds will not be issued as part of this formation.

**BACKGROUND:** The Mello-Roos Community Facilities Act of 1982 provides local governments, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to finance various kinds of public infrastructure facilities and government services. The Parkside project addresses the residential development of approximately 19.6 acres north of Inland Empire Boulevard, south of 4<sup>th</sup> Street, east of Archibald Avenue and west of Turner Avenue. At build-out, the development will include 150 detached units and 152 attached units.

On July 2, 2013, the City Council approved Resolution No. 2013-071, a Resolution of Intention to establish Community Facilities District No. 21 (Parkside) and authorize the levy of special taxes within the district. Included, as part of the Resolution of Intention, was the proposed Rate and Method of Apportionment of Special Tax for Community Facilities District No. 21 of the City of Ontario (Parkside). The terms of the Rate and Method of Apportionment of Special Tax are consistent with the City Council's adopted Mello-Roos local goals and policies, and City staff have presented and discussed the proposed Rate and Method of Apportionment of Special Tax with the landowners.

The Resolution of Intention set the public hearing on the establishment of the CFD for August 20, 2013. Pursuant to the requirements of the Resolution, the City Clerk has published a notice of the time and place of this hearing pursuant to Section 53322 of the California Government Code at least seven (7) days before the hearing. Additionally, the City gave notice of the time and place of the meeting to each registered voter and to each landowner within the CFD's boundaries at least fifteen (15) days before the hearing, and the district boundary map was recorded on July 9, 2013. The election will be held immediately after the close of the public hearing in order for the City Council to be presented with the results of the election during the meeting. The City Council may then adopt a resolution declaring the results of the election after receiving a statement from the City Clerk as to the canvass of ballots.

Attached are three resolutions and an ordinance. The first resolution establishes the CFD and the rate and method of apportionment of the special tax. The second resolution calls for a special landowner election to be held on August 20, 2013. The third resolution declares the results of the election and a statement from the City Clerk as to the canvass of ballots. The ordinance authorizes the levying of special taxes. As noted, the issuance of bonds is not being contemplated for this project, so there is no resolution to issue bonds as part of this formation.

**SPACE ABOVE FOR RECORDER'S USE ONLY**

**NOTICE OF SPECIAL TAX LIEN**

**CITY OF ONTARIO  
COMMUNITY FACILITIES DISTRICT NO. 21  
OF THE CITY OF ONTARIO (PARKSIDE)**

Pursuant to the requirements of Section 3114.5 of the California Streets and Highways Code and Section 53328.3 of the Mello-Roos Community Facilities Act of 1982 (the "Act"), the undersigned City Clerk of the City of Ontario (the "City"), State of California, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the City Council of the City of Ontario, State of California. The special tax secured by this lien is authorized to be levied for the purpose of providing the services described on Exhibit A.

The special tax is authorized to be levied within the Community Facilities District No. 21 of the City of Ontario (Parkside) (the "Community Facilities District") which has now been officially formed and the lien of the special tax is a continuing lien which shall secure each annual levy of the special tax and which shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with law or until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Act.

The rate and method of apportionment, and manner of collection of the authorized special tax is as set forth in Exhibit B attached hereto and hereby made a part hereof. Conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled are as set forth in Exhibit B hereto.

Notice is further given that upon the recording of this notice in the office of the County Recorder of the County of San Bernardino, the obligation to pay the special tax levy shall become a lien upon all nonexempt real property within the Community Facilities District in accordance with Section 3115.5 of the California Streets and Highways Code.

The name(s) of the owner(s) and the assessor's tax parcel number(s) of the real property included within the Community Facilities District and not exempt from the special tax are as set forth in Exhibit C attached hereto and hereby made a part hereof.

Reference is made to the boundary map of the Community Facilities District recorded at Book 85 of Maps of Assessment and Community Facilities Districts at Page 88-89, in the office of the County Recorder for the County of San Bernardino, State of California, which map is now the final boundary map of the District.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the Management Services Director of the City of Ontario, 303 East B Street, Ontario, California 91764, (909) 395-2353.

Dated: August 20, 2013

By: \_\_\_\_\_  
City Clerk

## **EXHIBIT A**

### **FACILITIES AND SERVICES TO BE FINANCED**

The services to be financed by the Community Facilities District are as follows:

#### **Services**

The services authorized to be financed, in whole or in part, by Community Facilities District No. 21 of the City of Ontario (Parkside) are as follows: (1) the operation and maintenance of the public street lighting facilities and appurtenances that serve the property and whose installation is identified in the Parkside Development's Conditions of Approval; (2) the maintenance and servicing of the landscaping and appurtenant improvements of the raised, landscaped median to be constructed by the landowner on Inland Empire Boulevard pursuant to the Parkside Development's Conditions of Approval; and (3) the maintenance and servicing of the landscaping and appurtenant improvements for the City right-of-way parkways bordering the project on the north side of Inland Empire Boulevard and the west side of Tuner Avenue.

