

CITY OF ONTARIO
CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR
AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY
AGENDA
SEPTEMBER 15, 2015

Paul S. Leon
Mayor

Debra Dorst-Porada
Mayor pro Tem

Alan D. Wapner
Council Member

Jim W. Bowman
Council Member

Paul Vincent Avila
Council Member



Al C. Boling
City Manager

John E. Brown
City Attorney

Mary E. Wirtes, MMC
City Clerk

James R. Milhiser
Treasurer

WELCOME to a meeting of the Ontario City Council.

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

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

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

CALL TO ORDER (OPEN SESSION)

6:00 p.m.

ROLL CALL

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

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

CLOSED SESSION

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *Certified Towing, Inc. v. City of Ontario, San Bernardino County Superior Court, Case No. CIVDS1508867.*

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

PLEDGE OF ALLEGIANCE

Council Member Bowman

INVOCATION

Pastor Marlon Jackson, Loveland Worship Center

REPORT ON CLOSED SESSION

City Attorney

PUBLIC COMMENTS

6:30 p.m.

The Public Comment portion of the Council/Housing Authority/Successor Agency to the Ontario Redevelopment Agency 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.

PRESENTATION TO CITY COUNCIL

CURRENT TRENDS – HUMAN TRAFFICKING

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 meeting of the City Council/Housing Authority/Successor Agency to the Ontario Redevelopment Agency of August 18, 2015, approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills July 26, 2015 through August 8, 2015 and **Payroll** July 26, 2015 through August 8, 2015, when audited by the Finance Committee.

3. AWARD OF CONSTRUCTION AND PROFESSIONAL SERVICES AGREEMENTS IN CONNECTION WITH THE CITY HALL CARPET REPLACEMENT PROJECT/AMERICAN TECHNOLOGIES/COMMERCIAL INTERIOR RESOURCES/R.C. CONSTRUCTION

That the City Council take the following actions:

- (A) Award Professional Services Agreement PFD15-CARPT-013B (on file in the Records Management Department) to American Technologies of Orange, California, in the amount of \$157,625 for Carpet Tile/Mastic Glue Removal and Concrete Sanitization;
- (B) Award Construction Contract PFD15-CARPT-004 (on file in the Records Management Department) to Commercial Interior Resources of Irvine, California, in the amount of \$206,014 for carpet installation;
- (C) Award Professional Services Agreement PFD15-CARPT-001B (on file in the Records Management Department) to R.C. Construction of Rialto, California, in the amount of \$122,841 for construction management services;
- (D) Establish a project-wide contingency of \$246,000, creating a total project appropriations authority of \$1,230,019 (including \$497,539 of contracts and agreements executed under the City Manager's signature authority) and authorize the contingency's use for any construction contract, professional services or maintenance services agreement associated with the project; and
- (E) Authorize the City Manager to modify agreements, extend purchase orders and execute all documents required for the completion of the project including, but not limited to, contracts, reduction of retention accounts, and file a notice of completion at the conclusion of all construction-related activities.

4. PROFESSIONAL SERVICES AGREEMENTS FOR CITYWIDE ON-CALL ARCHITECTURAL AND ENGINEERING SERVICES

That the City Council, Housing Authority, and Successor Agency to the Ontario Redevelopment Agency take the following actions:

- (A) Approve three-year on-call professional services agreements with the following firms: The Jones Payne Group, Inc. of Ontario, California; RTKL Associates Inc. of Los Angeles, California; Studio 3 Architects of Upland, California; Thirtieth Street Architects, Inc. of Newport Beach, California; and Pfeiler & Associates Engineers Inc. of Chino, California; and
- (B) Authorize the City Manager/Executive Director to execute the agreements and all other related documents necessary to implement said agreements; and authorize the option to extend the agreements for up to two additional one-year terms consistent with City Council approved budgets.

5. RESOLUTION APPROVING THE MEASURE I 2016-17 THROUGH 2020-21 FIVE-YEAR CAPITAL PROJECTS NEEDS ANALYSIS

That the City Council adopt a resolution approving the 2016-17 through 2020-21 Measure I Five-Year Capital Projects Needs Analysis (CPNA) and authorize the City Manager to approve changes to the plan as may be required by the City and/or San Bernardino Associated Governments (SANBAG).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING THE MEASURE I, 2016-17 THROUGH 2020-21, FIVE-YEAR CAPITAL PROJECTS NEEDS ANALYSIS.

6. RECOGNITION OF OCTOBER 4-10, 2015 AS "NATIONAL FIRE PREVENTION WEEK"

That the City Council recognize the week of October 4-10, 2015 as "National Fire Prevention Week" in the City of Ontario and invite the public to attend the Ontario Fire Department Open House to be held on October 3, 2015.

7. PURCHASE OF PERSONAL PROTECTIVE EQUIPMENT FOR FIREFIGHTERS

That the City Council authorize the City Manager to execute a sole source procurement of personal protective equipment for firefighters from Allstar Fire Equipment, Inc. of Arcadia, California in the amount not to exceed \$350,000.

8. AUTHORIZE THE PURCHASE OF NINE REPLACEMENT FLEET VEHICLES THROUGH THE NATIONAL JOINT POWERS ALLIANCE/NATIONAL AUTO FLEET GROUP

That the City Council authorize the purchase and delivery of one 2015 Toyota Sienna in the amount of \$33,341 and one 2015 Chevrolet Express Cargo Van in the amount of \$24,691 for the Police Department; one 2015 Ford Transit Connect for Community and Public Services in the amount of \$26,713; one 2016 Ford Explorer XLT for Administration in the amount of \$31,900; and five 2016 Ford Escapes for the Utilities, Facilities Maintenance, Library, Fire and Revenue Services Departments in the amount of \$120,418, for a total amount of \$237,063 from National Auto Fleet Group of Watsonville, California consistent with the terms and conditions of the National Joint Powers Alliance (NJPA) Cooperative Contract 102811.

9. A RESOLUTION APPROVING THE TRANSFER OF CONTROL OF VERIZON CALIFORNIA INC. VIDEO FRANCHISE FROM VERIZON COMMUNICATIONS INC. TO FRONTIER COMMUNICATIONS CORPORATION

That the City Council adopt a resolution approving the transfer of control of Verizon California Inc. Video Franchise from Verizon Communications Inc. to Frontier Communications Corporation, subject to the terms of the attached transfer agreement; and authorize the City Manager to execute the transfer agreement.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE TRANSFER OF CONTROL OF VERIZON CALIFORNIA INC. FROM VERIZON COMMUNICATIONS INC. TO FRONTIER COMMUNICATIONS CORPORATION.

10. ACCEPT WRITTEN PETITIONS TO CREATE TWO COMMUNITY FACILITIES DISTRICTS; ADOPT RESOLUTIONS OF INTENT TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES - AREA A) AND CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 29 (NEW HAVEN FACILITIES - AREA B) AND AUTHORIZING THE ASSOCIATED LEVY OF SPECIAL TAXES; AND ADOPT RESOLUTIONS TO INCUR BONDED INDEBTEDNESS

That the City Council:

- (A) Accept written petitions (on file with the Records Management Department) from Brookcal Ontario, LLC. located in Costa Mesa, California, to create two Community Facilities Districts (CFDs), and to waive certain procedural matters, under the Mello-Roos Community Facilities Act of 1982;
- (B) Adopt a Resolution of Intent to establish City of Ontario Community Facilities District No. 28 (New Haven Facilities – Area A); authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, October 20, 2015;
- (C) Adopt a Resolution to incur bonded indebtedness of proposed Community Facilities District No. 28 (New Haven Facilities – Area A);
- (D) Adopt a Resolution of Intent to establish City of Ontario Community Facilities District No. 29 (New Haven Facilities – Area B); authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, October 20, 2015; and
- (E) Adopt a Resolution to incur bonded indebtedness of proposed Community Facilities District No. 29 (New Haven Facilities – Area B).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT, PROPOSED TO BE NAMED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES - AREA A), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO INCUR BONDED INDEBTEDNESS OF THE PROPOSED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES - AREA A).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT, PROPOSED TO BE NAMED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 29 (NEW HAVEN FACILITIES - AREA B), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO INCUR BONDED INDEBTEDNESS OF THE PROPOSED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 29 (NEW HAVEN FACILITIES - AREA B).

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.

II. A PUBLIC HEARING TO RECEIVE TESTIMONY AND ADOPT THE CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR THE 2014-15 FISCAL YEAR

That the City Council:

- (A) Hold a public hearing to receive testimony on the draft Consolidated Annual Performance and Evaluation Report (CAPER) for the 2014-15 Fiscal Year (on file in the Records Management Department);
- (B) Direct staff to prepare and transmit to the U.S. Department of Housing and Urban Development (HUD) the final CAPER, which will address all public comments received on the draft CAPER; and
- (C) Authorize the City Manager to execute any and all documents necessary and/or desirable to transmit CAPER to HUD.

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.

STAFF MATTERS

City Manager Boling

COUNCIL MATTERS

Mayor Leon

Mayor pro Tem Dorst-Porada

Council Member Wapner

Council Member Bowman

Council Member Avila

ADJOURNMENT

**CITY OF ONTARIO
CLOSED SESSION REPORT**

City Council // Housing Authority / Successor Agency to the Ontario Redevelopment Agency /
Other // (GC 54957.1)
September 15, 2015

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

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

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

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION:
Certified Towing, Inc. v. City of Ontario, San Bernardino County Superior Court,
Case No. CIVDS1508867

No Reportable Action	Continue	Approved
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Disposition: _____

City Attorney / City Manager / Executive Director

CITY OF ONTARIO

Agenda Report
September 15, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: AWARD OF CONSTRUCTION AND PROFESSIONAL SERVICES AGREEMENTS IN CONNECTION WITH THE CITY HALL CARPET REPLACEMENT PROJECT

RECOMMENDATION: That the City Council take the following actions:

- (A) Award Professional Services Agreement PFD15-CARPT-013B (on file in the Records Management Department) to American Technologies of Orange, California, in the amount of \$157,625 for Carpet Tile/Mastic Glue Removal and Concrete Sanitization;
- (B) Award Construction Contract PFD15-CARPT-004 (on file in the Records Management Department) to Commercial Interior Resources of Irvine, California, in the amount of \$206,014 for carpet installation;
- (C) Award Professional Services Agreement PFD15-CARPT-001B (on file in the Records Management Department) to R.C. Construction of Rialto, California, in the amount of \$122,841 for construction management services;
- (D) Establish a project-wide contingency of \$246,000, creating a total project appropriations authority of \$1,230,019 (including \$497,539 of contracts and agreements executed under the City Manager's signature authority) and authorize the contingency's use for any construction contract, professional services or maintenance services agreement associated with the project; and
- (E) Authorize the City Manager to modify agreements, extend purchase orders and execute all documents required for the completion of the project including, but not limited to, contracts, reduction of retention accounts, and file a notice of completion at the conclusion of all construction-related activities.

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

STAFF MEMBER PRESENTING: Otto Kroutil, Development Director

Prepared by: David Simpson
Department: Development Administration

City Manager
Approval: 

Submitted to Council/O.H.A. 09/15/2015

Approved: _____

Continued to: _____

Denied: _____

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FISCAL IMPACT: The current Fiscal Year 2015-16 Budget includes appropriations sufficient to cover the requested total project authorization of \$1,230,019, which includes a project-wide contingency. All project contracts and agreements will have access to, and be constrained by, this authorization. The recommended contracts to be approved by the City Council total \$486,480; and a sum total of \$497,539 for contracts and agreements are to be executed under the City Manager’s signature authority for various trades such as painting, electrical/low voltage electrical, acoustical ceilings, framing/drywall, final cleaning, furniture disassembly, furniture relocation, and testing. A 25% contingency, or \$246,000, is recommended bringing the total recommended project authorization to \$1,230,019. The City will make any and all efforts to recover these costs through insurance, product warranties, and claims as appropriate and available.

BACKGROUND: Over the last year, loose and damaged flooring tiles have been noted in a number of locations in City Hall. Upon thorough investigation by independent third-party experts as well as the firms involved in the City Hall reconstruction project and material suppliers, it was found that the problem is pervasive, resulting in the need to now remove and replace the flooring materials in large portions of the building.

Because City Hall is a fully occupied building, the flooring replacement and associated work is a complex undertaking requiring work to be performed in physically separated areas, and in consecutive phases. The work will also necessitate the temporary relocation of staff, work stations, and equipment. A multi-phased plan has been developed to minimize the impact on operations without affecting the City’s ability to deliver quality municipal services to the community.

The multi-phase plan will require the City to enter into several construction contracts and professional service agreements. Public bids have been obtained for all construction-related work consistent with California Public Contract Code. Professional service providers have been selected on the basis of specific applicable experience, expertise, and familiarity with the building and its systems with cost being one factor under consideration but not the sole determinant for selection.

The largest individual contracts and agreements requiring City Council approval include \$206,014 to Commercial Interior Resources for carpet installation, \$157,625 to American Technologies for carpet and mastic glue removal, and \$122,841 to R.C. Construction for construction management services.

Commercial Interior Resources of Irvine, California, submitted the lowest responsive bid of the six carpet installation bidders, at \$206,014.

<u>Bidder</u>	<u>City/State</u>	<u>Bid Price</u>
Commercial Interior Resources	Irvine, California	\$206,014
Mike’s Custom Flooring	Redlands, California	\$216,521
Continental Flooring	Rancho Cucamonga, California	\$220,721
Moore Flooring	Chino, California	\$259,500
DFS Flooring	Van Nuys, California	\$260,000
Riccardi Floor Covering	Ontario, California	\$278,700

The combined costs of the other miscellaneous trades and services is estimated to be \$497,539. On July 31, 2015 the City solicited bids for Painting, Electrical/Low Voltage, Acoustical Ceilings, Framing/Drywall and Final Cleaning. These contracts will be awarded to the lowest responsive bidder per each trade. Other services required for the project include: Testing, High Density File Disassembly,

Heating/Ventilation/Air Conditioning Modifications, and Window Pane Removal. The award and approval of these individual contracts and agreements falls within the City Council established signature authority of the City Manager.

Due to the nature of the phased program approach, potential unforeseen circumstances, and need to keep City Hall open to provide continual services the community, it is also recommended that a project-wide contingency of 25% (or \$246,000) be established, and that the City Manager be authorized to enter into agreements, and to redirect funds between the contingency and any associated project contracts or professional service agreements, up to the total amount approved for the project by the City Council.

The flooring replacement project is scheduled to begin in October, with the bulk the work to be done in areas accessible to the public taking place in December to take advantage of the City Hall holiday closure.

CITY OF ONTARIO

Agenda Report
September 15, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: PROFESSIONAL SERVICES AGREEMENTS FOR CITYWIDE ON-CALL ARCHITECTURAL AND ENGINEERING SERVICES

RECOMMENDATION: That the City Council, Housing Authority, and Successor Agency to the Ontario Redevelopment Agency take the following actions:

- (A) Approve three-year on-call professional services agreements with the following firms: The Jones Payne Group, Inc. of Ontario, California; RTKL Associates Inc. of Los Angeles, California; Studio 3 Architects of Upland, California; Thirtieth Street Architects, Inc. of Newport Beach, California; and Pfeiler & Associates Engineers Inc. of Chino, California; and
- (B) Authorize the City Manager/Executive Director to execute the agreements and all other related documents necessary to implement said agreements; and authorize the option to extend the agreements for up to two additional one-year terms consistent with City Council approved budgets.

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

FISCAL IMPACT: Each firm will be compensated at the fixed hourly rates (ranging from \$135 to \$175 per hour) as set forth in their respective agreements on an on-call as-needed basis for three years with the option to extend for up to two additional one-year periods. The total compensation and authorized reimbursements shall not exceed the amount allocated in each department's operating budget for each respective fiscal year and shall be predicated upon the actual work performed. All firms are aware that the City may be utilizing Federal, State and set-aside funds for future projects and that these prospective agreements are on an as-needed basis.

STAFF MEMBER PRESENTING: John P. Andrews, Economic Development Director

Prepared by: Nicholas Gonzalez
Department: Economic Development

City Manager
Approval: 

Submitted to Council/O.H.A. 09/15/2015

Approved: _____

Continued to: _____

Denied: _____

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BACKGROUND: In the furtherance of City Council goals and priority work program projects, City staff are routinely in need of on-call architectural and engineering services that cannot be provided by City staff.

A Request for Qualifications (RFQ) for Professional Architectural On-Call Consulting Services was released in June 2015 and a RFQ was released for Professional Engineering On-Call Consulting Services in July 2015. Staff received statements of qualifications from the following firms:

ARCHITECTURAL FIRMS	
Firm	Location
The Jones Payne Group, Inc.	Ontario, California
Onyx Architects, Inc.*	Pasadena, California
RTKL Associates Inc.	Los Angeles, California
Studio 3 Architects	Upland, California
Thirtieth Street Architects, Inc.	Newport Beach, California
ENGINEERING FIRMS	
Firm	Location
Pfeiler & Associates Engineers, Inc.	Chino, California
Albert A. Webb Associates*	Riverside, California

Onyx Architects, Inc. and Albert A. Webb Associates did not comply with the specified bid request and therefore were deemed non-responsive.

Each statement of qualifications was screened and scored by City staff according to the scoring criteria outline in the RFQ. The criteria consisted of the firm’s profile, staffing, project experience and references. After reviewing and rating each of the responses, staff from the Economic Development Agency interviewed the firms.

Staff recommends that all agreements be with the City, Authority and Agency so that any City department can make use of these services. The agreements do not guarantee any specific payment level or assignment to any firm. The recommended four architect firms and one engineering firm are qualified to meet the needs of the City, Authority and Agency.