#### **Incidental Expenses**

The incidental expenses to be financed by Community Facilities District No. 21 of the City of Ontario (Parkside) include all costs related to financing and administering the Services, including the determination of the amount of special taxes to be levied and all costs otherwise incurred in order to carry out the authorized purposes of the District and administering the District.

## **EXHIBIT B**

### **PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

CITY OF ONTARIO

COMMUNITY FACILITIES DISTRICT NO. 21  
OF THE CITY OF ONTARIO  
(PARKSIDE)

#### **RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

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A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 21 of the City of Ontario (Parkside) ("CFD No. 21" or CFD) and collected each Fiscal Year commencing in Fiscal Year 2014-2015, in an amount determined by the City Council of the City of Ontario through the application of this Rate and Method of Apportionment, as described below. All of the real property in CFD No. 21, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

#### **A. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 21 including, but not limited to: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 21 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs associated with preparing Special tax disclosure statements and responding to public inquires regarding the Special Taxes; the costs to the City or the CFD related to an appeal of the Special Tax; the City's administration fees and third party expenses related to the CFD; the costs of City staff time and reasonable overhead related to the CFD; and amounts estimated or advanced by the City or the CFD for any other administrative purposes of the CFD, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Assessor's Parcel" or "Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by Assessor's Parcel Number.



“Assessor’s Parcel Number” means that number assigned to an Assessor’s Parcel by the County for purposes of identification.

“Attached Property” shall mean any dwelling Unit that shares, or will share, an inside wall with another dwelling Unit, usually corresponding to an allowable land use designation of Low Medium Density Residential (LMDR), Medium Density Residential (MDR), or Mixed Use (MU).

“CFD Administrator” means an official of the City responsible for determining the Special Tax Requirement, providing for the levy and collection of the Special Tax, and performing the other duties provided for herein.

“CFD No. 21” or “CFD” means Community Facilities District No. 21 of the City of Ontario (Parkside).

“City” means the City of Ontario, California.

“City Council” means the City Council of the City, acting as the legislative body of CFD No. 21.

“Conditions of Approval” means the conditions of approval stated in Tract Map 18850.

“County” means the County of San Bernardino.

“Detached Property” shall mean any residential building containing one dwelling Unit on one Parcel, including a single family residence, single family residential condominium, detached townhome, or manufactured unit on an individual lot.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Land Use Class” means any of the classes listed in Table 1 below.

“Maximum Special Tax” means the maximum Special Tax determined in accordance with Section C below that can be levied in any Fiscal Year on any Assessor’s Parcel of Taxable Property.

“Proportionately” means the ratio of the actual Special Tax levied on Taxable Property to the Maximum Special Tax for Taxable Property is equal for all Assessor’s Parcels of Taxable Property.

“Residential Property” means, for each Fiscal Year, all Assessor’s Parcels for which a building permit for new construction was issued after January 1, 2013, and before May 1 of the prior Fiscal Year for the purpose of constructing one or more Units.

“Services” means the services authorized to be financed, in whole or in part, by CFD No. 21: (1) the operation and maintenance of the public street lighting facilities and appurtenances that serve the property and whose installation is identified in the Conditions of Approval; (2) the maintenance and servicing of the landscaping and appurtenant improvements of the raised, landscaped median to be constructed by the landowner on Inland Empire Boulevard pursuant to the Conditions of Approval; and (3) the maintenance and servicing of the landscaping and appurtenant improvements for the City right-of-way parkways bordering the project on the north side of Inland Empire Boulevard and the west side of Tuner Avenue.

“Special Tax” means the special tax so designated authorized by the qualified electors of CFD No. 21 pursuant to the Act to be levied within the boundaries of CFD No. 21 to fund the Special Tax Requirement. .

“Special Tax Requirement” means the amount necessary in any Fiscal Year to pay the cost of the Services, Administrative Expenses, and Special Tax delinquencies based on the historical delinquency rate for Special Taxes as determined by the CFD Administrator.

“Square Footage” or “Sq. Ft.” means the gross floor area square footage reflected on the original construction building permit, plus any square footage subsequently added to a building after issuance of a building permit for expansion or renovation of such building.