CITY OF ONTARIO

Agenda Report
September 15, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: RESOLUTION APPROVING THE MEASURE I 2016-17 THROUGH 2020-21 FIVE-YEAR CAPITAL PROJECTS NEEDS ANALYSIS

RECOMMENDATION: That the City Council adopt a resolution approving the 2016-17 through 2020-21 Measure I Five-Year Capital Projects Needs Analysis (CPNA) and authorize the City Manager to approve changes to the plan as may be required by the City and/or San Bernardino Associated Governments (SANBAG).

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Pursue City's Goals and Objectives by Working with Other Governmental Agencies
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Measure I Five-Year CPNA is a tool to assist the SANBAG Board of Directors and SANBAG staff in programming available and projected Measure I Fund revenues. The CPNA is not a budget commitment. The individual projects listed in the CPNA are either currently identified or will be identified in the City of Ontario Capital Improvement Program Budget at the time that the local fund share is needed and approved by the City Council.

BACKGROUND: The Five-Year CPNA covers projects in the Measure I Major Street Arterial Sub-program. This year's Five-Year CPNA includes: Grove Avenue Widening from Fourth Street to Airport Drive, Grove Avenue and Holt Boulevard Intersection Widening, and Mountain Avenue and Holt Boulevard Intersection Widening projects. Freeway interchange and grade separation projects are not included in the CPNA as they are accounted for in separate agreements.

San Bernardino County voters approved passage of the 2010 through 2040, thirty-year Measure I program in November 2004 authorizing San Bernardino Associated Governments, acting as the San Bernardino County Transportation Authority, to impose a one-half percent retail transactions and use tax in the incorporated and unincorporated territory of the County of San Bernardino. Revenue from the tax can only be used for transportation improvements and traffic management programs authorized in the 2010-2040 Measure I Expenditure Plan set forth in Ordinance No. 04-1 of the Authority. The

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

Prepared by: Jay Bautista
Department: Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 09/15/2015
Approved: _____
Continued to: _____
Denied: _____

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Expenditure Plan for the San Bernardino Valley Subarea requires that Measure I revenue be applied to the following programs.

Freeways	29%
Freeway Interchanges	11%
Major Streets (including Railroad Grade Separations)	20%
Local Streets (per capita pass through)	20%
Metrolink/Passenger Rail	8%
Senior/Disabled Transit Service	8%
Express Bus/Bus Rapid Transit Service	2%
Traffic Management Systems	2%

The 2010-2040 Measure I Strategic Plan requires each local jurisdiction applying for revenue from the Valley Major Street and Freeway Interchange Programs to annually adopt and update a Five-Year CPNA. The Five-Year CPNA is not a funding commitment by either SANBAG or the City, but a tool to assist SANBAG staff and their Board of Directors in programming available Measure I Fund revenues. The CPNA is not a wish list but a financially constrained, realistic schedule of the projects for which the agency intends to use Measure I dollars. "Financially constrained" means that the required local development impact fee (DIF) match contribution will be available before the project begins or the DIF match requirement has been met by an internal Measure I loan arranged with SANBAG in accordance with the Measure I Strategic Plan. Historically CPNA's for the Valley jurisdictions have included projects for both the Valley Freeway Interchange and Major Streets Programs. However, for FY 2016-17, the CPNA will only apply to the Major Streets Program.

The CPNA process requires that the City Council approve the CPNA by resolution. City staff anticipates that there may need to be changes to the CPNA during the fiscal year. Therefore, staff is recommending that the City Manager be given the authority to approve changes to the CPNA as requested by SANBAG and/or City staff, provided the changes do not conflict with the approved budget.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING THE MEASURE I, 2016-17 THROUGH 2020-21, FIVE-YEAR CAPITAL PROJECTS NEEDS ANALYSIS.

WHEREAS, San Bernardino County voters approved passage of Measure I in November 2004, authorizing San Bernardino Associated Governments, acting as the San Bernardino County Transportation Authority, to impose a one-half of one percent retail transactions and use tax applicable in the incorporated and unincorporated territory of the County of San Bernardino; and

WHEREAS, revenue from the tax can only be used for transportation improvements and traffic management programs authorized in the Expenditure Plan set forth in Ordinance No. 04-1 of the Authority; and

WHEREAS, the Strategic Plan requires each local jurisdiction applying for revenue from the Valley Major Street and Freeway Interchange Programs to annually adopt and update a Five-Year Capital Projects Needs Analysis (CPNA); and

WHEREAS, Ontario has prepared the necessary CPNA projects form as provided by SANBAG and a location map attached hereto which includes the Valley Major Streets that are eligible for Measure I Program funding.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Ontario, California hereby adopts the Measure I 2016-17 through 2020-21 Capital Projects Needs Analysis, and authorizes the City Manager to approve changes to the plan as may be required by the City and SANBAG.

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

PASSED, APPROVED, AND ADOPTED this 15th day of September 2015.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2015 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015- duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

**Capital Project Needs Analysis
City of Ontario
Valley Arterial Sub-Program**

(Actual Fiscal Year 2015/2016 dollars - SANBAG will apply escalation factors, by year)

Project Description:

Widen Grove Ave from I-10 Frwy. to Holt Blvd from 4 to 6 lanes, Including W. Cuc. Creek Bridge

Total Project Cost:	\$	4,693,000	NOTES: Costs include PA&ED of the Grove Corridor project; and PA&ED, PS&E, ROW and CON for the Grove portion of the Holt/Grove intersection project.
		(PRIOR - FUTURE)	
Total Measure I Request:	\$	1,637,138	Public Share: 55.60%
Total Other Funding:	\$	3,055,862	Dev. Share: 44.40%

Phase	Funding	PRIOR*	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FUTURE
PA&ED								
Total Cost:	\$2,305,500.00							
Fund Type:								
	MI MAJ ST	\$ 208,286	\$ 54,176	\$ 47,226	\$ -	\$ -	\$ -	\$ -
	DEMO	\$ 1,068,987	\$ 339,760	\$ 339,760	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ 166,329	\$ 43,263	\$ 37,713	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
PS&E								
Total Cost:	\$240,000.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ 133,440	\$ -	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ 106,560	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
ROW								
Total Cost:	\$250,000.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ 69,500	\$ 69,500	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ 55,500	\$ 55,500	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CONST								
Total Cost:	\$1,897,500.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ -	\$ 527,505	\$ 527,505	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ -	\$ 421,245	\$ 421,245	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SANBAG including FY 2015/2016 expenses.

**Capital Project Needs Analysis
City of Ontario
Valley Arterial Sub-Program**

(Actual Fiscal Year 2015/2016 dollars - SANBAG will apply escalation factors, by year)

Project Description:

Widen Holt Blvd. from 750 ft. west of to 750 ft. east of Grove Ave. from 4 to 6 lanes

Total Project Cost: \$ 2,400,000
(PRIOR - FUTURE)

NOTES:

This is a portion of Nexus project "Widen Holt Blvd from Benson Ave to Vineyard Ave from 4 to 6 lanes". This project sheet accompanies the CPNA sheet for "Grove Avenue from Fourth Street to Airport Drive - Widen from 4 to 6 lanes".

Total Measure I Request: \$ 1,334,400

Public Share: 55.60%

Total Other Funding: \$ 1,065,600

Dev. Share: 44.40%

Phase	Funding	PRIOR*	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FUTURE
PA&ED								
Total Cost:	\$12,500.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ 6,950	\$ -	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ 5,550	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
PS&E								
Total Cost:	\$240,000.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ 133,440	\$ -	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ 106,560	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
ROW								
Total Cost:	\$250,000.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ 69,500	\$ 69,500	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ 55,500	\$ 55,500	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CONST								
Total Cost:	\$1,897,500.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ -	\$ 527,505	\$ 527,505	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ -	\$ 421,245	\$ 421,245	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SANBAG including FY 2015/2016 expenses.

**Capital Project Needs Analysis
City of Ontario
Valley Arterial Sub-Program**

(Actual Fiscal Year 2015/2016 dollars - SANBAG will apply escalation factors, by year)

Project Description:

Widen Holt Blvd. from 750 ft. west of to 750 ft. east of Mountain Ave. from 4 to 6 lanes

NOTES: This is a portion of Nexus project "Widen Holt Blvd from Benson Ave to Vineyard Ave from 4 to 6 lanes".

Total Project Cost: \$ 3,500,000

(PRIOR - FUTURE)

Total Measure I Request: \$ 1,946,000

Total Other Funding: \$ 1,554,000

Public Share: 55.60%

Dev. Share: 44.40%

Phase	Funding	PRIOR*	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FUTURE
PA&ED								
Total Cost:	\$12,500.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ 6,950	\$ -	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ 5,550	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
PS&E								
Total Cost:	\$350,000.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ 194,600	\$ -	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ 155,400	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
ROW								
Total Cost:	\$700,000.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ 194,600	\$ 194,600	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ 155,400	\$ 155,400	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CONST								
Total Cost:	\$2,437,500.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ -	\$ 677,625	\$ 677,625	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ -	\$ 541,125	\$ 541,125	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SANBAG including FY 2015/2016 expenses.

**Capital Project Needs Analysis
City of Ontario
Valley Arterial Sub-Program**

(Actual Fiscal Year 2015/2016 dollars - SANBAG will apply escalation factors, by year)

Project Description:

Widen Mountain Ave. between Brooks and Vesta Streets from 4 to 6 lanes

Total Project Cost: \$ 3,500,000

(PRIOR - FUTURE)

Total Measure I Request: \$ 1,946,000

Total Other Funding: \$ 1,554,000

NOTES: This is a portion of Nexus project "Widen Mountain Ave from Sixth Street to s/o Holt Blvd".

Public Share: 55.60%

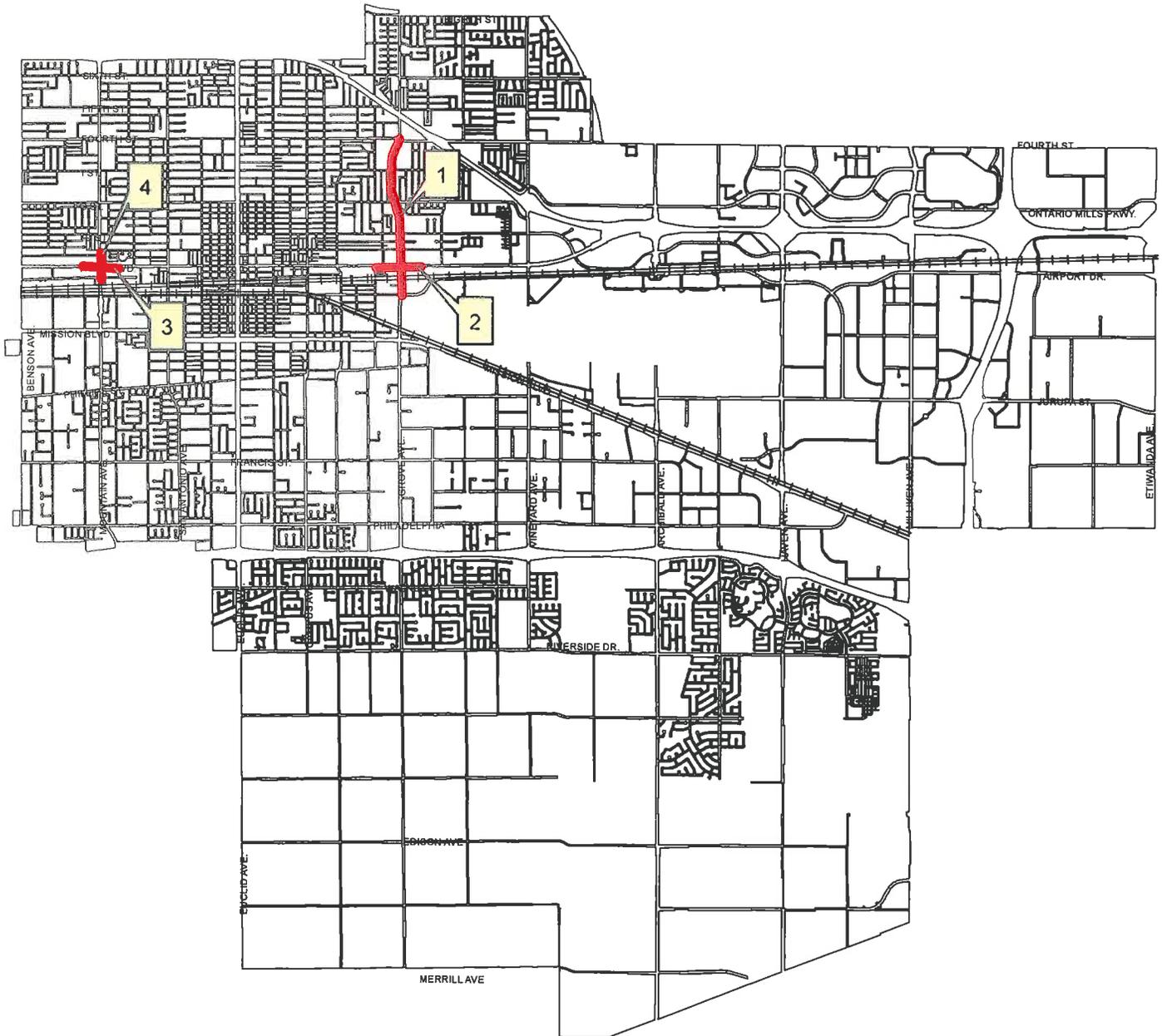
Dev. Share: 44.40%

Phase	Funding	PRIOR*	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FUTURE
PA&ED								
Total Cost:	\$12,500.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ 6,950	\$ -	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ 5,550	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
PS&E								
Total Cost:	\$350,000.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ 194,600	\$ -	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ 155,400	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
ROW								
Total Cost:	\$700,000.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ 194,600	\$ 194,600	\$ -	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ 155,400	\$ 155,400	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CONST								
Total Cost:	\$2,437,500.00							
Fund Type:								
	MI MAJ ST	\$ -	\$ -	\$ 677,625	\$ 677,625	\$ -	\$ -	\$ -
	DEV FEE	\$ -	\$ -	\$ 541,125	\$ 541,125	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Select Fund -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Other:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SANBAG including FY 2015/2016 expenses.

Five-Year Capital Projects Needs Analysis

2016/2017 - 2020/2021



Project Description

- 1 Widen Grove Ave. from Fourth St. to Airport Dr. from 4 to 6 lanes.
- 2 Widen Holt Blvd. from 750 ft. west of to 750 ft. east of Grove Ave. from 4 to 6 lanes.
- 3 Widen Holt Blvd. from 750 ft. west of to 750 Ft. east of Mountain Ave. from 4 to 6 lanes.
- 4 Widen Mountain Ave. between Brooks St. and Vesta St. from 4 to 6 lanes.



0 2,500 5,000 10,000
Feet

CITY OF ONTARIO

Agenda Report
September 15, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: RECOGNITION OF OCTOBER 4-10, 2015 AS "NATIONAL FIRE PREVENTION WEEK"

RECOMMENDATION: That the City Council recognize the week of October 4-10, 2015 as "National Fire Prevention Week" in the City of Ontario and invite the public to attend the Ontario Fire Department Open House to be held on October 3, 2015.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Maintain the Current High Level of Public Safety
Encourage, Provide or Support Enhanced Recreational, Education, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: The Fiscal Year 2015-16 Adopted Budget includes appropriations for the minimal staff and materials cost associated with the annual Ontario Fire Department Open House.

BACKGROUND: "National Fire Prevention Week" commemorates the Great Chicago Fire of 1871, which killed more than 250 persons, left 100,000 homeless, and destroyed more than 17,400 buildings. Every year since 1925, the President of the United States has signed a proclamation pronouncing a national observance during Fire Prevention Week.

The National Fire Protection Association announced Fire Prevention Week 2015 to be observed throughout the nation on October 4-10. Their theme, "Hear the Beep Where You Sleep: Every Bedroom Needs a Working Smoke Alarm" will also be the theme at the Ontario Fire Department Open House on Saturday, October 3, 2015, from 9:00 a.m. until 2:00 p.m. at the Ontario Fire Department Training Facility located at 1408 East Francis Street.

This year's theme actively works to motivate Ontario residents to take actions to keep their homes and family safe from fire. This annual observance serves as a way to keep the public informed about the importance of fire prevention.

STAFF MEMBER PRESENTING: Floyd E. Clark, Fire Chief

Prepared by: Art Andres

Department: Fire

City Manager
Approval: 

Submitted to Council/O.H.A. 09/15/2015

Approved: _____

Continued to: _____

Denied: _____

CITY OF ONTARIO

Agenda Report
September 15, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: PURCHASE OF PERSONAL PROTECTIVE EQUIPMENT FOR FIREFIGHTERS

RECOMMENDATION: That the City Council authorize the City Manager to execute a sole source procurement of personal protective equipment for firefighters from Allstar Fire Equipment, Inc. of Arcadia, California in the amount not to exceed \$350,000.

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

FISCAL IMPACT: The Fiscal Year 2015-16 Adopted Budget included an appropriation of \$350,000 to upgrade safety turnout gear to meet National Fire Protection Association (NFPA) standards.

BACKGROUND: The NFPA periodically reviews and updates recommendations for firefighting safety. NFPA Standard 1971, 2013 Edition, specifies the minimum design, performance, testing, and certification requirements for structural firefighting protective ensembles. This purchase will provide state-of-the-art design and innovation in Personal Protective Equipment (PPE) for structural firefighting clothing and will be NFPA compliant to provide necessary protection and safety for all Ontario Firefighters.

After extensive review and field testing of PPE, it was determined that Lion is the manufacturer whose product best meets or exceeds OFD and NFPA specifications. Lion's products respond to the needs of the fire service, with a focus on metabolic stress reduction, durability, mobility and comfort.

Lion has named Allstar Fire Equipment Inc. as their sole source distributor, for the municipal fire service in California. Allstar also provides professional sizing to ensure custom fit at no additional cost. These elements, together with Allstar's reputation for responsive customer service, were all considerations when determining which vendor would best meet the needs for new PPE. Accordingly,

STAFF MEMBER PRESENTING: Floyd E. Clark, Fire Chief

Prepared by: Mike Pelletier

Department: Fire

City Manager
Approval: 

Submitted to Council/O.H.A. 09/15/2015

Approved: _____

Continued to: _____

Denied: _____

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staff recommends award to Allstar Fire Equipment Inc., as a sole source vendor, pursuant to Section 2-6.11 (b) (2) of the Ontario Municipal Code.