“State” means the State of California.

“Taxable Property” means, for each Fiscal Year, all Parcels of Residential Property within the boundaries of the CFD not exempt from the Special Tax pursuant to law.

“Unit” means an individual residential unit of any configuration, including, but not limited to, a single family attached or detached dwelling, condominium, apartment, mobile home, or otherwise.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year all Taxable Property within the CFD shall be classified as Detached Property or Attached Property and shall be subject to Special Taxes in accordance with the Rate Method of Appointment as determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for each Assessor’s Parcel classified as Taxable Property shall be determined by reference to Table 1 below.

Table 1  
MAXIMUM SPECIAL TAX

Land Use Class	Maximum Special Tax
Detached Property	\$209.79 per Unit
Attached Property	\$164.29 per Unit

*\*On July 1, 2014, and each July 1 thereafter, all figures shown in Table 1 above shall be increased by the higher of 2.0% of the amount in effect for the prior Fiscal Year or the percentage change for the preceding twelve months in the Consumer Price Index for All Urban Consumers in the Los Angeles-Riverside-Orange County area. In the event that the Consumer Price Index ceases to be published, the Consumer Price Index shall be another index determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the Los Angeles-Riverside-Orange County area.*

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

1. Special Tax

Commencing with Fiscal Year 2014-2015 and for each following Fiscal Year, the CFD Administrator shall determine the Special Tax Requirement. The Special Tax shall then be levied Proportionately on each Assessor's Parcel of Taxable Property up to 100% of the applicable Maximum Special Tax for Taxable Property.

2. Total Special Tax

Notwithstanding D.1 above, in no event shall the total of the Special Tax levied on a Unit of Taxable Property exceed the Maximum Special Tax for that Unit in each Fiscal Year.

E. APPEALS

Any property owner may file a written appeal of the Special Tax with the CFD claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one (1) calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy is made.

The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council whose subsequent decision shall be final and binding on all interested parties. If the decision of the CFD Administrator or subsequent decision by the City Council requires the Special Tax to be modified or changed in favor of the property owner, then the CFD Administrator shall determine if sufficient Special Tax revenue is available to make a cash refund. If a cash refund cannot be made, then an adjustment shall be made to credit future Special Tax levy(ies).

This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

F. MANNER OF COLLECTION

The Special Taxes shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 21 may directly bill the Special Tax and may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations.

G. TERM OF SPECIAL TAX

The Special Tax shall continue to be levied indefinitely on an annual basis on all Taxable Property within the CFD.

## **EXHIBIT C**

### **PROPERTY OWNER ASSESSOR'S PARCEL NUMBERS**

<b>Name of Property Owners</b>	<b>Assessor's Parcel Nos.</b>
OF2010, LLC	1 and 2 of Parcel Map 16979
KB Home Coastal, Inc.	
Don R. Green and Donna J. Green Trustees	

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF COMMUNITY FACILITIES DISTRICT NO. 21 OF THE CITY OF ONTARIO (PARKSIDE), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

WHEREAS, on July 2, 2013, the City Council (the "City Council") of the City of Ontario, California (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted Resolution No. 2013-035 entitled "A Resolution of Intention of the City Council of the City of Ontario, California, to Establish Community Facilities District No. 21 and to Authorize the Levy of Special Taxes" (the "Resolution of Intention"), stating its intention to establish a community facilities district (the "Community Facilities District") proposed to be named Community Facilities District No. 21 of the City of Ontario (Parkside), to authorize the levy of special taxes within the Community Facilities District to finance certain public services and setting the date for a public hearing to be held on the establishment of the Community Facilities District; and

WHEREAS, pursuant to the Resolution of Intention, notice of said public hearing was published on August 6, 2013, in the *Inland Valley Daily Bulletin*, a newspaper of general circulation published in the area of the Community Facilities District, in accordance with the Act; and

WHEREAS, on this date, the City Council opened, conducted and closed said public hearing; and

WHEREAS, pursuant to the Resolution of Intention, each officer of the City who is or will be responsible for providing one or more of the proposed types of services was directed to study, or cause to be studied, the proposed Community Facilities District and, at or before said public hearing, file a report with the City Council containing a brief description of the public services by type which will in his or her opinion be required to adequately meet the needs of the Community Facilities District, and his or her estimate of the cost of providing such public services; such officers were also directed to estimate the fair and reasonable cost of the incidental expenses proposed to be paid; and

WHEREAS, said report was so filed with the City Council and made a part of the record of said public hearing; and

WHEREAS, at the hearing, the testimony of all interested persons and taxpayers for or against the establishment of the Community Facilities District, the extent of the Community Facilities District and the furnishing of the specified types of public services was heard; and



WHEREAS, written protests against the establishment of the Community Facilities District, the furnishing of any specified type or types of facilities and services within the Community Facilities District or the levying of any specified special tax were not made or filed at or before said hearing by 50% or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the Community Facilities District, or the owners of one-half or more of the area of land in the territory proposed to be included in the Community Facilities District and not exempt from the special tax; and

WHEREAS, there has been filed with the City Clerk of the City a certification from the Registrar of Voters of the County of San Bernardino indicating that 12 or more persons have not been registered to vote within the territory of the proposed Community Facilities District for each of the 90 days preceding the close of said public hearing; and

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The Community Facilities District is hereby established pursuant to the Act.

SECTION 3. The Community Facilities District is hereby named "Community Facilities District No. 21 of the City of Ontario (Parkside)".

SECTION 4. The services (the "Services") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Services" on Exhibit A hereto. The incidental expenses proposed to be incurred are identified under the caption "Incidental Expenses" on Exhibit A hereto.

The Community Facilities District shall finance the Services only to the extent that such Services are in addition to those provided in the territory of the Community Facilities District before the Community Facilities District was created and such Services may not supplant services already available within the territory of the Community Facilities District when the Community Facilities District was created.

SECTION 5. The proposed special tax to be levied within the Community Facilities District has not been precluded by majority protest pursuant to Section 53324 of the Act.

SECTION 6. Except where funds are otherwise available, a special tax sufficient to pay for all Services, secured by recordation of a continuing lien against all nonexempt real property in the Community Facilities District, will be annually levied within the Community Facilities District. The rate and method of apportionment of the special tax (the "Rate and Method"), in sufficient detail to allow each landowner within the proposed Community Facilities District to estimate the maximum amount that he or

she will have to pay, is described in Exhibit B attached hereto, which is by this reference incorporated herein. The conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied are as specified in the Rate and Method. The special tax will be collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as the City Council shall determine, including direct billing of the affected property owners.

SECTION 7. The name, address and telephone number of the office which will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and which will be responsible for estimating future special tax levies pursuant to Section 53340.1 of the Act are as follows: Management Services Director, City of Ontario, 303 East B Street, Ontario, California 91764, (909) 395-2353.

SECTION 8. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the Community Facilities District and this lien shall continue in force and effect until collection of the tax by the City Council ceases.

SECTION 9. The boundary map of the Community Facilities District has been recorded in San Bernardino County in Book 85 at Pages 88-89 of Maps of Assessments and Community Facilities Districts in the San Bernardino County Recorder's Office.

SECTION 10. The annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the Community Facilities District is hereby established at \$1,000,000.

SECTION 11. Pursuant to the provisions of the Act, the levy of the special tax and a proposition to establish the appropriations limit specified above shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The City Council hereby finds and determines that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each landowner who is the owner of record as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District. The voting procedure shall be by mailed or hand-delivered ballot.

SECTION 12. The City Council hereby finds and determines that all proceedings up to and including the adoption of this Resolution were valid and in conformity with the requirements of the Act. In accordance with Section 53325.1 of the Act, such finding shall be final and conclusive.

SECTION 13. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 14. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 20<sup>th</sup> day of August 2013.

---

PAUL S. LEON, MAYOR

ATTEST:

---

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

---

BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held August 20, 2013 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2013-        duly passed and adopted by the Ontario City Council at their regular meeting held August 20, 2013.

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

(SEAL)

## EXHIBIT A

### FACILITIES, SERVICES AND INCIDENTAL EXPENSES

The services to be financed by the Community Facilities District are as follows:

#### **Services**

The services authorized to be financed, in whole or in part, by Community Facilities District No. 21 of the City of Ontario (Parkside) are as follows: (1) the operation and maintenance of the public street lighting facilities and appurtenances that serve the property and whose installation is identified in the Parkside Development's Conditions of Approval; (2) the maintenance and servicing of the landscaping and appurtenant improvements of the raised, landscaped median to be constructed by the landowner on Inland Empire Boulevard pursuant to the Parkside Development's Conditions of Approval; and (3) the maintenance and servicing of the landscaping and appurtenant improvements for the City right-of-way parkways bordering the project on the north side of Inland Empire Boulevard and the west side of Tuner Avenue.