CITY OF ONTARIO

Agenda Report
September 15, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: AUTHORIZE THE PURCHASE OF NINE REPLACEMENT FLEET VEHICLES THROUGH THE NATIONAL JOINT POWERS ALLIANCE

RECOMMENDATION: That the City Council authorize the purchase and delivery of one 2015 Toyota Sienna in the amount of \$33,341 and one 2015 Chevrolet Express Cargo Van in the amount of \$24,691 for the Police Department; one 2015 Ford Transit Connect for Community and Public Services in the amount of \$26,713; one 2016 Ford Explorer XLT for Administration in the amount of \$31,900; and five 2016 Ford Escapes for the Utilities, Facilities Maintenance, Library, Fire and Revenue Services Departments in the amount of \$120,418, for a total amount of \$237,063 from National Auto Fleet Group of Watsonville, California consistent with the terms and conditions of the National Joint Powers Alliance (NJPA) Cooperative Contract 102811.

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

FISCAL IMPACT: The Fiscal Year 2015-16 Adopted Budget includes appropriations from the Equipment Replacement Fund in the amount of \$245,000 for the purchase of the replacement vehicles listed above. The total cost of the vehicles recommended for purchase is \$237,063.

BACKGROUND: The vehicles recommended for purchase are replacements and will be assigned to the Community and Public Services, Police, Utilities, Facilities Maintenance, Administration, Library, Fire and Revenue Services Departments. The current vehicles assigned to these departments are scheduled for replacement pursuant to ongoing efforts to reduce expenses, maximize useful life expectancy and extend replacement cycles of fleet equipment while ensuring safe and reliable operation.

In general conformance with the provisions of Government Code Section 54201 through 54204 and the Ontario Municipal Code, Section 2-6.11(b)(3), allows for the purchase of supplies and equipment through cooperative purchasing with another governmental agency. Cooperative purchasing allows the City to pool its procurement power with other public agencies to obtain pricing lower than might otherwise be possible. NJPA's Cooperative Contract 102811 meets the provisions of the Government Code.

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

Prepared by: Craig Grabow
Department: Fleet Services

City Manager
Approval: 

Submitted to Council/O.H.A. 09/15/2015
Approved: _____
Continued to: _____
Denied: _____

CITY OF ONTARIO

Agenda Report
September 15, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING THE TRANSFER OF CONTROL OF VERIZON CALIFORNIA INC. VIDEO FRANCHISE FROM VERIZON COMMUNICATIONS INC. TO FRONTIER COMMUNICATIONS CORPORATION

RECOMMENDATION: That the City Council adopt a resolution approving the transfer of control of Verizon California Inc. Video Franchise from Verizon Communications Inc. to Frontier Communications Corporation, subject to the terms of the attached transfer agreement; and authorize the City Manager to execute the transfer agreement.

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

FISCAL IMPACT: Frontier Communications Corporation ("Frontier") shall pay a non-refundable transfer application filing fee estimated to be \$60,000 to reimburse the City for costs incurred for legal and feasibility reviews relating to the proposed transfer.

BACKGROUND: Since 2006, Verizon California Inc. ("Franchisee"), the wholly-owned subsidiary of Verizon Communications Inc., has provided cable services to City residents pursuant to a City of Ontario Video Franchise. Verizon Communications Inc. announced in February 2015 an agreement to sell its local wireline businesses serving California, Florida and Texas to Frontier. As a result of the sale, the Franchisee will become a wholly-owned indirect subsidiary of Frontier and will remain the Franchise holder; but its name will be changed to Frontier California Inc. The proposed resolution will grant the City's consent to the transfer of control of Franchisee from Verizon Communications Inc. to Frontier subject to the terms and conditions of a transfer agreement negotiated between the City and the companies.

On May 18, 2015, as required by Federal Communications Commission regulations, the Ontario Municipal Code and the Franchise agreement, the City received an application for consent to transfer

STAFF MEMBER PRESENTING: Elliott Ellsworth, IT Director

Prepared by: Elliott Ellsworth
Department: Information Technology

City Manager
Approval: 

Submitted to Council/O.H.A. 09/15/2015

Approved: _____

Continued to: _____

Denied: _____

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control of Franchisee (FCC Form 394 and supporting exhibits) from Verizon Communications Inc., requesting approval of the transfer of control of Franchisee to Frontier (“Transfer Application”).

Section 4-20.09 of the Ontario Municipal Code and Section 11 of the Franchise agreement require approval of any proposed transfer of ownership and control of Franchisee by the City by resolution of the City Council. Sec. 4-20.09(e) of the Ontario Municipal Code establishes the guidelines by which the City will evaluate any application for transfer:

(e) In making a determination on whether to approve the transfer application, the City Council shall, to the extent permitted by applicable law, consider the legal, financial, technical and other qualifications of the transferee to operate the system, whether the transferor video provider is in compliance with its license agreement and this chapter and, if not, the candidate transferee's commitment and plan to cure such noncompliance, whether operation by the transferee would adversely affect the delivery of video programming to subscribers or otherwise be contrary to the public interest, and such other criteria provided for by applicable state and federal law.

Staff, together with a financial consultant and legal counsel from the City Attorney's office, reviewed the Transfer Application and supplemental information made available by Frontier and Verizon, met with company management, and negotiated a transfer agreement that addresses issues which were raised during the review concerning Frontier's qualifications, and the transaction's potential adverse impacts on subscribers in the City and the public interest.

Frontier is the fourth largest incumbent local exchange carrier in the nation and a full-service wireline communications provider who offers communications and broadband services, including local and long distance voice, broadband data, and cable television, through its wholly-owned operating companies. Frontier has approximately 17,000 employees, all of whom are based in the United States, and serves approximately 4 million customers in 28 states. However, Frontier does not currently have any significant operations in California, and has only limited technical and operational experience and expertise in the competitive provision of video programming services. This is primarily experience with the operation of the fiber-to-the-premise (FTTP) networks it acquired from Verizon in 2010 in some limited areas of Washington, Oregon, and Indiana. As a result of this acquisition Frontier will add some 3.6 million voice, 2.2 million broadband and 1.2 million video subscribers, and almost double its levels of long-term debt, significantly increasing annual interest expense, and making it vulnerable to changes in interest rates and potential financial stress in the short to medium term.

Approval of the proposed transfer under the terms of the transfer agreement will include:

- An increase in the performance security from \$50,000 to \$100,000.
- Reimbursement to the City for the City's out-of-pocket costs related to the consideration and review of the Transfer Application and preparation of the transfer agreement and related documents. These costs will not be deducted from the Franchisee's future franchise fee payments.

Frontier will provide a separate side letter stating that it expects to maintain substantially the same variety of programming choices as available to Franchisee's subscribers in the City today.

Federal law requires action on a transfer request within 120 days of the filing of a complete transfer application, and if no action is taken by that time, the application is deemed granted. The City's position

is that the initial application was incomplete, and the City requested additional information for completeness. The companies have taken the position that the application was complete upon filing, and that September 15, 2015 is the deadline for action under federal law. Approval of the transfer by the City Council on September 15, 2015 would make that issue moot.

The City Council may approve, deny, or take no action on the Transfer Application. If the City Council denies the Transfer Application, the companies are obligated under their purchase agreement to use commercially reasonable efforts to obtain required consents; and it is possible this may include litigation challenging the legality of the denial. If the City Council chooses not to take any action, the companies can be expected to take the position that the transfer request was deemed granted under federal law without conditions. The City would have to initiate legal action to challenge that interpretation. Finally, if necessary, the City Council could direct staff to seek an extension of time during which it may seek to renegotiate the terms of the transfer agreement but the companies are unlikely to agree to such an extension. It is staff's recommendation that the transfer be approved subject to the conditions negotiated by and between the City and Frontier.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE TRANSFER OF CONTROL OF VERIZON CALIFORNIA INC. FROM VERIZON COMMUNICATIONS INC. TO FRONTIER COMMUNICATIONS CORPORATION.

WHEREAS, the City of Ontario granted a franchise to Verizon California Inc. ("Franchisee"), an indirect wholly owned subsidiary of Verizon Communications Inc. ("Verizon"), authorizing the Franchisee to provide cable services pursuant to a 15-year cable franchise agreement which took effect on August 19, 2006 ("Franchise Agreement"); and

WHEREAS, Section 11 of the Franchise Agreement requires prior approval by the City of any proposed "Transfer of the Franchise" which is defined in Section 1.37.1.1 of the Franchise Agreement to include a transfer of ownership and control of the Franchisee; and

WHEREAS, Ontario Municipal Code Section 4-20.09 requires prior approval by the City by resolution of the City Council of any proposed transfer of ownership and control of the Franchisee; and

WHEREAS, Verizon has entered into a securities purchase agreement with Frontier Communications Corporation ("Frontier") to effect a transfer of ownership and control of the Franchisee from Verizon to Frontier ("Proposed Transfer"); and

WHEREAS, upon completion of the Proposed Transfer, Franchisee would become a wholly owned indirect subsidiary of Frontier which is a transfer of control that is subject to the City's approval under the terms and conditions of the Franchise Agreement and the Ontario Municipal Code; and

WHEREAS, on or about May 18, 2015, the City received an application (FCC Form 394) and supporting exhibits, requesting approval of the Proposed Transfer ("Transfer Application"); and

WHEREAS, City staff, together with a financial consultant and legal counsel from the City Attorney's office, have reviewed the Transfer Application and supplemental information made available by Frontier and Verizon, and has negotiated the terms and conditions of a transfer agreement to be entered into by and between the City, the Franchisee and Frontier ("Transfer Agreement"); and

WHEREAS, City staff has recommended that City Council approve the Proposed Transfer, subject to the terms and conditions set forth in the Transfer Agreement substantially in the form presented to City Council; and

WHEREAS, following the closing of the Proposed Transfer, Franchisee will continue to hold the Franchise and be responsible for performance in accordance with the Franchise Agreement and the Transfer Agreement and any applicable federal, state, or local law; and

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

NOW, THEREFORE, the City Council of the City of Ontario does hereby resolve as follows:

SECTION 1. The City Council hereby consents to the Proposed Transfer, subject to the following conditions:

(a) By September 22, 2015, Frontier and the Franchisee shall execute and file with the City a Transfer Agreement substantially in the form presented to City Council.

(b) Within 60 days of execution of the Transfer Agreement and the delivery of an invoice from the City to Frontier and the Franchisee identifying the reasonable costs paid by the City in completing its review of Transfer Application, Frontier and the Franchisee shall remit to the City all payments required by the Transfer Agreement.

(c) The Proposed Transfer shall be consummated on terms and conditions that are not in any material respect different from those described in the Transfer Application and other related materials provided to the City.

(d) The Proposed Transfer shall be consummated no later than June 30, 2016.

SECTION 2. The City Council hereby approves the Transfer Agreement presented to the City Council and authorizes and directs the City Manager to execute said Transfer Agreement on behalf of the City following execution by Frontier and the Franchisee.

SECTION 3. In the event the Transfer Agreement is not executed and filed with the City by the date specified in Section 1(a) above, or if the Proposed Transfer does not close by the date specified in Section 1(d) above, or closes on terms that are in any material respect different from the terms disclosed to the City, then any City consent to the Proposed Transfer shall be void and of no force or effect, and the Transfer Application will be deemed to have been timely denied.

SECTION 4. This resolution is a final decision on the Transfer Application within the meaning of 47 U.S.C. § 537, and for these purposes the Transfer Application is deemed acted upon when this resolution is approved by the City Council.

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

PASSED, APPROVED, AND ADOPTED this 15th day of September 2015.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015- duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

TRANSFER OF CONTROL AGREEMENT

THIS AGREEMENT is made this ____ day of September, 2015, by and between:

- a) The City of Ontario, a duly organized city under the applicable laws of the State of California (“City”);
- b) Frontier Communications Corporation, a Delaware corporation (“Frontier”); and
- c) Verizon California Inc., a California corporation currently wholly-owned by Verizon Communications Inc., (“Verizon Parent”) which will be renamed by Frontier on or after the date of the closing of the Proposed Transaction (as defined herein) to Frontier California Inc. (“Franchisee”), and;

Frontier, and Franchisee, as that term is defined herein, may be referred to collectively herein as “Companies”.

RECITALS

WHEREAS, Franchisee currently holds a cable franchise (the “Franchise”) granted by the City subject to the Cable Franchise Agreement effective as of August 19, 2006 (“Franchise Agreement”); and

WHEREAS, Franchisee owns a cable system and provides cable services in the City (“System”); and

WHEREAS, pursuant to a Securities Purchase Agreement by and between Frontier and Verizon Parent dated as of February 5, 2015 (“SPA”), ownership interests of Franchisee will be transferred to a new limited liability company to be formed by Verizon Parent called Newco West Holdings LLC (“Newco”), and Frontier will purchase all the ownership interests of Newco, resulting in Newco becoming a wholly-owned direct subsidiary of Frontier and Franchisee becoming a wholly-owned indirect subsidiary of Frontier (“Proposed Transaction”); and

WHEREAS, Section 11 of the Franchise Agreement and Section 4-20.09 of the Ontario Municipal Code provide that the prior consent of the City is required for the transfer of control of the Franchisee as contemplated as part of the Proposed Transaction; and

WHEREAS, on May 18, 2015, as required under federal law and FCC regulations, Verizon Parent and Frontier filed an FCC Form 394 with the City and requested that the City consent to the transfer of control resulting from the Proposed Transaction (the "Transfer Application"); and

WHEREAS, under federal law, action on a transfer request is required within 120 days of the filing of a complete application unless the applicant and the franchising authority agree to an extension of time; and

WHEREAS, the Franchisee has agreed to continue to comply with the Franchise Agreement (as amended by this Agreement), and with this Agreement and applicable law from and after the completion of the Proposed Transaction; and

WHEREAS, Frontier has agreed to pay a Transfer Application filing fee set forth in this Agreement; and

WHEREAS, relying on the Companies' representations referred to above, the City is willing to grant its consent to the transfer of control contemplated in the Proposed Transaction, subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration for the City's consent to the transfer of control contemplated in the Proposed Transaction and subject to the terms and conditions of this Agreement, THE PARTIES DO HEREBY AGREE as follows:

1. DEFINITION

- a. Terms contained herein and not defined shall have the same definitions as contained in the Franchise Agreement.

2. TRANSFER OF CONTROL OF FRANCHISE

- a. By resolution dated September 15, 2015 (the “Transfer Resolution”), the City has consented to the transfer of control contemplated in the Proposed Transaction as specified in the Transfer Application, in consideration of the terms of this Agreement and conditioned on the acceptance and execution of this Agreement by the Companies, among other conditions.

3. ACCEPTANCE OF FRANCHISE OBLIGATIONS

- a. From and after the closing of the Proposed Transaction, Franchisee accepts, acknowledges, and agrees that, after the Proposed Transaction, it will continue to be bound by all the commitments, duties, and obligations, present, continuing and future, of the Franchisee embodied in the Franchise Agreement and this Agreement, and that the Proposed Transaction will not materially alter these obligations, except as expressly stated herein. Except as expressly set forth herein, nothing in this Agreement shall be construed to increase or expand the rights of the City with respect to the Franchise, or Franchisee’s provision of cable service pursuant to the terms of the Franchise Agreement. Except as expressly set forth herein, nothing in this Agreement shall be construed to increase or expand the rights of the Franchisee with respect to Franchisee’s provision of cable service pursuant to the terms of the Franchise Agreement. Except as expressly provided herein, nothing in this Agreement shall be construed to constitute an amendment to the Franchise Agreement. Nothing in this Agreement shall be construed to amend, alter or modify the SPA.

- b. The Companies agree that neither the Proposed Transaction nor the City's consent to the transfer of control contemplated in the Proposed Transaction shall in any respect relieve the Franchisee or any of its successors in interest of responsibility for past acts or omissions, known or unknown with respect to provision of cable service pursuant to the Franchise Agreement. Franchisee agrees that all acts and omissions of Franchisee occurring prior to closing of the Proposed Transaction will continue to be deemed to be those of Franchisee. The Proposed Transaction shall not restrict or expand the rights of the Franchisee under or related to the Franchise Agreement.
- c. From and after the closing of the Proposed Transaction, Frontier and Franchisee shall ensure that all records pertaining to the Franchise and the Franchisee's performance under the Franchise shall continue to be available after the Proposed Transaction in the same way and to the same extent such information was available prior to the Proposed Transaction, consistent with the terms of the Franchise Agreement.
- d. Section 13.1 of the Franchise Agreement is amended effective from and after the closing of the Proposed Transaction, to increase the amount of security required pursuant thereto from Fifty Thousand Dollars (\$50,000) to One Hundred Thousand Dollars (\$100,000).
- e. Franchisee shall continue to provide the City's Governmental Access Channel on the Basic Service Tier on Channel 3.

4. RESERVATION OF RIGHTS

- a. The City reserves all rights not expressly granted in this Agreement, including without limitation those specified below.
- b. The City waives none of its rights with respect to the Franchisee's compliance with the requirements set forth in the Franchise Agreement. At no time will the Companies contend, either directly or indirectly, that the City is barred, by reason of the Proposed Transaction, from considering, or raising claims based on, any defaults of Franchisee, or any failure by Franchisee to comply with the terms and conditions of the Franchise Agreement or with applicable law. The City's consent to the Proposed Transaction shall in no way be deemed a representation by the City that the Franchisee is in compliance with all of its obligations under the Franchise Agreement.
- c. Neither this Agreement, nor any other action or omission by the City at or before the execution of this Agreement, shall be construed to grant the City's consent to any future transfer of the Franchise, and/or any future change in ownership and/or control of the Franchise, or to mean that the City's consent to any future transaction is not required.
- d. Any consent given by the City to the Proposed Transaction is made without prejudice to, or waiver of, the City's right to investigate and take into account any lawful considerations during any future franchise renewal or transfer process.
- e. This Agreement does not affect and shall not be construed to affect the rights under any lawful authority of the City to regulate or authorize, by ordinance, license or

otherwise, use of the public rights-of-way for purposes other than for cable service, as that term is defined in the Franchise Agreement.

5. REPRESENTATIONS AND WARRANTIES

- a. Each of the Companies hereby represents and warrants that at the time of the execution of this Agreement: (a) it is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized; (b) the Franchise Agreement and, assuming due execution hereof by the other parties hereto, this Agreement constitute legal, valid and binding obligations of each Company that is a party to such agreements, enforceable in accordance with their respective terms; and (c) the execution and delivery of, and performance by such Company under this Agreement and the Franchise Agreement, where applicable, are within such Company's power and authority without the joinder or consent of any other party and have been duly authorized by all requisite corporate action on the part of such Company and are not in contravention of such Company's, charter, bylaws, and/or other organizational documents.
- b. From and after the closing of the Proposed Transaction, Franchisee represents and warrants that the Proposed Transaction will not adversely affect the Franchisee's ability to meet the requirements of the current Franchise Agreement and this Agreement.
- c. From and after the closing of the Proposed Transaction, Franchisee represents and warrants that after the Proposed Transaction, Franchisee's financial qualifications will be such as shall enable it to maintain and operate the cable system in the City in accordance with the Franchise Agreement, this Agreement, and applicable law.

- d. From and after the closing of the Proposed Transaction, Franchisee represents and warrants that the Proposed Transaction will not reduce the quality of existing system maintenance or repair.

6. BREACHES

- a. Any breach of this Agreement subsequent to the closing of the Proposed Transaction shall be separately enforceable from the Franchise Agreement but shall be deemed a breach of the Franchise Agreement and shall be subject to the applicable enforcement provisions of the Franchise Agreement, in addition to any other remedies the parties may have under this Agreement at law or equity.

7. ADDITIONAL CONDITIONS

- a. **Non-refundable Filing Fee.** Within 60 days of execution of this Agreement and the delivery of an invoice from the City to the Companies identifying the reasonable costs paid by the City in completing its review of Transfer Application, the Companies shall pay the City a non-refundable filing fee in the amount not to exceed Sixty Thousand Dollars (\$60,000). The Companies' obligation to pay the non-refundable filing fee shall survive any termination of this Agreement.
- b. The Companies shall fulfill their obligations in this Agreement at no cost to the City. The Companies' costs of fulfillment, including without limitation the non-refundable filing fee, are in addition to, and shall not be deducted from, franchise fees owed to the City.

8. MISCELLANEOUS PROVISIONS

- a. **Effective Date:** This Agreement shall be effective and binding upon the signatories once it is fully executed, and shall continue in force for the duration of the Franchise

Agreement, provided that, this Agreement shall terminate if the SPA is terminated or the transaction contemplated in the SPA otherwise does not close.

- b. **Binding Acceptance:** This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns, and the promises and obligations herein shall survive the expiration date hereof. Any purported assignment of this Agreement is void without the express written consent of the signatories.
- c. **Voluntary Agreement:** This Agreement is freely and voluntarily given by each party, without any duress or coercion, and after each party has consulted with its counsel. Each party has carefully and completely read all of the terms and provisions of this Agreement. Neither any of the Companies, nor any of their Affiliates, nor the City will take any action to challenge the validity or enforceability of any provision of this Agreement; nor will they participate with any other person or entity in any such challenge.
- d. **Severability:** If any term, condition, or provision of this Agreement shall, to any extent, be held to be invalid, preempted, or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective.
- e. **Counterparts:** The Agreement may be executed in counterparts, and shall be fully binding and effective upon execution and delivery of the required signatures below.
- f. **No Waiver:** No waiver of any provision of this Agreement or any breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving party and any such waiver shall not be deemed a waiver of any other provision of this Agreement or any other or subsequent breach of this Agreement.

- g. **Captions and References:** The captions and headings of sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.
- h. **Notices:** All notices or other communications required or permitted to be made or given hereunder shall be in writing and shall be mailed overnight delivery or otherwise delivered in an expedited manner (via email or fax) to the below addresses or at such other address as may be specified by the parties in writing:

For: Verizon California Inc.

Monica Azare
Verizon Communications Inc.
Vice President & Deputy General Counsel
140 West Street, 6th Floor
New York, NY 10007

Timothy J. McCallion
President, Verizon California
2535 W. Hillcrest Drive
CAM21GA
Newbury Park, CA 91320

For: Frontier Communications Corporation and for Franchisee after Closing

Kevin Saville
Vice President & Associate General Counsel
Frontier Communications Corporation
2378 Wilshire Blvd.
Mound, MN 55364

For the City:

City of Ontario
Attn: Information Technology Director
303 East "B" Street
Ontario, CA 91764-4196

With a copy to

City of Ontario
Attn: City Attorney
Best Best and Krieger, LLP
2855 East Guasti Road
Suite 400
Ontario, CA 91761

- i. **Governing Law:** This Agreement shall be governed in all respects by the laws of the State of California.
- j. **Time of Essence:** In determining whether a party has substantially complied with this Agreement, the parties agree that time is of the essence.

AGREED TO THIS ____ DAY OF SEPTEMBER, 2015.

CITY OF ONTARIO,
a municipal corporation of California

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

VERIZON CALIFORNIA INC.

By:

Title:

Dated: _____

FRONTIER COMMUNICATIONS CORPORATION

By:

Title:

Dated: _____

CITY OF ONTARIO

Agenda Report
September 15, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: ACCEPT WRITTEN PETITIONS TO CREATE TWO COMMUNITY FACILITIES DISTRICTS; ADOPT RESOLUTIONS OF INTENT TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES - AREA A) AND CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 29 (NEW HAVEN FACILITIES - AREA B) AND AUTHORIZING THE ASSOCIATED LEVY OF SPECIAL TAXES; AND ADOPT RESOLUTIONS TO INCUR BONDED INDEBTEDNESS

RECOMMENDATION: That the City Council:

- (A) Accept written petitions (on file with the Records Management Department) from Brookcal Ontario, LLC. located in Costa Mesa, California, to create two Community Facilities Districts (CFDs), and to waive certain procedural matters, under the Mello-Roos Community Facilities Act of 1982;
- (B) Adopt a Resolution of Intent to establish City of Ontario Community Facilities District No. 28 (New Haven Facilities - Area A); authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, October 20, 2015;
- (C) Adopt a Resolution to incur bonded indebtedness of proposed Community Facilities District No. 28 (New Haven Facilities - Area A);
- (D) Adopt a Resolution of Intent to establish City of Ontario Community Facilities District No. 29 (New Haven Facilities - Area B); authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, October 20, 2015; and
- (E) Adopt a Resolution to incur bonded indebtedness of proposed Community Facilities District No. 29 (New Haven Facilities - Area B).

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. 09/15/2015
Approved: _____
Continued to: _____
Denied: _____

10

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

FISCAL IMPACT: The use of Mello-Roos financing for facilities in the residential development of New Haven Facilities project is estimated to generate approximately \$15 million (\$8 million for New Haven Facilities – Area A and \$7 million for New Haven Facilities – Area B) which will be used to help fund a portion of the public infrastructure improvements that will serve the New Haven project. Since Mello-Roos bonds are not a direct obligation of the City, and are paid from special taxes levied on each taxable parcel in the district, there is no general fund impact from the issuance of Mello-Roos bonds.

BACKGROUND: The Mello-Roos Community Facilities Act of 1982 provided local government, 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 fund governmental services and to finance various kinds of public infrastructure facilities. With the adoption of Resolution 2014-063 on June 17, 2014, the City Council previously authorized the levy of special taxes to fund various city services for the district. Under the Mello-Roos Act, the initial steps in the formation of a community facilities district to finance public improvements are adopting resolutions declaring the City's intention to establish a community facilities district and levy special taxes, and to issue bonds.

In the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony ("First Amended and Restated Construction Agreement") between the City and NMC Builders, LLC, the City agreed to cooperate with the members of NMC Builders, LLC in the formation of community facilities districts. Brookcal Ontario, LLC., a member of NMC Builders, LLC, has provided written petitions to the City requesting formation of two community facilities districts for the New Haven project in the Ontario Ranch New Haven Facilities – Area A and New Haven Facilities – Area B. The New Haven facilities projects address the development of approximately 90 acres (53 acres in New Haven Facilities – Area A and 37 acres in New Haven Facilities – Area B) located generally east of Turner Avenue, west of Haven Avenue, south of Schaefer Avenue and north of Ontario Ranch Road (formerly Edison Avenue). At build out, the development is projected to include 620 units: New Haven Facilities – Area A is anticipated to include 240 detached units and 92 attached units, and New Haven Facilities - Area B is anticipated to contain 246 detached units and 42 attached units.

Included, as part of the resolution of intention for each of the proposed districts, is the proposed Rate and Method of Apportionment of Special Tax for the District. 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 in all aspects, except that the percentage of assessed value of the total annual tax obligation plus the Homeowners Association (HOA) fee exceeds the adopted policy thresholds, in aggregate, by .19% for detached units, and by .45% for attached units. However, as was previously authorized for another developer in the Ontario Ranch, and as is consistent with the "enhanced level of amenities" provisions of the Memorandum of Understanding executed between the City and NMC Builders on July 21, 2015 (the MOU), it is recommended that the policy threshold limitations be waived in this instance in recognition of the enhanced level of amenities and services to be provided by the project's HOA(s), which are of the type contemplated by the MOU.

Under the proposed Rates and Methods of Apportionment, **the portion of the maximum annual special tax rates which will be used to fund debt service payments on the bonds is fixed and will not increase over time.** The total amount of bonds authorized for the two districts (\$63 million) under the resolutions is set intentionally higher than the current estimated bond amount for the districts (approximately \$15 million) in order to allow future City Councils the option, without increasing the amount of the annual special taxes, to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund City services. The term and structure of the Rates and Methods of Apportionment of Special Tax for the New Haven facilities projects are consistent with those of the previously adopted Rates and Methods of Apportionment for Ontario Ranch community facilities districts. This ensures that the special tax rates levied on all residential property owners in community facilities districts in Ontario Ranch are developed in a consistent and equivalent manner. In addition, under the provisions of the Mello-Roos Act, to ensure that home buyers are making an informed decision, all residential builders in the Ontario Ranch districts will be required to disclose the maximum annual special tax amount to each homeowner before entering into a sales contract.

City staff has presented and discussed the proposed Rates and Methods of Apportionment of Special Tax with the landowners. As proposed, the resolutions of intention to establish the districts and to levy special taxes will set the public hearing date on the formation of the CFDs for the regularly scheduled City Council meeting on Tuesday, October 20, 2015 to consider the matter.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT, PROPOSED TO BE NAMED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES - AREA A), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

WHEREAS, Section 53318 of the Mello-Roos Community Facilities Act of 1982 (the "Act") provides that proceedings for the establishment of a Community Facilities District shall be instituted by a legislative body of a local agency when a petition requesting the institution of the proceedings signed by the owners of not less than 10% of the area of land proposed to be included in the community facilities district and not proposed to be exempt from the special tax, describing the boundaries of the territory that is proposed for inclusion in the community facilities district and specifying the types of facilities and services to be financed by the community facilities district is filed with the clerk of the legislative body; and

WHEREAS, Section 53318 of the Act further provides that such a petition is not required to be acted upon until the payment of a fee in an amount that the legislative body determines, within 45 days of receiving such petition, is sufficient to compensate the legislative body for all costs incurred in conducting proceedings to create a community facilities district pursuant to the Act; and

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City") has received a written petition (the "Petition") from BrookCal Ontario, L.L.C. (the "Landowner") requesting the institution of proceedings for the establishment of a community facilities district (the "Community Facilities District"), describing the boundaries of the territory that is proposed for inclusion in the Community Facilities District and specifying the types of facilities and services to be financed by the Community Facilities District; and

WHEREAS, the Landowner has represented and warranted to the City Council that the Landowner is the owner of 100% of the area of land proposed to be included within the Community Facilities District; and

WHEREAS, Section 53314.9 of the Act provides that, at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a community facilities district; and

WHEREAS, Section 53314.9 of the Act further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the legislative body, with or without interest, under all the following conditions: (a) the proposal to

repay the funds is included in both the resolution of intention to establish a community facilities district adopted pursuant to Section 53321 of the Act and in the resolution of formation to establish a community facilities district pursuant to Section 53325.1 of the Act, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any agreement shall specify that if the qualified electors of the community facilities district do not approve the proposed special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds; and

WHEREAS, the City and the Landowner entered into a Deposit and Reimbursement Agreement, dated as of September 1, 2015 (the "Deposit Agreement"), relating to the Community Facilities District, that provides for the advancement of funds by the Landowner to be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby, and provides for the reimbursement to the Landowner of such funds advanced, without interest, from the proceeds of any such bonds issued by the Community Facilities District; and

WHEREAS, the City desires to include in this Resolution, in accordance with Section 53314.9 of the Act, the proposal to repay funds pursuant to the Deposit Agreement.

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

SECTION 1. The City Council hereby finds that the Petition is signed by the requisite number of owners of land proposed to be included in the Community Facilities District.

SECTION 2. The City Council proposes to establish a community facilities district under the terms of the Act. The boundaries of the territory proposed for inclusion in the Community Facilities District are described in the map showing the proposed Community Facilities District (the "Boundary Map") on file with the City Clerk of the City (the "City Clerk"), which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to sign the original Boundary Map and record, or cause to be recorded, the Boundary Map with all proper endorsements thereon in the office of the San Bernardino County Recorder within 15 days of the date of adoption of this Resolution, all as required by Section 3111 of the California Streets and Highways Code.

SECTION 3. The name proposed for the Community Facilities District is "City of Ontario Community Facilities District No. 28 (New Haven Facilities - Area A)".

SECTION 4. The public facilities (the "Facilities") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Facilities" on Exhibit A hereto, which is by this reference incorporated herein. Those Facilities proposed to be purchased as completed public facilities are described under

the caption "Facilities to be Purchased" on Exhibit A hereto. 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. All or any portion of the Facilities may be financed through a financing plan, including, but not limited to, a lease, lease-purchase or installment-purchase arrangement.

SECTION 5. Except where funds are otherwise available, a special tax sufficient to pay for all Facilities and 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 to pay for Facilities may be prepaid and permanently satisfied are 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 6. The special tax may only finance the Services to the extent that they are in addition to those provided in the territory of the Community Facilities District before the Community Facilities District is created. The Services may not supplant services already available within that territory when the Community Facilities District is created.

SECTION 7. The tax year after which no further special tax to pay for Facilities will be levied against any parcel used for private residential purposes is specified in the Rate and Method. Under no circumstances shall the special tax to pay for Facilities in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the Community Facilities District by more than 10% above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. For purposes of this paragraph, a parcel shall be considered "used for private residential purposes" not later than the date on which an occupancy permit for private residential use is issued.

SECTION 8. Pursuant to Section 53344.1 of the Act, the City Council hereby reserves to itself the right and authority to allow any interested owner of property within the Community Facilities District, subject to the provisions of said Section 53344.1 and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the Community Facilities District treasurer in full payment or part payment of any installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

SECTION 9. The City Council hereby fixes Tuesday, October 20, 2015, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the establishment of the Community Facilities District.

SECTION 10. The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53322 of the Act.

SECTION 11. The levy of said proposed special tax shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the Community Facilities District, with each owner having one vote for each acre or portion of an acre such owner owns in the Community Facilities District.

SECTION 12. Each officer of the City who is or will be responsible for providing one or more of the proposed types of Facilities or Services is hereby 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 Facilities and 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 the Facilities and Services. Such officers are hereby also directed to estimate the fair and reasonable cost of the Facilities proposed to be purchased as completed public facilities and of the incidental expenses proposed to be paid. Such report shall be made a part of the record of said public hearing.

SECTION 13. The Landowner has heretofore advanced certain funds, and may advance additional funds, which have been or may be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby. The City Council proposes to repay all or a portion of such funds expended for such purpose, solely from the proceeds of such bonds, pursuant to the Deposit Agreement. The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

SECTION 14. 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 15. 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 15th day of September 2015.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015- duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

EXHIBIT A

FACILITIES AND INCIDENTAL EXPENSES

Facilities

The types of facilities to be financed by the Community Facilities District are street and bridge improvements, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, domestic and recycled water distribution facilities, sewer collection facilities, solid waste facilities, storm drainage facilities, park and recreation facilities and equipment, aquatic facilities and equipment, fire facilities and equipment, police facilities and equipment, library facilities and equipment, fiber optic telecommunication system facilities, general governmental office, administrative and meeting facilities, and land, rights-of-way and easements necessary for any of such facilities.

Facilities to be Purchased

The types of facilities to be purchased as completed facilities are street and bridge improvements, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, domestic and recycled water distribution facilities, sewer collection facilities, solid waste facilities, storm drainage facilities, park and recreation facilities and equipment, aquatic facilities and equipment, fire facilities and equipment, police facilities and equipment, library facilities and equipment, fiber optic telecommunication system facilities, general governmental office, administrative and meeting facilities, and land, rights-of-way and easements necessary for any of such facilities.

Services

The types of services to be financed by the Community Facilities District are police protection services, fire protection and suppression services, ambulance and paramedic services, maintenance and lighting of parks, parkways, streets, roads and open space, flood and storm protection services and maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the City.

Incidental Expenses

The incidental expenses proposed to be incurred include the following:

- (a) the cost of planning and designing public facilities to be financed, including the cost of environmental evaluations of those facilities;
- (b) the costs associated with the creation of the Community Facilities District, issuance of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District; and
- (c) any other expenses incidental to the construction, completion, and inspection of the authorized work.