#### **Incidental Expenses**

The incidental expenses to be financed by Community Facilities District No. 21 of the City of Ontario (Parkside) include all costs related to financing and administering the Services, including the determination of the amount of special taxes to be levied and all costs otherwise incurred in order to carry out the authorized purposes of the District and administering the District.

## EXHIBIT B

### PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

CITY OF ONTARIO

COMMUNITY FACILITIES DISTRICT NO. 21  
OF THE CITY OF ONTARIO  
(PARKSIDE)

#### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

---

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 21 of the City of Ontario (Parkside) ("CFD No. 21" or CFD) and collected each Fiscal Year commencing in Fiscal Year 2014-2015, in an amount determined by the City Council of the City of Ontario through the application of this Rate and Method of Apportionment, as described below. All of the real property in CFD No. 21, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

#### A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 21 including, but not limited to: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 21 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs associated with preparing Special tax disclosure statements and responding to public inquires regarding the Special Taxes; the costs to the City or the CFD related to an appeal of the Special Tax; the City's administration fees and third party expenses related to the CFD; the costs of City staff time and reasonable overhead related to the CFD; and amounts estimated or advanced by the City or the CFD for any other administrative purposes of the CFD, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Assessor's Parcel" or "Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by Assessor's Parcel Number.

“Assessor’s Parcel Number” means that number assigned to an Assessor’s Parcel by the County for purposes of identification.

“Attached Property” shall mean any dwelling Unit that shares, or will share, an inside wall with another dwelling Unit, usually corresponding to an allowable land use designation of Low Medium Density Residential (LMDR), Medium Density Residential (MDR), or Mixed Use (MU).

“CFD Administrator” means an official of the City responsible for determining the Special Tax Requirement, providing for the levy and collection of the Special Tax, and performing the other duties provided for herein.

“CFD No. 21” or “CFD” means Community Facilities District No. 21 of the City of Ontario (Parkside).

“City” means the City of Ontario, California.

“City Council” means the City Council of the City, acting as the legislative body of CFD No. 21.

“Conditions of Approval” means the conditions of approval stated in Tract Map 18850.

“County” means the County of San Bernardino.

“Detached Property” shall mean any residential building containing one dwelling Unit on one Parcel, including a single family residence, single family residential condominium, detached townhome, or manufactured unit on an individual lot.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Land Use Class” means any of the classes listed in Table 1 below.

“Maximum Special Tax” means the maximum Special Tax determined in accordance with Section C below that can be levied in any Fiscal Year on any Assessor’s Parcel of Taxable Property.

“Proportionately” means the ratio of the actual Special Tax levied on Taxable Property to the Maximum Special Tax for Taxable Property is equal for all Assessor’s Parcels of Taxable Property.

“Residential Property” means, for each Fiscal Year, all Assessor’s Parcels for which a building permit for new construction was issued after January 1, 2013, and before May 1 of the prior Fiscal Year for the purpose of constructing one or more Units.



“Services” means the services authorized to be financed, in whole or in part, by CFD No. 21: (1) the operation and maintenance of the public street lighting facilities and appurtenances that serve the property and whose installation is identified in the Conditions of Approval; (2) the maintenance and servicing of the landscaping and appurtenant improvements of the raised, landscaped median to be constructed by the landowner on Inland Empire Boulevard pursuant to the Conditions of Approval; and (3) the maintenance and servicing of the landscaping and appurtenant improvements for the City right-of-way parkways bordering the project on the north side of Inland Empire Boulevard and the west side of Tuner Avenue.

“Special Tax” means the special tax so designated authorized by the qualified electors of CFD No. 21 pursuant to the Act to be levied within the boundaries of CFD No. 21 to fund the Special Tax Requirement. .

“Special Tax Requirement” means the amount necessary in any Fiscal Year to pay the cost of the Services, Administrative Expenses, and Special Tax delinquencies based on the historical delinquency rate for Special Taxes as determined by the CFD Administrator.

“Square Footage” or “Sq. Ft.” means the gross floor area square footage reflected on the original construction building permit, plus any square footage subsequently added to a building after issuance of a building permit for expansion or renovation of such building.

“State” means the State of California.

“Taxable Property” means, for each Fiscal Year, all Parcels of Residential Property within the boundaries of the CFD not exempt from the Special Tax pursuant to law.

“Unit” means an individual residential unit of any configuration, including, but not limited to, a single family attached or detached dwelling, condominium, apartment, mobile home, or otherwise.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year all Taxable Property within the CFD shall be classified as Detached Property or Attached Property and shall be subject to Special Taxes in accordance with the Rate Method of Appointment as determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for each Assessor’s Parcel classified as Taxable Property shall be determined by reference to Table 1 below.

Table 1  
MAXIMUM SPECIAL TAX

Land Use Class	Maximum Special Tax
Detached Property	\$209.79 per Unit
Attached Property	\$164.29 per Unit

*\*On July 1, 2014, and each July 1 thereafter, all figures shown in Table 1 above shall be increased by the higher of 2.0% of the amount in effect for the prior Fiscal Year or the percentage change for the preceding twelve months in the Consumer Price Index for All Urban Consumers in the Los Angeles-Riverside-Orange County area. In the event that the Consumer Price Index ceases to be published, the Consumer Price Index shall be another index determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the Los Angeles-Riverside-Orange County area.*

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

1. Special Tax

Commencing with Fiscal Year 2014-2015 and for each following Fiscal Year, the CFD Administrator shall determine the Special Tax Requirement. The Special Tax shall then be levied Proportionately on each Assessor's Parcel of Taxable Property up to 100% of the applicable Maximum Special Tax for Taxable Property.

2. Total Special Tax

Notwithstanding D.1 above, in no event shall the total of the Special Tax levied on a Unit of Taxable Property exceed the Maximum Special Tax for that Unit in each Fiscal Year.

E. APPEALS

Any property owner may file a written appeal of the Special Tax with the CFD claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one (1) calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy is made.

The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council whose subsequent decision shall be final and binding on all interested parties. If the decision of the CFD Administrator or subsequent decision by the City Council requires the Special Tax to be modified or changed in favor of the property owner, then the CFD Administrator shall determine if sufficient Special Tax revenue is available to make a cash refund. If a cash refund cannot be made, then an adjustment shall be made to credit future Special Tax levy(ies).

This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

F. MANNER OF COLLECTION

The Special Taxes shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 21 may directly bill the Special Tax and may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations.

G. TERM OF SPECIAL TAX

The Special Tax shall continue to be levied indefinitely on an annual basis on all Taxable Property within the CFD.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, CALLING SPECIAL ELECTION FOR COMMUNITY  
FACILITIES DISTRICT NO. 21 OF THE CITY OF ONTARIO (PARKSIDE).

WHEREAS, on this date, the City Council (the "City Council") of the City of Ontario, California (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of Community Facilities District No. 21 of the City of Ontario (Parkside), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation"), establishing Community Facilities District No. 21 of the City of Ontario (Parkside) (the "Community Facilities District"), authorizing the levy of a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District; and

WHEREAS, pursuant to the provisions of the Resolution of Formation, the propositions to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District are to be submitted to the qualified electors of the Community Facilities District as required by the Act; and

WHEREAS, the City Council desires to designate the City Clerk of the City (the "City Clerk") as the election official for the special election provided for herein; and

WHEREAS, there has been filed with the City Clerk a certification from the Registrar of Voters of the County of San Bernardino indicating that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing on the establishment of the Community Facilities District; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5, Chapter 2.5, Division 3, Title 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on August 20, 2013 and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on August 20, 2013; and

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

SECTION 1. Pursuant to Sections 53351, 53326 and 53325.7 of the Act, the propositions to levy a special tax within the Community Facilities District and to establish an appropriations limit of \$1,000,000 for the Community Facilities District shall be submitted to the qualified electors of the Community Facilities District at an election called therefor as provided below.

SECTION 2. The City Clerk is hereby designated as the official to conduct said election.

SECTION 3. As authorized by Section 53353.5 of the Act, the propositions to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District shall be combined into one ballot proposition.

SECTION 4. The City Council hereby finds and determines that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing heretofore held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each landowner who is the owner of record as of the close of said public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District.

SECTION 5. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5, Chapter 2.5, Division 3, Title 5 of the Act (commencing with Section 53345 of the Act), (b) to the holding of said election on August 20, 2013, and (c) to the waiver of any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on August 20, 2013.

SECTION 6. The City Council hereby calls a special election to submit to the qualified electors of the Community Facilities District the combined proposition to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District, which election shall be held at 303 East B Street, Ontario, California, on August 20, 2013. The City Council has caused to be provided to the City Clerk, as the official to conduct said election, the Resolution of Formation, a certified map of sufficient scale and clarity to show the boundaries of the Community Facilities District, and a sufficient description to allow the City Clerk to determine the boundaries of the Community Facilities District.

The voted ballots shall be returned to the City Clerk no later than 6:30 p.m. on August 20, 2013; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 7. Pursuant to Section 53327 of the Act, the election shall be conducted by mail or hand-delivered ballot pursuant to Section 4000 of the California Elections Code. The City Council hereby finds that paragraphs (a), (b), (c) (1) and (c)(3) of said Section 4000 are applicable to this special election.