EXHIBIT B

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES – AREA A)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 28 (New Haven Facilities – Area A) ("CFD No. 28") and collected each Fiscal Year, commencing in Fiscal Year 2015-16, in an amount determined by the City Council of the City of Ontario through the application of the Rate and Method of Apportionment, as described below. All of the real property in CFD No. 28, 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:

"Acre" or **"Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Subdivision Map, parcel map, condominium plan, or other recorded County map.

"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. 28: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 28 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City or CFD No. 28 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 28 of complying with City, CFD No. 28, or obligated persons disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 28 related to the analysis and reduction, if any, of the Special Tax on Single Family Property in accordance with Section C.1 herein; the costs of the City or CFD No. 28 related to an appeal of the Special Tax; the costs associated with the release of funds from any escrow account; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead relating to CFD No. 28; and amounts estimated or advanced by the City or CFD No. 28 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" 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, with respect to an Assessor's Parcel, that number assigned to such Assessor's Parcel by the County for purposes of identification.

"Assigned Special Tax" means the Special Tax for each Land Use Class of Developed Property, as determined in accordance with Section C.1.a.2 below.

"Backup Special Tax" means the Special Tax for each Land Use Class of Developed Property, as determined in accordance with Section C.1.a.3 below.

"Bonds" means any bonds or other debt (as defined in Section 53317(d) of the Act) issued by CFD No. 28 under the Act and payable from Special Taxes.

"Buildable Lot" means an individual lot, within a Final Subdivision Map or an area expected by CFD No. 28 to become Final Mapped Property, such as the area within a Tentative Tract Map, for which a building permit may be issued without further subdivision of such lot.

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

"CFD No. 28" means City of Ontario Community Facilities District No. 28 (New Haven Facilities – Area A).

"City" means the City of Ontario, California.

"City Council" means the City Council of the City, acting as the legislative body of CFD No. 28.

"County" means the County of San Bernardino.

"Designated Buildable Lot" means a Buildable Lot for which a building permit has not been issued by the City as of the date of calculation of the Backup Special Tax.

"Developed Property" means for each Fiscal Year, all Taxable Property, exclusive of Final Mapped Property, Taxable Property Owner Association Property, and Taxable Public Property, for which a building permit or other applicable permit for new construction was issued after January 1, 2014, and before May 1 of the prior Fiscal Year.

“Expected Residential Lot Count” means 332 Buildable Lots of Single Family Property or, as determined by the CFD Administrator, the number of Buildable Lots of Single Family Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

“Facilities” means the public facilities authorized to be financed, in whole or in part, by CFD No. 28.

“Final Mapped Property” means, for each Fiscal Year, all Taxable Property, exclusive of Developed Property, Taxable Property Owner Association Property, and Taxable Public Property, which as of January 1 of the previous Fiscal Year was located within a Final Subdivision Map. The term Final Mapped Property shall include any parcel map or Final Subdivision Map, or portion thereof, that creates individual lots for which a building permit may be issued, including Parcels that are designated as a remainder Parcel (i.e., one where the size, location, etc., precludes any further subdivision or taxable use).

“Final Subdivision Map” means a final tract map, parcel map, or lot line adjustment approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or a condominium plan recorded pursuant to California Civil Code 1352 that, in either case, creates individual lots for which building permits may be issued without further subdivision.

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

“Indenture” means the indenture, fiscal agent agreement, resolution, or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time.

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

“Maximum Special Tax” means, with respect to an Assessor’s Parcel of Taxable Property, the Maximum Special Tax determined in accordance with Section C.1 below that can be levied in any Fiscal Year on such Assessor’s Parcel of Taxable Property.

“Minimum Sale Price” means the minimum price at which Units of a given Land Use Class have sold or are expected to be sold in a normal marketing environment and shall not include prices for such Units that are sold at a discount to expected sales prices for the purpose of stimulating the initial sales activity with respect to such Land Use Class.

“Non-Residential Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued by the City permitting the construction of one or more non-residential structures or facilities.

“Other Residential Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued by the City for purposes of constructing Units, excluding Single Family Attached Property and Single Family Detached Property.

“Outstanding Bonds” means all Bonds which are outstanding under and in accordance with the provisions of the Indenture.

“Price Point Consultant” means any consultant or firm of such consultants selected by CFD No. 28 that (a) has substantial experience in performing price point studies for residential units within community facilities districts established under the Act or otherwise estimating or confirming pricing for residential units in such community facilities districts, (b) has recognized expertise in analyzing economic and real estate data that relates to the pricing of residential units in such community facilities districts, (c) is in fact independent and not under the control of CFD No. 28 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 28, (ii) the City, (iii) any owner of real property in CFD No. 28, or (iv) any real property in CFD No. 28, and (e) is not connected with CFD No. 28 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 28 or the City.

“Price Point Study” means a price point study or a letter updating a previous price point study prepared by the Price Point Consultant pursuant to Section C herein.

“Property Owner Association Property” means, for each Fiscal Year, any property within the boundaries of CFD No. 28 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

“Proportionately” means (a) for Developed Property in the first step of Section D below, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Developed Property; however, for Developed Property in the fourth step of Section D below, Proportionately means that the amount of the increase above the Assigned Special Tax, if necessary, is equal for all Assessor’s Parcels of Developed Property, except that if the Backup Special Tax limits the increase on any Assessor’s Parcel(s), then the amount of the increase shall be equal for the remaining Assessor’s Parcels; (b) for Final Mapped Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Final Mapped Property; (c) for Undeveloped Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Undeveloped Property; (d) for Taxable Property Owner Association Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Property Owner Association Property; and (e) for Taxable Public Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Public Property.

“Public Property” means, for each Fiscal Year, property within the boundaries of CFD No. 28 that is (a) owned by, irrevocably offered to, or dedicated to the federal government, the State, the County, the City, or any local government or other public agency or (b) encumbered by an easement for purposes of public right-of-way that makes impractical its use for any purpose other than that set forth in such easement, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

“Rate and Method of Apportionment” means this Rate and Method of Apportionment of Special Tax.

“Residential Floor Area” means all of the Square Footage of living area within the perimeter of a Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be as set forth in the building permit(s) issued for such Assessor’s Parcel, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 28. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor’s Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

“Services” means the services authorized to be financed, in whole or in part, by CFD No. 28.

“Single Family Attached Property” means all Assessor’s Parcels of Developed Property for which a building permit or use permit was issued for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor’s Parcel Numbers assigned to them (except for a duplex unit, which may share an Assessor’s Parcel with another duplex unit), and may be purchased by individual homebuyers (which shall still be the case even if the Units are purchased and subsequently offered for rent by the owner of the Unit), including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

“Single Family Detached Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued for construction of a Unit, on one legal lot, that does not share a common wall with another Unit.

“Single Family Property” means all Assessor’s Parcels of Single Family Attached Property and Single Family Detached Property.

“Special Tax” means the special tax authorized by the qualified electors of CFD No. 28 to be levied within the boundaries of CFD No. 28.

“Special Tax Requirement” means for any Fiscal Year that amount required, after taking into account available amounts held in the funds and accounts established under the Indenture, for CFD No. 28 to: (i) pay debt service on all Outstanding Bonds which is due in the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including, but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay Administrative Expenses; (iv) provide any amounts required to establish or replenish any reserve fund for the Bonds; (v) pay directly for acquisition or construction of Facilities, or the cost of Services, to the extent that the inclusion of such amounts does not increase the Special Tax levy on Final Mapped Property or Undeveloped Property; (vi) provide an amount equal to Special Tax delinquencies based on the historical delinquency rate for the Special Tax as determined by the CFD Administrator.

“Square Footage” or “Sq. Ft.” means the floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 28, issued for construction of Single Family Property, Other Residential Property, or Non-Residential Property, plus any square footage subsequently added to a building of Non-Residential Property 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 of the Assessor’s Parcels within the boundaries of CFD No. 28 that are not exempt from the Special Tax pursuant to law or Section E below.

“Taxable Property Owner Association Property” means, for each Fiscal Year, all Assessor’s Parcels of Property Owner Association Property that are not exempt from the Special Tax pursuant to Section E below.

“Taxable Public Property” means, for each Fiscal Year, all Assessor’s Parcels of Public Property that are not exempt from the Special Tax pursuant to law or Section E below.

“Tentative Tract Map” means a map: (i) showing a proposed subdivision of an Assessor’s Parcel(s) and the conditions pertaining thereto; (ii) that may or may not be based on a detailed survey; and (iii) that is not recorded by the County to create legal lots.

“Total Tax Burden” means for any Unit, the annual Special Tax, together with *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities district, and any other taxes, fees, and charges which are levied and imposed on such Unit and the real property on which it is located and collected by the County on *ad valorem* tax bills and which are secured by such Unit and the real property on which it is located, assuming such Unit had been completed, sold, and subject to such levies and impositions, excluding service charges such as those related to sewer and trash.

“Trustee” means the trustee or fiscal agent under the Indenture.

“TTM 18991” means Tentative Tract Map No. 18991, the area of which is located within CFD No. 28.

“TTM 18992” means Tentative Tract Map No. 18992, the area of which is located within CFD No. 28.

“Undeveloped Property” means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Final Mapped Property, Taxable Public Property, or Taxable Property Owner Association Property.

“Unit” means an individual single-family detached or attached home, townhome, condominium, apartment, or other residential dwelling unit, including each separate living area within a half-plex, duplex, triplex, fourplex, or other residential structure.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2015-16, all Taxable Property within CFD No. 28 shall be classified as Developed Property, Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below. Assessor’s Parcels of Single Family Detached Property shall be assigned to Land Use Classes 1 through 17, and Assessor’s Parcels of Single Family Attached Property shall be assigned to Land Use Classes 18 through 27, as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor’s Parcels. Other Residential Property shall be assigned to Land Use Class 28, and Non-Residential Property shall be assigned to Land Use Class 29.

C. MAXIMUM SPECIAL TAX

1. Special Tax

At least 30 days prior to the issuance of Bonds, the Assigned Special Tax on Developed Property (set forth in Table 1 below) shall be analyzed in accordance with and subject to the conditions set forth in this Section C. At such time, CFD No. 28 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class. If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to Units within one or more Land Use Classes of Single Family Property to be constructed within CFD No. 28 exceeds 1.95% of the Minimum Sale Price of such Units, the Assigned Special Tax shall be reduced to the extent necessary to cause the Total Tax Burden that shall apply to Units within such Land Use Class(es) not to exceed 1.95% of the Minimum Sale Price of such Units. Each Assigned Special Tax reduction for a Land Use Class shall be calculated by the CFD Administrator separately, and it shall not be required that such reduction be proportionate among Land Use Classes. In connection with any reduction in the Assigned Special Tax, the Backup Special Tax shall also be reduced by the CFD Administrator based on the percentage reduction in Maximum Special Tax revenues within the Tentative Tract Map area(s) where the Assigned Special Tax reductions occurred. The Special Tax reductions required pursuant to this paragraph shall be reflected in an amended notice of Special Tax lien which CFD No. 28 shall cause to be recorded by executing a certificate in substantially the form attached herein as Exhibit A. The reductions in this section apply to Single Family Property, but not to Other Residential Property or Non-Residential Property.

a. Developed Property

1) *Maximum Special Tax*

The Maximum Special Tax that may be levied in any Fiscal Year for each Assessor's Parcel classified as Developed Property shall be the greater of (i) the amount derived by application of the Assigned Special Tax or (ii) the amount derived by application of the Backup Special Tax. The Maximum Special Tax shall not increase in future years, other than as calculated pursuant to Section C.1.a.3 below.

2) *Assigned Special Tax*

The Assigned Special Tax that may be levied in any Fiscal Year for each Land Use Class is shown below in Table 1.

**TABLE 1
ASSIGNED SPECIAL TAX – DEVELOPED PROPERTY**

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Detached Property	< 1,701	\$1,823 per Unit
2	Single Family Detached Property	1,701 – 1,900	\$2,061 per Unit
3	Single Family Detached Property	1,901 – 2,100	\$2,133 per Unit
4	Single Family Detached Property	2,101 – 2,300	\$2,324 per Unit
5	Single Family Detached Property	2,301 – 2,500	\$2,483 per Unit
6	Single Family Detached Property	2,501 – 2,700	\$2,632 per Unit
7	Single Family Detached Property	2,701 – 2,900	\$2,935 per Unit
8	Single Family Detached Property	2,901 – 3,100	\$3,114 per Unit
9	Single Family Detached Property	3,101 – 3,300	\$3,214 per Unit
10	Single Family Detached Property	3,301 – 3,500	\$3,429 per Unit
11	Single Family Detached Property	3,501 – 3,700	\$3,591 per Unit
12	Single Family Detached Property	3,701 – 3,900	\$3,770 per Unit
13	Single Family Detached Property	3,901 – 4,100	\$3,956 per Unit
14	Single Family Detached Property	4,101 – 4,300	\$4,141 per Unit
15	Single Family Detached Property	4,301 – 4,500	\$4,326 per Unit
16	Single Family Detached Property	4,501 – 4,700	\$4,512 per Unit
17	Single Family Detached Property	> 4,700	\$4,697 per Unit
18	Single Family Attached Property	< 801	\$943 per Unit
19	Single Family Attached Property	801 – 950	\$984 per Unit

20	Single Family Attached Property	951 – 1,100	\$1,100 per Unit
21	Single Family Attached Property	1,101 – 1,300	\$1,185 per Unit
22	Single Family Attached Property	1,301 – 1,500	\$1,377 per Unit
23	Single Family Attached Property	1,501 – 1,700	\$1,628 per Unit
24	Single Family Attached Property	1,701 – 1,900	\$1,678 per Unit
25	Single Family Attached Property	1,901 – 2,100	\$1,900 per Unit
26	Single Family Attached Property	2,101 – 2,300	\$1,993 per Unit
27	Single Family Attached Property	> 2,300	\$2,154 per Unit
28	Other Residential Property		\$32,777 per Acre
29	Non-Residential Property		\$32,777 per Acre

3) *Backup Special Tax*

The Backup Special Tax shall be \$2,585 per Unit for Single Family Detached Property and \$1,509 per Unit for Single Family Attached Property. However, if the Expected Residential Lot Count does not equal 240 for Single Family Detached Property or 92 for Single Family Attached Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property and Single Family Attached Property according to the following formula:

$$\text{Backup Special Tax} = \$620,475 \div \text{number of Designated Buildable Lots of Single Family Detached Property}$$

$$\text{or } \$138,832 \div \text{number of Designated Buildable Lots of Single Family Attached Property}$$

If any portion of a Final Subdivision Map, or any area expected by CFD No. 28 to become Final Mapped Property, such as the area within TTM 18991, TTM 18992, or any other Tentative Tract Map, changes any time after the City has issued Bonds, causing an adjustment to the number of Designated Buildable Lots, then the Backup Special Tax for all Designated Buildable Lots of Single Family Detached Property or Single Family Attached Property subject to the change shall be calculated according to the following steps:

Step 1: Determine the total Backup Special Taxes that could have been collected from Designated Buildable Lots, separately for Single Family Detached Property and Single Family Attached

Property, prior to the Final Subdivision Map or expected Final Mapped Property change.

Step 2: Divide the amount(s) determined in Step 1 by the number of Designated Buildable Lots, separately for Single Family Detached Property and Single Family Attached Property, that exists after the Final Subdivision Map or expected Final Mapped Property change.

Step 3: Apply the amount(s) determined in Step 2 as the Backup Special Tax per Unit for Single Family Detached Property or Single Family Attached Property.

The Backup Special Tax for an Assessor's Parcel shall not change once an Assessor's Parcel is classified as Developed Property.

b. Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property

The Maximum Special Tax for Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property shall be \$32,777 per Acre, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

2. Multiple Land Use Classes on an Assessor's Parcel

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax levied on such Assessor's Parcel shall be the sum of the Maximum Special Tax for all Units of Single Family Property and Acres of Other Residential Property and Non-Residential Property (based on the pro rata share of Square Footage between Other Residential Property and Non-Residential Property, according to the applicable building permits, Final Subdivision Map, parcel map, condominium plan, or other recorded County map) located on that Assessor's Parcel.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Each Fiscal Year, beginning with Fiscal Year 2015-16, the CFD Administrator shall determine the Special Tax Requirement for such Fiscal Year. The Special Tax shall then be levied as follows:

First: If needed to satisfy the Special Tax Requirement, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property up to 100% of the applicable Assigned Special Tax;

Second: If additional monies are needed to satisfy the Special Tax Requirement after the first step has been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Final Mapped Property up to 100% of the Maximum Special Tax for Final Mapped Property;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property up to 100% of the Maximum Special Tax for Undeveloped Property;

Fourth: If additional monies are needed to satisfy the Special Tax Requirement after the first three steps have been completed, then the levy of the Special Tax on each Assessor's Parcel of Developed Property whose Maximum Special Tax is determined through the application of the Backup Special Tax shall be increased Proportionately from the Assigned Special Tax up to the Maximum Special Tax for each such Assessor's Parcel;

Fifth: If additional monies are needed to satisfy the Special Tax Requirement after the first four steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Property Owner Association Property up to the Maximum Special Tax for Taxable Property Owner Association Property;

Sixth: If additional monies are needed to satisfy the Special Tax Requirement after the first five steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property up to the Maximum Special Tax for Taxable Public Property.

Notwithstanding the above, under no circumstances shall the Special Tax levied in any Fiscal Year on any Assessor's Parcel of Single Family Property or Other Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of delinquency or default by the owner or owners of any other Assessor's Parcel or Assessor's Parcels within CFD No. 28 by more than ten percent above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults.

E. EXEMPTIONS

No Special Tax shall be levied on up to 18.62 Acres of Public Property and up to 8.88 Acres of Property Owner Association Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property or Property Owner Association Property.