SECTION 8. The form of the ballot for said election is attached hereto as Exhibit A and by this reference incorporated herein, and such form of ballot is hereby approved. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective landowner to which it pertains.

Each ballot shall be accompanied by all supplies and written instructions necessary for the use and return of the ballot. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the return postage prepaid, and shall contain: (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the voter, (d) the date of signing and place of execution of the declaration described in clause (b) above, and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

Analysis and arguments with respect to the ballot proposition are hereby waived, as provided in Section 53327 of the Act.

SECTION 9. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk at 303 East B Street, Ontario, California, to and including 6:30 p.m. on August 20, 2013, whether said ballots be personally delivered or received by mail. The City Clerk shall have available ballots which may be marked at said location on the election day by said qualified electors.

SECTION 10. The City Council hereby determines that the services financed by the Community Facilities District are necessary to meet increased demands placed upon local agencies as a result of development occurring in the Community Facilities District.

SECTION 11. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 12. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 20<sup>th</sup> day of August 2013.

---

PAUL S. LEON, MAYOR

ATTEST:

---

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY



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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held August 20, 2013 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2013-        duly passed and adopted by the Ontario City Council at their regular meeting held August 20, 2013.

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

(SEAL)

EXHIBIT A

OFFICIAL BALLOT

CITY OF ONTARIO

August 20, 2013

SPECIAL ELECTION

This ballot is for a special, landowner election. The number of votes to be voted pursuant to this ballot is 13.

INSTRUCTIONS TO VOTERS:

To vote on the measure, mark a cross (+) in the voting square after the word "YES" or after the word "NO". All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Ontario and obtain another.

CITY OF ONTARIO

COMMUNITY FACILITIES DISTRICT NO. 21  
OF THE CITY OF ONTARIO (PARKSIDE)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall special taxes be levied annually on taxable property within Community Facilities District No. 21 of the City of Ontario (Parkside) (the "Community Facilities District"), to finance certain services within the Community Facilities District and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$1 million, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the Community Facilities District No. 21 (Parkside), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District," adopted by the City Council of the City of Ontario on August 20, 2013?

Yes: ☐

No: ☐

EXHIBIT A

OFFICIAL BALLOT

CITY OF ONTARIO

August 20, 2013

SPECIAL ELECTION

This ballot is for a special, landowner election. The number of votes to be voted pursuant to this ballot is 2.

INSTRUCTIONS TO VOTERS:

To vote on the measure, mark a cross (+) in the voting square after the word "YES" or after the word "NO". All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Ontario and obtain another.

CITY OF ONTARIO

COMMUNITY FACILITIES DISTRICT NO. 21  
OF THE CITY OF ONTARIO (PARKSIDE)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall special taxes be levied annually on taxable property within Community Facilities District No. 21 of the City of Ontario (Parkside) (the "Community Facilities District"), to finance certain services within the Community Facilities District and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$1 million, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the Community Facilities District No. 21 (Parkside), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District," adopted by the City Council of the City of Ontario on August 20, 2013?

Yes: ☐

No: ☐

EXHIBIT A

OFFICIAL BALLOT

CITY OF ONTARIO

August 20, 2013

SPECIAL ELECTION

This ballot is for a special, landowner election. The number of votes to be voted pursuant to this ballot is 9.

INSTRUCTIONS TO VOTERS:

To vote on the measure, mark a cross (+) in the voting square after the word "YES" or after the word "NO". All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Ontario and obtain another.

CITY OF ONTARIO

COMMUNITY FACILITIES DISTRICT NO. 21  
OF THE CITY OF ONTARIO (PARKSIDE)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall special taxes be levied annually on taxable property within Community Facilities District No. 21 of the City of Ontario (Parkside) (the "Community Facilities District"), to finance certain services within the Community Facilities District and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$1 million, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the Community Facilities District No. 21 (Parkside), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District," adopted by the City Council of the City of Ontario on August 20, 2013?

Yes: ☐

No: ☐

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION AND  
DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN.

WHEREAS, on August 20, 2013, the City Council (the "City Council") of the City of Ontario, California (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for Community Facilities District No. 21 of the City of Ontario (Parkside)" (the "Resolution Calling Election"), calling for a special election of the qualified electors within Community Facilities District No. 21 of the City of Ontario (Parkside) (the "Community Facilities District"); and

WHEREAS, pursuant to the terms of the Resolution Calling Election and the provisions of the Act, the special election was held on August 20, 2013; and

WHEREAS, the City Clerk of the City (the "City Clerk") has certified the canvass of the returns of the election and has filed a Canvass and Statement of Results of Election (the "Canvass"), a copy of which is attached hereto as Exhibit A.

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

SECTION 1. City Council has received, reviewed and hereby accepts the Canvass.

SECTION 2. The City Council hereby finds and declares that the ballot proposition submitted to the qualified electors of the Community Facilities District pursuant to the Resolution Calling Election has been passed and approved by such electors in accordance with Section 53328(a) and Section 53325.7 of the Act.

SECTION 3. The City Clerk is hereby directed to execute and cause to be recorded in the office of the County Recorder of the County of San Bernardino a notice of special tax lien in the form required by the Act, said recording to occur no later than fifteen days following adoption by the City Council of this Resolution.

SECTION 4. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 5. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 20<sup>th</sup> day of August 2013.

---

PAUL S. LEON, MAYOR

ATTEST:

---

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held August 20, 2013 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2013-        duly passed and adopted by the Ontario City Council at their regular meeting held August 20, 2013.

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

(SEAL)



EXHIBIT A

COMMUNITY FACILITIES DISTRICT NO. 21  
OF THE CITY OF ONTARIO (PARKSIDE)

CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on August 20, 2013, I canvassed the returns of the special election held on August 20, 2013, for the Community Facilities District No. 21 of the City of Ontario (Parkside), that the total number of ballots cast in said Community Facilities District and the total number of votes cast for and against the proposition are as follows and that the totals as shown for and against the proposition are true and correct:

	Qualified Landowner <u>Votes</u>	Votes <u>Cast</u>	<u>YES</u>	<u>NO</u>
Community Facilities District No. 21 of the City of Ontario (Parkside) Special Election, August 20, 2013	24			

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall special taxes be levied annually on taxable property within Community Facilities District No. 21 of the City of Ontario (Parkside) (the "Community Facilities District"), to finance certain services within the Community Facilities District and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$1 million, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the Community Facilities District No. 21 (Parkside), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District," adopted by the City Council of the City of Ontario on August 20, 2013?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 20<sup>th</sup> day of August, 2013.

By: \_\_\_\_\_  
City Clerk

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE COMMUNITY  
FACILITIES DISTRICT NO. 21 OF THE CITY OF ONTARIO (PARKSIDE).

WHEREAS, on July 2, 2013, the City Council (the "City Council") of the City of Ontario, California (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, to Establish Community Facilities District No. 21 and to Authorize the Levy of Special Taxes" stating its intention to establish Community Facilities District No. 21 of the City of Ontario (the "Community Facilities District") and to finance certain public services (the "Services"); and

WHEREAS, on August 20, 2013, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of Community Facilities District No. 21 of the City of Ontario (Parkside), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation") and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for Community Facilities District No. 21 of the City of Ontario (Parkside)," which resolutions established the Community Facilities District, authorized the levy of a special tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of levying a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District; and

WHEREAS, on August 20, 2013, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act.

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

SECTION 1. The City Council hereby authorizes and levies special taxes within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the rate and method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method of Apportionment"). The special taxes are hereby levied commencing in Fiscal Year 2014-2015 and in each fiscal year thereafter until the last fiscal year in which such special taxes are authorized to be levied pursuant to the Rate and Method of Apportionment.

SECTION 2. The City Council may, in accordance with subdivision (b) of Section 53340 of the Act, provide, by resolution, for the levy of the special tax in future tax years at the same rate or at a lower rate than the rate provided by this Ordinance. In no event shall the special tax be levied on any parcel within the Community Facilities District in excess of the maximum tax specified therefor in the Rate and Method of Apportionment.

SECTION 3. The special tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Rate and Method of Apportionment.

SECTION 4. The proceeds of the special tax shall only be used to pay, in whole or in part, the cost of providing the Services and incidental expenses pursuant to the Act.

SECTION 5. The special tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes, unless another procedure is adopted by the City Council.

SECTION 6. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the Community Facilities District, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the Community Facilities District shall not be affected.

SECTION 7. This Ordinance shall take effect and shall be in force 30 days after the date of its adoption and prior to the expiration of 15 days from the passage thereof shall be published at least once in the *Inland Valley Daily Bulletin*, a newspaper of general circulation, printed and published in the City of Ontario, State of California, together with the names of the City Council members voting for and against the same.

SECTION 8. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

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

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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 \_\_\_\_\_, 2013 by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

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)