Property Owner Association Property or Public Property that is not exempt from the Special Tax under this section shall be subject to the levy of the Special Tax and shall be taxed Proportionately as part of the fifth or sixth step, respectively, in Section D above, up to 100% of the applicable Maximum Special Tax for Taxable Property Owner Association Property and Taxable Public Property. No Special Tax shall be levied in any

Fiscal Year on Assessor's Parcels that have fully prepaid the Special Tax obligation pursuant to the formula set forth in Section H.

F. APPEALS

Any property owner may file a written appeal of the Special Tax with CFD No. 28 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one 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 was 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.

G. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the Special Taxes may be collected in such other manner as the City Council shall determine, including direct billing of affected property owners.

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

"CFD Public Facilities" means \$8,627,000 for each Prepayment Period, or such lower number as determined by the City Council to be sufficient to fund the Facilities and Services to be provided by CFD No. 28.

"Expenditures Fund" means funds or accounts, regardless of their names, that are established to hold moneys that are available to acquire or construct Facilities and to fund Services.

“Future Facilities Costs” means the CFD Public Facilities minus (i) Facilities and Services costs previously paid from the Expenditures Fund during the Prepayment Period in which the prepayment is being made, (ii) moneys currently on deposit in the Expenditures Fund from deposits made during the Prepayment Period in which the prepayment is being made, and (iii) moneys currently on deposit in an escrow fund that are expected to be available to finance Facilities costs. In no event shall the amount of Future Facilities Costs be less than zero.

“Prepayment Period” means one of three periods of time during which a Special Tax prepayment may be made.

“Prepayment Period 1” means July 1, 2015, through June 30, 2049.

“Prepayment Period 2” means July 1, 2049, through June 30, 2082.

“Prepayment Period 3” means July 1, 2082, through June 30, 2116.

1. Prepayment in Full

The obligation of an Assessor's Parcel to pay the Special Tax may be prepaid as described herein, provided that a prepayment may be made only for Assessor's Parcels for which a building permit for new construction was issued after January 1, 2014, and only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge a fee for providing this service. Prepayment in any six month period must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

The Special Tax Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

	Bond Redemption Amount
plus	Redemption Premium
plus	Future Facilities Amount
plus	Defeasance Amount
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
Total	Prepayment Amount

As of the proposed date of prepayment, the Special Tax Prepayment Amount (defined below) shall be calculated by the CFD Administrator as follows:

Paragraph No.

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel, and determine the Prepayment Period for the proposed prepayment.
2. Compute the Assigned Special Tax and Backup Special Tax for the Assessor's Parcel to be prepaid based on the Developed Property Special Tax which is, or could be, charged in the current Fiscal Year. For Assessor's Parcels of Final Mapped Property (for which a building permit has been issued but which is not yet classified as Developed Property) to be prepaid, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.
3. (a) Divide the Assigned Special Tax computed pursuant to Paragraph 2 by the total estimated Assigned Special Tax for CFD No. 28 based on the Developed Property Special Tax which could be charged in the current Fiscal Year on all expected development through buildout of CFD No. 28, excluding any Assessor's Parcels which have been prepaid, and

(b) Divide the Backup Special Tax computed pursuant to Paragraph 2 by the estimated total Backup Special Tax at buildout of CFD No. 28, excluding any Assessor's Parcels which have been prepaid.
4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
6. Compute the Future Facilities Costs for the applicable Prepayment Period.
7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.
10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the "Defeasance Amount".

11. Verify the administrative fees and expenses of CFD No. 28, including the costs to compute the prepayment, the costs to invest the prepayment proceeds, the costs to redeem Bonds, and the costs to record any notices to evidence the prepayment and the redemption (the “Administrative Fees and Expenses”).
12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the “Reserve Fund Credit”). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement on the prepayment date or the redemption date.
13. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to Paragraphs 4, 5, 7, 10, and 11, less the amount computed pursuant to Paragraph 12 (the “Prepayment Amount”).
14. From the Prepayment Amount, the amounts computed pursuant to Paragraphs 4, 5, 10, and 12 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to Paragraph 7 shall be deposited into the Expenditures Fund. The amount computed pursuant to Paragraph 11 shall be retained by CFD No. 28.

The Special Tax Prepayment Amount may be sufficient to redeem other than a \$5,000 increment of Bonds. In such cases, the increment above \$5,000, or integral multiple thereof, will be retained in the appropriate fund established under the Indenture to be used with the next prepayment of Bonds or to make debt service payments.

As a result of the payment of the current Fiscal Year’s Special Tax levy as determined under Paragraph 9 (above), the CFD Administrator shall remove the current Fiscal Year’s Special Tax levy for such Assessor’s Parcel from the County tax rolls. With respect to any Assessor’s Parcel that is prepaid during Prepayment Period 3, the CFD Administrator shall cause a suitable notice to be recorded in compliance with the Act to indicate that the Special Tax has been prepaid and that the obligation of such Assessor’s Parcel to pay the Special Tax shall cease.

With respect to the Special Tax for any Assessor’s Parcel that is prepaid during Prepayment Period 1 or Prepayment Period 2, the obligation of such Assessor’s Parcel to pay the Special Tax shall be tolled, or suspended, through the end of such Prepayment Period, but shall resume in the first Fiscal Year of the subsequent Prepayment Period. The CFD Administrator shall cause a suitable notice to be recorded in compliance with the Act to indicate that the Special Tax has been satisfied for the remainder of the applicable Prepayment Period but has not been permanently satisfied and the obligation to pay the Special Tax will resume in the first Fiscal Year of the Prepayment Period following the Prepayment Period in which the prepayment was made. Once the

obligation of an Assessor's Parcel to pay the Special Tax resumes, the Special Tax for the then applicable Prepayment Period may be prepaid.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Special Tax that may be levied on Taxable Property within CFD No. 28 (after excluding 18.62 Acres of Public Property and 8.88 acres of Property Owner Association Property) both prior to and after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

2. Prepayment in Part

The Special Tax on an Assessor's Parcel for which a building permit for new construction was issued after January 1, 2014, may be partially prepaid. The amount of the prepayment shall be calculated as in Section H.1, except that a partial prepayment shall be calculated by the CFD Administrator according to the following formula:

$$PP = PF \times \%$$

The terms above have the following meaning:

PP = the partial prepayment

PF = the Prepayment Amount (full prepayment) for the Special Tax calculated according to Section H.1

% = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax

The Special Tax partial prepayment amount must be sufficient to redeem at least a \$5,000 increment of Bonds.

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of such owner's intent to partially prepay the Special Tax and the percentage by which the Special Tax shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request and may charge a fee for providing this service. With respect to any Assessor's Parcel that is partially prepaid, the CFD Administrator shall (i) distribute the remitted prepayment funds according to Section H.1, and (ii) indicate in the records of CFD No. 28 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (100% - "%", as defined above) of the Maximum Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D during the Prepayment Period in which the partial prepayment is made.

For partial prepayments made during Prepayment Period 1 or Prepayment Period 2, the full amount of the Special Tax shall resume in the first Fiscal Year of the Prepayment Period following the Prepayment Period in which the partial prepayment was made. Once the obligation of an Assessor's Parcel to pay the Special Tax resumes, the Special Tax for the then applicable Prepayment Period may be prepaid.

I. TERM OF SPECIAL TAX

The Fiscal Year after which no further Special Tax shall be levied or collected is Fiscal Year 2115-2116, except that the Special Tax that was lawfully levied in or before such Fiscal Year and that remains delinquent may be collected in subsequent years.

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 1 OF 3)**

CITY OF ONTARIO AND CFD NO. 28 CERTIFICATE

1. Pursuant to Section C.1 of the Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 28 (New Haven Facilities – Area A) (“CFD No. 28”), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 28 has been modified.
 - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 28, as stated in Section C.1.a.2 of the Rate and Method of Apportionment, has been modified as follows:

**TABLE 1
ASSIGNED SPECIAL TAX – DEVELOPED PROPERTY**

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Detached Property	< 1,701	[\$] per Unit
2	Single Family Detached Property	1,701 – 1,900	[\$] per Unit
3	Single Family Detached Property	1,901 – 2,100	[\$] per Unit
4	Single Family Detached Property	2,101 – 2,300	[\$] per Unit
5	Single Family Detached Property	2,301 – 2,500	[\$] per Unit
6	Single Family Detached Property	2,501 – 2,700	[\$] per Unit
7	Single Family Detached Property	2,701 – 2,900	[\$] per Unit
8	Single Family Detached Property	2,901 – 3,100	[\$] per Unit
9	Single Family Detached Property	3,101 – 3,300	[\$] per Unit
10	Single Family Detached Property	3,301 – 3,500	[\$] per Unit
11	Single Family Detached Property	3,501 – 3,700	[\$] per Unit
12	Single Family Detached Property	3,701 – 3,900	[\$] per Unit
13	Single Family Detached Property	3,901 – 4,100	[\$] per Unit
14	Single Family Detached Property	4,101 – 4,300	[\$] per Unit
15	Single Family Detached Property	4,301 – 4,500	[\$] per Unit
16	Single Family Detached Property	4,501 – 4,700	[\$] per Unit
17	Single Family Detached Property	> 4,700	[\$] per Unit

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 2 OF 3)**

18	Single Family Attached Property	< 801	\$[] per Unit
19	Single Family Attached Property	801 – 950	\$[] per Unit
20	Single Family Attached Property	951 – 1,100	\$[] per Unit
21	Single Family Attached Property	1,101 – 1,300	\$[] per Unit
22	Single Family Attached Property	1,301 – 1,500	\$[] per Unit
23	Single Family Attached Property	1,501 – 1,700	\$[] per Unit
24	Single Family Attached Property	1,701 – 1,900	\$[] per Unit
25	Single Family Attached Property	1,901 – 2,100	\$[] per Unit
26	Single Family Attached Property	2,101 – 2,300	\$[] per Unit
27	Single Family Attached Property	> 2,300	\$[] per Unit
28	Other Residential Property		\$[] per Acre
29	Non-Residential Property		\$[] per Acre

- b. The Backup Special Tax for Developed Property, as stated in Section C.1.a.3, shall be modified as follows:

The Backup Special Tax shall be \$[] per Unit for Single Family Detached Property and \$[] per Unit for Single Family Attached Property. However, if the Expected Residential Lot Count does not equal 240 for Single Family Detached Property or 92 for Single Family Attached Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property and Single Family Attached Property according to the following formula:

$$\text{Backup Special Tax} = \frac{\$[]}{\text{number of Designated Buildable Lots of Single Family Detached Property}}$$

or
$$\frac{\$[]}{\text{number of Designated Buildable Lots of Single Family Attached Property}}$$

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 3 OF 3)**

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 28 Bonds.
3. Upon execution of this certificate by CFD No. 28, CFD No. 28 shall cause an amended notice of Special Tax lien for CFD No. 28 to be recorded reflecting the modifications set forth herein.

By execution hereof, the undersigned acknowledge, on behalf of the City and CFD No. 28, receipt of this certificate and modification of the Rate and Method of Apportionment as set forth in this certificate.

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES – AREA A)

By: _____

Date: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO INCUR BONDED INDEBTEDNESS OF THE PROPOSED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES - AREA A).

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), has this date adopted its Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 28 (New Haven Facilities – Area A), and to Authorize the Levy of Special Taxes," stating its intention to establish City of Ontario Community Facilities District No. 28 (New Haven Facilities - Area A) (the "Community Facilities District") for the purpose of financing certain public facilities (the "Facilities") and services, as further provided in said Resolution; and

WHEREAS, in order to finance the Facilities it is necessary to incur bonded indebtedness in the amount of up to \$33,000,000;

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

SECTION 1. The City Council hereby declares that in order to finance the Facilities, it is necessary to incur bonded indebtedness.

SECTION 2. The purpose for which the proposed debt is to be incurred is to provide the funds necessary to pay the costs of the Facilities, including all costs and estimated costs incidental to, or connected with, the accomplishment of said purpose and of the financing thereof, as permitted by Section 53345.3 of the Act.

SECTION 3. The maximum amount of the proposed debt is \$33,000,000.

SECTION 4. The City Council hereby fixes Tuesday, October 20, 2015, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the proposed debt authorization.

SECTION 5. The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53346 of the Act.

SECTION 6. 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.

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

PASSED, APPROVED, AND ADOPTED this 15th day of September 2015.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015- duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT, PROPOSED TO BE NAMED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 29 (NEW HAVEN FACILITIES - AREA B), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

WHEREAS, Section 53318 of the Mello-Roos Community Facilities Act of 1982 (the "Act") provides that proceedings for the establishment of a Community Facilities District shall be instituted by a legislative body of a local agency when a petition requesting the institution of the proceedings signed by the owners of not less than 10% of the area of land proposed to be included in the community facilities district and not proposed to be exempt from the special tax, describing the boundaries of the territory that is proposed for inclusion in the community facilities district and specifying the types of facilities and services to be financed by the community facilities district is filed with the clerk of the legislative body; and

WHEREAS, Section 53318 of the Act further provides that such a petition is not required to be acted upon until the payment of a fee in an amount that the legislative body determines, within 45 days of receiving such petition, is sufficient to compensate the legislative body for all costs incurred in conducting proceedings to create a community facilities district pursuant to the Act; and

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City") has received a written petition (the "Petition") from BrookCal Ontario, L.L.C. (the "Landowner") requesting the institution of proceedings for the establishment of a community facilities district (the "Community Facilities District"), describing the boundaries of the territory that is proposed for inclusion in the Community Facilities District and specifying the types of facilities and services to be financed by the Community Facilities District; and

WHEREAS, the Landowner has represented and warranted to the City Council that the Landowner is the owner of 100% of the area of land proposed to be included within the Community Facilities District; and

WHEREAS, Section 53314.9 of the Act provides that, at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a community facilities district; and

WHEREAS, Section 53314.9 of the Act further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the legislative body, with or without interest, under all the following conditions: (a) the proposal to

repay the funds is included in both the resolution of intention to establish a community facilities district adopted pursuant to Section 53321 of the Act and in the resolution of formation to establish a community facilities district pursuant to Section 53325.1 of the Act, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any agreement shall specify that if the qualified electors of the community facilities district do not approve the proposed special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds; and

WHEREAS, the City and the Landowner entered into a Deposit and Reimbursement Agreement, dated as of September 1, 2015 (the "Deposit Agreement"), relating to the Community Facilities District, that provides for the advancement of funds by the Landowner to be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby, and provides for the reimbursement to the Landowner of such funds advanced, without interest, from the proceeds of any such bonds issued by the Community Facilities District; and

WHEREAS, the City desires to include in this Resolution, in accordance with Section 53314.9 of the Act, the proposal to repay funds pursuant to the Deposit Agreement;

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

SECTION 1. The City Council hereby finds that the Petition is signed by the requisite number of owners of land proposed to be included in the Community Facilities District.

SECTION 2. The City Council proposes to establish a community facilities district under the terms of the Act. The boundaries of the territory proposed for inclusion in the Community Facilities District are described in the map showing the proposed Community Facilities District (the "Boundary Map") on file with the City Clerk of the City (the "City Clerk"), which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to sign the original Boundary Map and record, or cause to be recorded, the Boundary Map with all proper endorsements thereon in the office of the San Bernardino County Recorder within 15 days of the date of adoption of this Resolution, all as required by Section 3111 of the California Streets and Highways Code.

SECTION 3. The name proposed for the Community Facilities District is "City of Ontario Community Facilities District No. 29 (New Haven Facilities - Area B)".

SECTION 4. The public facilities (the "Facilities") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Facilities" on Exhibit A hereto, which is by this reference incorporated herein. Those Facilities proposed to be purchased as completed public facilities are described under

the caption "Facilities to be Purchased" on Exhibit A hereto. 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. All or any portion of the Facilities may be financed through a financing plan, including, but not limited to, a lease, lease-purchase or installment-purchase arrangement.

SECTION 5. Except where funds are otherwise available, a special tax sufficient to pay for all Facilities and 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 to pay for Facilities may be prepaid and permanently satisfied are 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 6. The special tax may only finance the Services to the extent that they are in addition to those provided in the territory of the Community Facilities District before the Community Facilities District is created. The Services may not supplant services already available within that territory when the Community Facilities District is created.

SECTION 7. The tax year after which no further special tax to pay for Facilities will be levied against any parcel used for private residential purposes is specified in the Rate and Method. Under no circumstances shall the special tax to pay for Facilities in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the Community Facilities District by more than 10% above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. For purposes of this paragraph, a parcel shall be considered "used for private residential purposes" not later than the date on which an occupancy permit for private residential use is issued.

SECTION 8. Pursuant to Section 53344.1 of the Act, the City Council hereby reserves to itself the right and authority to allow any interested owner of property within the Community Facilities District, subject to the provisions of said Section 53344.1 and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the Community Facilities District treasurer in full payment or part payment of any installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

SECTION 9. The City Council hereby fixes Tuesday, October 20, 2015, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the establishment of the Community Facilities District.

SECTION 10. The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53322 of the Act.

SECTION 11. The levy of said proposed special tax shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the Community Facilities District, with each owner having one vote for each acre or portion of an acre such owner owns in the Community Facilities District.

SECTION 12. Each officer of the City who is or will be responsible for providing one or more of the proposed types of Facilities or Services is hereby 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 Facilities and 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 the Facilities and Services. Such officers are hereby also directed to estimate the fair and reasonable cost of the Facilities proposed to be purchased as completed public facilities and of the incidental expenses proposed to be paid. Such report shall be made a part of the record of said public hearing.

SECTION 13. The Landowner has heretofore advanced certain funds, and may advance additional funds, which have been or may be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby. The City Council proposes to repay all or a portion of such funds expended for such purpose, solely from the proceeds of such bonds, pursuant to the Deposit Agreement. The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

SECTION 14. 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 15. 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 15th day of September 2015.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015- duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

EXHIBIT A

FACILITIES AND INCIDENTAL EXPENSES

Facilities

The types of facilities to be financed by the Community Facilities District are street and bridge improvements, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, domestic and recycled water distribution facilities, sewer collection facilities, solid waste facilities, storm drainage facilities, park and recreation facilities and equipment, aquatic facilities and equipment, fire facilities and equipment, police facilities and equipment, library facilities and equipment, fiber optic telecommunication system facilities, general governmental office, administrative and meeting facilities, and land, rights-of-way and easements necessary for any of such facilities.

Facilities to be Purchased

The types of facilities to be purchased as completed facilities are street and bridge improvements, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, domestic and recycled water distribution facilities, sewer collection facilities, solid waste facilities, storm drainage facilities, park and recreation facilities and equipment, aquatic facilities and equipment, fire facilities and equipment, police facilities and equipment, library facilities and equipment, fiber optic telecommunication system facilities, general governmental office, administrative and meeting facilities, and land, rights-of-way and easements necessary for any of such facilities.

Services

The types of services to be financed by the Community Facilities District are police protection services, fire protection and suppression services, ambulance and paramedic services, maintenance and lighting of parks, parkways, streets, roads and open space, flood and storm protection services and maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the City.

Incidental Expenses

The incidental expenses proposed to be incurred include the following:

- (a) the cost of planning and designing public facilities to be financed, including the cost of environmental evaluations of those facilities;
- (b) the costs associated with the creation of the Community Facilities District, issuance of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District; and
- (c) any other expenses incidental to the construction, completion, and inspection of the authorized work.

EXHIBIT B

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT No. 29 (NEW HAVEN FACILITIES – AREA B)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 29 (New Haven Facilities – Area B) ("CFD No. 29") and collected each Fiscal Year, commencing in Fiscal Year 2015-16, in an amount determined by the City Council of the City of Ontario through the application of the Rate and Method of Apportionment, as described below. All of the real property in CFD No. 29, 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:

"Acre" or **"Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Subdivision Map, parcel map, condominium plan, or other recorded County map.

"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. 29: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 29 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City or CFD No. 29 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 29 of complying with City, CFD No. 29, or obligated persons disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 29 related to the analysis and reduction, if any, of the Special Tax on Single Family Property in accordance with Section C.1 herein; the costs of the City or CFD No. 29 related to an appeal of the Special Tax; the costs associated with the release of funds from any escrow account; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead relating to CFD No. 29; and amounts estimated or advanced by the City or CFD No. 29 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" 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, with respect to an Assessor's Parcel, that number assigned to such Assessor's Parcel by the County for purposes of identification.

"Assigned Special Tax" means the Special Tax for each Land Use Class of Developed Property, as determined in accordance with Section C.1.a.2 below.

"Backup Special Tax" means the Special Tax for each Land Use Class of Developed Property, as determined in accordance with Section C.1.a.3 below.

"Bonds" means any bonds or other debt (as defined in Section 53317(d) of the Act) issued by CFD No. 29 under the Act and payable from Special Taxes.

"Buildable Lot" means an individual lot, within a Final Subdivision Map or an area expected by CFD No. 29 to become Final Mapped Property, such as the area within a Tentative Tract Map, for which a building permit may be issued without further subdivision of such lot.

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

"CFD No. 29" means City of Ontario Community Facilities District No. 29 (New Haven Facilities – Area B).

"City" means the City of Ontario, California.

"City Council" means the City Council of the City, acting as the legislative body of CFD No. 29.

"County" means the County of San Bernardino.

"Designated Buildable Lot" means a Buildable Lot for which a building permit has not been issued by the City as of the date of calculation of the Backup Special Tax.

"Developed Property" means for each Fiscal Year, all Taxable Property, exclusive of Final Mapped Property, Taxable Property Owner Association Property, and Taxable Public Property, for which a building permit or other applicable permit for new construction was issued after January 1, 2014, and before May 1 of the prior Fiscal Year.

“Expected Residential Lot Count” means 288 Buildable Lots of Single Family Property or, as determined by the CFD Administrator, the number of Buildable Lots of Single Family Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

“Facilities” means the public facilities authorized to be financed, in whole or in part, by CFD No. 29.

“Final Mapped Property” means, for each Fiscal Year, all Taxable Property, exclusive of Developed Property, Taxable Property Owner Association Property, and Taxable Public Property, which as of January 1 of the previous Fiscal Year was located within a Final Subdivision Map. The term Final Mapped Property shall include any parcel map or Final Subdivision Map, or portion thereof, that creates individual lots for which a building permit may be issued, including Parcels that are designated as a remainder Parcel (i.e., one where the size, location, etc., precludes any further subdivision or taxable use).

“Final Subdivision Map” means a final tract map, parcel map, or lot line adjustment approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or a condominium plan recorded pursuant to California Civil Code 1352 that, in either case, creates individual lots for which building permits may be issued without further subdivision.

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

“Indenture” means the indenture, fiscal agent agreement, resolution, or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time.

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

“Maximum Special Tax” means, with respect to an Assessor’s Parcel of Taxable Property, the Maximum Special Tax determined in accordance with Section C.1 below that can be levied in any Fiscal Year on such Assessor’s Parcel of Taxable Property.

“Minimum Sale Price” means the minimum price at which Units of a given Land Use Class have sold or are expected to be sold in a normal marketing environment and shall not include prices for such Units that are sold at a discount to expected sales prices for the purpose of stimulating the initial sales activity with respect to such Land Use Class.

“Non-Residential Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued by the City permitting the construction of one or more non-residential structures or facilities.

“Other Residential Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued by the City for purposes of constructing Units, excluding Single Family Attached Property and Single Family Detached Property.

“Outstanding Bonds” means all Bonds which are outstanding under and in accordance with the provisions of the Indenture.

“Price Point Consultant” means any consultant or firm of such consultants selected by CFD No. 29 that (a) has substantial experience in performing price point studies for residential units within community facilities districts established under the Act or otherwise estimating or confirming pricing for residential units in such community facilities districts, (b) has recognized expertise in analyzing economic and real estate data that relates to the pricing of residential units in such community facilities districts, (c) is in fact independent and not under the control of CFD No. 29 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 29, (ii) the City, (iii) any owner of real property in CFD No. 29, or (iv) any real property in CFD No. 29, and (e) is not connected with CFD No. 29 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 29 or the City.

“Price Point Study” means a price point study or a letter updating a previous price point study prepared by the Price Point Consultant pursuant to Section C herein.

“Property Owner Association Property” means, for each Fiscal Year, any property within the boundaries of CFD No. 29 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

“Proportionately” means (a) for Developed Property in the first step of Section D below, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Developed Property; however, for Developed Property in the fourth step of Section D below, Proportionately means that the amount of the increase above the Assigned Special Tax, if necessary, is equal for all Assessor’s Parcels of Developed Property, except that if the Backup Special Tax limits the increase on any Assessor’s Parcel(s), then the amount of the increase shall be equal for the remaining Assessor’s Parcels; (b) for Final Mapped Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Final Mapped Property; (c) for Undeveloped Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Undeveloped Property; (d) for Taxable Property Owner Association Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Property Owner Association Property; and (e) for Taxable Public Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Public Property.

“Public Property” means, for each Fiscal Year, property within the boundaries of CFD No. 29 that is (a) owned by, irrevocably offered to, or dedicated to the federal government, the State, the County, the City, or any local government or other public agency or (b) encumbered by an easement for purposes of public right-of-way that makes impractical its use for any purpose other than that set forth in such easement, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

“Rate and Method of Apportionment” means this Rate and Method of Apportionment of Special Tax.

“Residential Floor Area” means all of the Square Footage of living area within the perimeter of a Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be as set forth in the building permit(s) issued for such Assessor’s Parcel, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 29. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor’s Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

“Services” means the services authorized to be financed, in whole or in part, by CFD No. 29.

“Single Family Attached Property” means all Assessor’s Parcels of Developed Property for which a building permit or use permit was issued for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor’s Parcel Numbers assigned to them (except for a duplex unit, which may share an Assessor’s Parcel with another duplex unit), and may be purchased by individual homebuyers (which shall still be the case even if the Units are purchased and subsequently offered for rent by the owner of the Unit), including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

“Single Family Detached Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued for construction of a Unit, on one legal lot, that does not share a common wall with another Unit.

“Single Family Property” means all Assessor’s Parcels of Single Family Attached Property and Single Family Detached Property.

“Special Tax” means the special tax authorized by the qualified electors of CFD No. 29 to be levied within the boundaries of CFD No. 29.

“Special Tax Requirement” means for any Fiscal Year that amount required, after taking into account available amounts held in the funds and accounts established under the Indenture, for CFD No. 29 to: (i) pay debt service on all Outstanding Bonds which is due in the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including, but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay Administrative Expenses; (iv) provide any amounts required to establish or replenish any reserve fund for the Bonds; (v) pay directly for acquisition or construction of Facilities, or the cost of Services, to the extent that the inclusion of such amounts does not increase the Special Tax levy on Final Mapped Property or Undeveloped Property; (vi) provide an amount equal to Special Tax delinquencies based on the historical delinquency rate for the Special Tax as determined by the CFD Administrator.

“Square Footage” or **“Sq. Ft.”** means the floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 29, issued for construction of Single Family Property, Other Residential Property, or Non-Residential Property, plus any square footage subsequently added to a building of Non-Residential Property 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 of the Assessor’s Parcels within the boundaries of CFD No. 29 that are not exempt from the Special Tax pursuant to law or Section E below.

“Taxable Property Owner Association Property” means, for each Fiscal Year, all Assessor’s Parcels of Property Owner Association Property that are not exempt from the Special Tax pursuant to Section E below.

“Taxable Public Property” means, for each Fiscal Year, all Assessor’s Parcels of Public Property that are not exempt from the Special Tax pursuant to law or Section E below.

“Tentative Tract Map” means a map: (i) showing a proposed subdivision of an Assessor’s Parcel(s) and the conditions pertaining thereto; (ii) that may or may not be based on a detailed survey; and (iii) that is not recorded by the County to create legal lots.

“Total Tax Burden” means for any Unit, the annual Special Tax, together with *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities district, and any other taxes, fees, and charges which are levied and imposed on such Unit and the real property on which it is located and collected by the County on *ad valorem* tax bills and which are secured by such Unit and the real property on which it is located, assuming such Unit had been completed, sold, and subject to such levies and impositions, excluding service charges such as those related to sewer and trash.

“Trustee” means the trustee or fiscal agent under the Indenture.

“TTM 18993” means Tentative Tract Map No. 18993, the area of which is located within CFD No. 29.

“TTM 18994” means Tentative Tract Map No. 18994, the area of which is located within CFD No. 29.

“Undeveloped Property” means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Final Mapped Property, Taxable Public Property, or Taxable Property Owner Association Property.

“Unit” means an individual single-family detached or attached home, townhome, condominium, apartment, or other residential dwelling unit, including each separate living area within a half-plex, duplex, triplex, fourplex, or other residential structure.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2015-16, all Taxable Property within CFD No. 29 shall be classified as Developed Property, Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below. Assessor’s Parcels of Single Family Detached Property shall be assigned to Land Use Classes 1 through 17, and Assessor’s Parcels of Single Family Attached Property shall be assigned to Land Use Classes 18 through 27, as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor’s Parcels. Other Residential Property shall be assigned to Land Use Class 28, and Non-Residential Property shall be assigned to Land Use Class 29.

C. MAXIMUM SPECIAL TAX

1. Special Tax

At least 30 days prior to the issuance of Bonds, the Assigned Special Tax on Developed Property (set forth in Table 1 below) shall be analyzed in accordance with and subject to the conditions set forth in this Section C. At such time, CFD No. 29 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class. If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to Units within one or more Land Use Classes of Single Family Property to be constructed within CFD No. 29 exceeds 1.95% of the Minimum Sale Price of such Units, the Assigned Special Tax shall be reduced to the extent necessary to cause the Total Tax Burden that shall apply to Units within such Land Use Class(es) not to exceed 1.95% of the Minimum Sale Price of such Units. Each Assigned Special Tax reduction for a Land Use Class shall be calculated by the CFD Administrator separately, and it shall not be required that such reduction be proportionate among Land Use Classes. In connection with any reduction in the Assigned Special Tax, the Backup Special Tax shall also be reduced by the CFD Administrator based on the percentage reduction in Maximum Special Tax revenues within the Tentative Tract Map area(s) where the Assigned Special Tax reductions occurred. The Special Tax reductions required pursuant to this paragraph shall be reflected in an amended notice of Special Tax lien which CFD No. 29 shall cause to be recorded by executing a certificate in substantially the form attached herein as Exhibit A. The reductions in this section apply to Single Family Property, but not to Other Residential Property or Non-Residential Property.

a. **Developed Property**

1) **Maximum Special Tax**

The Maximum Special Tax that may be levied in any Fiscal Year for each Assessor's Parcel classified as Developed Property shall be the greater of (i) the amount derived by application of the Assigned Special Tax or (ii) the amount derived by application of the Backup Special Tax. The Maximum Special Tax shall not increase in future years, other than as calculated pursuant to Section C.1.a.3 below.

2) **Assigned Special Tax**

The Assigned Special Tax that may be levied in any Fiscal Year for each Land Use Class is shown below in Table 1.

**TABLE 1
ASSIGNED SPECIAL TAX – DEVELOPED PROPERTY**

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Detached Property	< 1,701	\$1,823 per Unit
2	Single Family Detached Property	1,701 – 1,900	\$2,061 per Unit
3	Single Family Detached Property	1,901 – 2,100	\$2,133 per Unit
4	Single Family Detached Property	2,101 – 2,300	\$2,324 per Unit
5	Single Family Detached Property	2,301 – 2,500	\$2,483 per Unit
6	Single Family Detached Property	2,501 – 2,700	\$2,632 per Unit
7	Single Family Detached Property	2,701 – 2,900	\$2,935 per Unit
8	Single Family Detached Property	2,901 – 3,100	\$3,114 per Unit
9	Single Family Detached Property	3,101 – 3,300	\$3,214 per Unit
10	Single Family Detached Property	3,301 – 3,500	\$3,429 per Unit
11	Single Family Detached Property	3,501 – 3,700	\$3,591 per Unit
12	Single Family Detached Property	3,701 – 3,900	\$3,770 per Unit
13	Single Family Detached Property	3,901 – 4,100	\$3,956 per Unit
14	Single Family Detached Property	4,101 – 4,300	\$4,141 per Unit
15	Single Family Detached Property	4,301 – 4,500	\$4,326 per Unit
16	Single Family Detached Property	4,501 – 4,700	\$4,512 per Unit
17	Single Family Detached Property	> 4,700	\$4,697 per Unit
18	Single Family Attached Property	< 801	\$943 per Unit
19	Single Family Attached Property	801 – 950	\$984 per Unit

20	Single Family Attached Property	951 – 1,100	\$1,100 per Unit
21	Single Family Attached Property	1,101 – 1,300	\$1,185 per Unit
22	Single Family Attached Property	1,301 – 1,500	\$1,377 per Unit
23	Single Family Attached Property	1,501 – 1,700	\$1,628 per Unit
24	Single Family Attached Property	1,701 – 1,900	\$1,678 per Unit
25	Single Family Attached Property	1,901 – 2,100	\$1,900 per Unit
26	Single Family Attached Property	2,101 – 2,300	\$1,993 per Unit
27	Single Family Attached Property	> 2,300	\$2,154 per Unit
28	Other Residential Property		\$33,619 per Acre
29	Non-Residential Property		\$33,619 per Acre

3) *Backup Special Tax*

The Backup Special Tax shall be \$2,649 per Unit for Single Family Detached Property and \$1,408 per Unit for Single Family Attached Property. However, if the Expected Residential Lot Count does not equal 246 for Single Family Detached Property or 42 for Single Family Attached Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property and Single Family Attached Property according to the following formula:

$$\text{Backup Special Tax} = \$651,615 \div \text{number of Designated Buildable Lots of Single Family Detached Property}$$

$$\text{or } \$59,119 \div \text{number of Designated Buildable Lots of Single Family Attached Property}$$

If any portion of a Final Subdivision Map, or any area expected by CFD No. 29 to become Final Mapped Property, such as the area within TTM 18993, TTM 18994, or any other Tentative Tract Map, changes any time after the City has issued Bonds, causing an adjustment to the number of Designated Buildable Lots, then the Backup Special Tax for all Designated Buildable Lots of Single Family Detached Property or Single Family Attached Property subject to the change shall be calculated according to the following steps:

Step 1: Determine the total Backup Special Taxes that could have been collected from Designated Buildable Lots, separately for Single Family Detached Property and Single Family Attached

Property, prior to the Final Subdivision Map or expected Final Mapped Property change.

Step 2: Divide the amount(s) determined in Step 1 by the number of Designated Buildable Lots, separately for Single Family Detached Property and Single Family Attached Property, that exists after the Final Subdivision Map or expected Final Mapped Property change.

Step 3: Apply the amount(s) determined in Step 2 as the Backup Special Tax per Unit for Single Family Detached Property or Single Family Attached Property.

The Backup Special Tax for an Assessor's Parcel shall not change once an Assessor's Parcel is classified as Developed Property.

b. Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property

The Maximum Special Tax for Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property shall be \$33,619 per Acre, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

2. Multiple Land Use Classes on an Assessor's Parcel

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax levied on such Assessor's Parcel shall be the sum of the Maximum Special Tax for all Units of Single Family Property and Acres of Other Residential Property and Non-Residential Property (based on the pro rata share of Square Footage between Other Residential Property and Non-Residential Property, according to the applicable building permits, Final Subdivision Map, parcel map, condominium plan, or other recorded County map) located on that Assessor's Parcel.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Each Fiscal Year, beginning with Fiscal Year 2015-16, the CFD Administrator shall determine the Special Tax Requirement for such Fiscal Year. The Special Tax shall then be levied as follows:

First: If needed to satisfy the Special Tax Requirement, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property up to 100% of the applicable Assigned Special Tax;

Second: If additional monies are needed to satisfy the Special Tax Requirement after the first step has been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Final Mapped Property up to 100% of the Maximum Special Tax for Final Mapped Property;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property up to 100% of the Maximum Special Tax for Undeveloped Property;

Fourth: If additional monies are needed to satisfy the Special Tax Requirement after the first three steps have been completed, then the levy of the Special Tax on each Assessor's Parcel of Developed Property whose Maximum Special Tax is determined through the application of the Backup Special Tax shall be increased Proportionately from the Assigned Special Tax up to the Maximum Special Tax for each such Assessor's Parcel;

Fifth: If additional monies are needed to satisfy the Special Tax Requirement after the first four steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Property Owner Association Property up to the Maximum Special Tax for Taxable Property Owner Association Property;

Sixth: If additional monies are needed to satisfy the Special Tax Requirement after the first five steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property up to the Maximum Special Tax for Taxable Public Property.

Notwithstanding the above, under no circumstances shall the Special Tax levied in any Fiscal Year on any Assessor's Parcel of Single Family Property or Other Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of delinquency or default by the owner or owners of any other Assessor's Parcel or Assessor's Parcels within CFD No. 29 by more than ten percent above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults.

E. EXEMPTIONS

No Special Tax shall be levied on up to 11.16 Acres of Public Property and up to 2.55 Acres of Property Owner Association Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property or Property Owner Association Property.

Property Owner Association Property or Public Property that is not exempt from the Special Tax under this section shall be subject to the levy of the Special Tax and shall be taxed Proportionately as part of the fifth or sixth step, respectively, in Section D above, up to 100% of the applicable Maximum Special Tax for Taxable Property Owner Association Property and Taxable Public Property. No Special Tax shall be levied in any

Fiscal Year on Assessor's Parcels that have fully prepaid the Special Tax obligation pursuant to the formula set forth in Section H.

F. APPEALS

Any property owner may file a written appeal of the Special Tax with CFD No. 29 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one 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 was 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.

G. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the Special Taxes may be collected in such other manner as the City Council shall determine, including direct billing of affected property owners.

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

"CFD Public Facilities" means \$8,036,000 for each Prepayment Period, or such lower number as determined by the City Council to be sufficient to fund the Facilities and Services to be provided by CFD No. 29.

"Expenditures Fund" means funds or accounts, regardless of their names, that are established to hold moneys that are available to acquire or construct Facilities and to fund Services.

“Future Facilities Costs” means the CFD Public Facilities minus (i) Facilities and Services costs previously paid from the Expenditures Fund during the Prepayment Period in which the prepayment is being made, (ii) moneys currently on deposit in the Expenditures Fund from deposits made during the Prepayment Period in which the prepayment is being made, and (iii) moneys currently on deposit in an escrow fund that are expected to be available to finance Facilities costs. In no event shall the amount of Future Facilities Costs be less than zero.

“Prepayment Period” means one of three periods of time during which a Special Tax prepayment may be made.

“Prepayment Period 1” means July 1, 2015, through June 30, 2049.

“Prepayment Period 2” means July 1, 2049, through June 30, 2082.

“Prepayment Period 3” means July 1, 2082, through June 30, 2116.

1. Prepayment in Full

The obligation of an Assessor's Parcel to pay the Special Tax may be prepaid as described herein, provided that a prepayment may be made only for Assessor's Parcels for which a building permit for new construction was issued after January 1, 2014, and only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge a fee for providing this service. Prepayment in any six month period must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

The Special Tax Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

	Bond Redemption Amount
plus	Redemption Premium
plus	Future Facilities Amount
plus	Defeasance Amount
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
Total	Prepayment Amount

As of the proposed date of prepayment, the Special Tax Prepayment Amount (defined below) shall be calculated by the CFD Administrator as follows:

Paragraph No.

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel, and determine the Prepayment Period for the proposed prepayment.
2. Compute the Assigned Special Tax and Backup Special Tax for the Assessor's Parcel to be prepaid based on the Developed Property Special Tax which is, or could be, charged in the current Fiscal Year. For Assessor's Parcels of Final Mapped Property (for which a building permit has been issued but which is not yet classified as Developed Property) to be prepaid, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.
3. (a) Divide the Assigned Special Tax computed pursuant to Paragraph 2 by the total estimated Assigned Special Tax for CFD No. 29 based on the Developed Property Special Tax which could be charged in the current Fiscal Year on all expected development through buildout of CFD No. 29, excluding any Assessor's Parcels which have been prepaid, and

(b) Divide the Backup Special Tax computed pursuant to Paragraph 2 by the estimated total Backup Special Tax at buildout of CFD No. 29, excluding any Assessor's Parcels which have been prepaid.
4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
6. Compute the Future Facilities Costs for the applicable Prepayment Period.
7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.
10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the "Defeasance Amount".

11. Verify the administrative fees and expenses of CFD No. 29, including the costs to compute the prepayment, the costs to invest the prepayment proceeds, the costs to redeem Bonds, and the costs to record any notices to evidence the prepayment and the redemption (the “Administrative Fees and Expenses”).
12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the “Reserve Fund Credit”). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement on the prepayment date or the redemption date.
13. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to Paragraphs 4, 5, 7, 10, and 11, less the amount computed pursuant to Paragraph 12 (the “Prepayment Amount”).
14. From the Prepayment Amount, the amounts computed pursuant to Paragraphs 4, 5, 10, and 12 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to Paragraph 7 shall be deposited into the Expenditures Fund. The amount computed pursuant to Paragraph 11 shall be retained by CFD No. 29.

The Special Tax Prepayment Amount may be sufficient to redeem other than a \$5,000 increment of Bonds. In such cases, the increment above \$5,000, or integral multiple thereof, will be retained in the appropriate fund established under the Indenture to be used with the next prepayment of Bonds or to make debt service payments.

As a result of the payment of the current Fiscal Year’s Special Tax levy as determined under Paragraph 9 (above), the CFD Administrator shall remove the current Fiscal Year’s Special Tax levy for such Assessor’s Parcel from the County tax rolls. With respect to any Assessor’s Parcel that is prepaid during Prepayment Period 3, the CFD Administrator shall cause a suitable notice to be recorded in compliance with the Act to indicate that the Special Tax has been prepaid and that the obligation of such Assessor’s Parcel to pay the Special Tax shall cease.

With respect to the Special Tax for any Assessor’s Parcel that is prepaid during Prepayment Period 1 or Prepayment Period 2, the obligation of such Assessor’s Parcel to pay the Special Tax shall be tolled, or suspended, through the end of such Prepayment Period, but shall resume in the first Fiscal Year of the subsequent Prepayment Period. The CFD Administrator shall cause a suitable notice to be recorded in compliance with the Act to indicate that the Special Tax has been satisfied for the remainder of the applicable Prepayment Period but has not been permanently satisfied and the obligation to pay the Special Tax will resume in the first Fiscal Year of the Prepayment Period following the Prepayment Period in which the prepayment was made. Once the

obligation of an Assessor's Parcel to pay the Special Tax resumes, the Special Tax for the then applicable Prepayment Period may be prepaid.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Special Tax that may be levied on Taxable Property within CFD No. 29 (after excluding 11.16 Acres of Public Property and 2.55 acres of Property Owner Association Property) both prior to and after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

2. Prepayment in Part

The Special Tax on an Assessor's Parcel for which a building permit for new construction was issued after January 1, 2014, may be partially prepaid. The amount of the prepayment shall be calculated as in Section H.1, except that a partial prepayment shall be calculated by the CFD Administrator according to the following formula:

$$PP = PF \times \%$$

The terms above have the following meaning:

- PP = the partial prepayment
- PF = the Prepayment Amount (full prepayment) for the Special Tax calculated according to Section H.1
- % = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax

The Special Tax partial prepayment amount must be sufficient to redeem at least a \$5,000 increment of Bonds.

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of such owner's intent to partially prepay the Special Tax and the percentage by which the Special Tax shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request and may charge a fee for providing this service. With respect to any Assessor's Parcel that is partially prepaid, the CFD Administrator shall (i) distribute the remitted prepayment funds according to Section H.1, and (ii) indicate in the records of CFD No. 29 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (100% - "%", as defined above) of the Maximum Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D during the Prepayment Period in which the partial prepayment is made.

For partial prepayments made during Prepayment Period 1 or Prepayment Period 2, the full amount of the Special Tax shall resume in the first Fiscal Year of the Prepayment Period following the Prepayment Period in which the partial prepayment was made. Once the obligation of an Assessor's Parcel to pay the Special Tax resumes, the Special Tax for the then applicable Prepayment Period may be prepaid.

I. TERM OF SPECIAL TAX

The Fiscal Year after which no further Special Tax shall be levied or collected is Fiscal Year 2115-2116, except that the Special Tax that was lawfully levied in or before such Fiscal Year and that remains delinquent may be collected in subsequent years.

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 1 OF 3)**

CITY OF ONTARIO AND CFD NO. 29 CERTIFICATE

1. Pursuant to Section C.1 of the Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 29 (New Haven Facilities – Area B) (“CFD No. 29”), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 29 has been modified.
 - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 29, as stated in Section C.1.a.2 of the Rate and Method of Apportionment, has been modified as follows:

**TABLE 1
ASSIGNED SPECIAL TAX – DEVELOPED PROPERTY**

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Detached Property	< 1,701	\$[] per Unit
2	Single Family Detached Property	1,701 – 1,900	\$[] per Unit
3	Single Family Detached Property	1,901 – 2,100	\$[] per Unit
4	Single Family Detached Property	2,101 – 2,300	\$[] per Unit
5	Single Family Detached Property	2,301 – 2,500	\$[] per Unit
6	Single Family Detached Property	2,501 – 2,700	\$[] per Unit
7	Single Family Detached Property	2,701 – 2,900	\$[] per Unit
8	Single Family Detached Property	2,901 – 3,100	\$[] per Unit
9	Single Family Detached Property	3,101 – 3,300	\$[] per Unit
10	Single Family Detached Property	3,301 – 3,500	\$[] per Unit
11	Single Family Detached Property	3,501 – 3,700	\$[] per Unit
12	Single Family Detached Property	3,701 – 3,900	\$[] per Unit
13	Single Family Detached Property	3,901 – 4,100	\$[] per Unit
14	Single Family Detached Property	4,101 – 4,300	\$[] per Unit
15	Single Family Detached Property	4,301 – 4,500	\$[] per Unit
16	Single Family Detached Property	4,501 – 4,700	\$[] per Unit
17	Single Family Detached Property	> 4,700	\$[] per Unit

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 2 OF 3)**

18	Single Family Attached Property	< 801	\$[] per Unit
19	Single Family Attached Property	801 – 950	\$[] per Unit
20	Single Family Attached Property	951 – 1,100	\$[] per Unit
21	Single Family Attached Property	1,101 – 1,300	\$[] per Unit
22	Single Family Attached Property	1,301 – 1,500	\$[] per Unit
23	Single Family Attached Property	1,501 – 1,700	\$[] per Unit
24	Single Family Attached Property	1,701 – 1,900	\$[] per Unit
25	Single Family Attached Property	1,901 – 2,100	\$[] per Unit
26	Single Family Attached Property	2,101 – 2,300	\$[] per Unit
27	Single Family Attached Property	> 2,300	\$[] per Unit
28	Other Residential Property		\$[] per Acre
29	Non-Residential Property		\$[] per Acre

- b. The Backup Special Tax for Developed Property, as stated in Section C.1.a.3, shall be modified as follows:

The Backup Special Tax shall be \$[] per Unit for Single Family Detached Property and \$[] per Unit for Single Family Attached Property. However, if the Expected Residential Lot Count does not equal 246 for Single Family Detached Property or 42 for Single Family Attached Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property and Single Family Attached Property according to the following formula:

$$\text{Backup Special Tax} = \frac{\$[\]}{\text{number of Designated Buildable Lots of Single Family Detached Property}}$$

or
$$\frac{\$[\]}{\text{number of Designated Buildable Lots of Single Family Attached Property}}$$

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 3 OF 3)**

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 29 Bonds.
3. Upon execution of this certificate by CFD No. 29, CFD No. 29 shall cause an amended notice of Special Tax lien for CFD No. 29 to be recorded reflecting the modifications set forth herein.

By execution hereof, the undersigned acknowledge, on behalf of the City and CFD No. 29, receipt of this certificate and modification of the Rate and Method of Apportionment as set forth in this certificate.

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 29 (NEW HAVEN FACILITIES – AREA B)

By: _____

Date: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO INCUR BONDED INDEBTEDNESS OF THE PROPOSED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 29 (NEW HAVEN FACILITIES - AREA B).

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), has this date adopted its Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 29 (New Haven Facilities – Area B), and to Authorize the Levy of Special Taxes," stating its intention to establish City of Ontario Community Facilities District No. 29 (New Haven Facilities - Area B) (the "Community Facilities District") for the purpose of financing certain public facilities (the "Facilities") and services, as further provided in said Resolution; and

WHEREAS, in order to finance the Facilities it is necessary to incur bonded indebtedness in the amount of up to \$30,000,000;

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

SECTION 1. The City Council hereby declares that in order to finance the Facilities, it is necessary to incur bonded indebtedness.

SECTION 2. The purpose for which the proposed debt is to be incurred is to provide the funds necessary to pay the costs of the Facilities, including all costs and estimated costs incidental to, or connected with, the accomplishment of said purpose and of the financing thereof, as permitted by Section 53345.3 of the Act.

SECTION 3. The maximum amount of the proposed debt is \$30,000,000.

SECTION 4. The City Council hereby fixes Tuesday, October 20, 2015, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the proposed debt authorization.

SECTION 5. The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53346 of the Act.

SECTION 6. 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 7. 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 15th day of September 2015.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2015- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2015 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2015- duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
September 15, 2015

**SECTION:
PUBLIC HEARINGS**

SUBJECT: A PUBLIC HEARING TO RECEIVE TESTIMONY AND ADOPT THE CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR THE 2014-15 FISCAL YEAR

RECOMMENDATION: That the City Council:

- (A) Hold a public hearing to receive testimony on the draft Consolidated Annual Performance and Evaluation Report (CAPER) for the 2014-15 Fiscal Year (on file in the Records Management Department);
- (B) Direct staff to prepare and transmit to the U.S. Department of Housing and Urban Development (HUD) the final CAPER, which will address all public comments received on the draft CAPER; and
- (C) Authorize the City Manager to execute any and all documents necessary and/or desirable to transmit CAPER to HUD.

**COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Pursue City's Goals and Objectives by Working with Other Governmental Agencies**

FISCAL IMPACT: None.

BACKGROUND: The CAPER is a HUD required report providing annual information about the City's utilization of HUD funds for local community development and housing projects. During Fiscal Year 2014-15, a combined total of over \$14.5 million of Federal and local funds were expended to implement approximately 40 housing and community development programs and projects. These activities were contained in the City's Fiscal Year 2014-15 One-Year Action Plan, approved on May 6, 2014. Federal funding sources in the CAPER include the following HUD programs: Community Development Grant (CDBG), HOME Investment Partnership (HOME) Program, and Emergency

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

Prepared by: Katryna Gonzalez
Department: Housing and Municipal Services

City Manager
Approval: 

Submitted to Council/O.H.A. 09/15/2015
Approved: _____
Continued to: _____
Denied: _____

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Solutions Grant (ESG) Program. Local funding sources include Ontario Housing Authority funds, Housing Asset funds, and Quiet Home Program funds.

Listed below are key housing and community development projects discussed in the CAPER:

- The City expended approximately \$1.7 million to implement eight infrastructure and community facility activities and two public service activities under the Community Development Strategy. The major projects within this strategy include, but are not limited to the following: Energy Efficient Lighting at Cypress Park and Galvin Park, Pavement Management Rehabilitation Program, COPS Program, and YMCA Child Care Subsidies.
- More than \$8.4 million was expended to implement 20 housing programs within Ontario as part of the Housing Strategy. The major projects within this strategy include, but are not limited to the following: Guadalupe Residence Apartments Rehabilitation Project, Tenant Based Rental Assistance Program, and Quiet Home Program.
- Over \$350,000 was expended as part of the Homeless Strategy to implement six activities. The major projects within this strategy include programs to provide public services for homeless individuals such as Assisi House and Aftercare Services Program, Mercy House Center Ontario, Sova Hunger Program, Services for Battered Women and Children, Foothill Family Shelter, and Project Gateway.

Attached is the Executive Summary of the Consolidated Annual Performance and Evaluation Report for FY 2014-15. The Executive Summary provides a summary of expenditures and accomplishments for all CDBG, HOME, and ESG funded activities undertaken to address strategies identified within the Five-Year Consolidated Plan and the One-Year Action Plan, adopted by City Council on May 6, 2014.

The Consolidated Annual Performance and Evaluation Report for FY 2014-15 has been available for public review from August 28, 2015 through September 14, 2015. To date, no comments have been received.

Subsequent to City Council approval of the CAPER, staff will submit the final report to HUD. The deadline to submit the CAPER to HUD is September 28, 2015 (90 days after the end of the fiscal year).

CITY OF ONTARIO

Consolidated Annual Performance and Evaluation Report

For the period of July 1, 2014 - June 30, 2015

EXECUTIVE SUMMARY

The Consolidated Annual Performance and Evaluation Report (CAPER) provides information to Ontario residents, elected officials, City staff, and the U.S. Department of Housing and Urban Development (HUD) about housing and community development needs, projects, and accomplishments. This report covers activities conducted during Fiscal Year 2014-15 which began July 1, 2014 and ended June 30, 2015. During this period, federal and local funds were used to implement a myriad of housing and community development programs and projects. Each activity supported one or more of the priorities originally presented in the City's five-year Consolidated Plan Document.

The following list highlights key housing and community development activities implemented during FY 2014-15:

- The City of Ontario expended more than \$14.2 million in federal and local funds to administer housing and community development programs.
- More than \$8.4 million was expended to implement 20 housing programs within Ontario as part of the Housing Strategy. The major projects within this strategy include, but are not limited to the following: Quiet Home Program, Guadalupe Residence Apartments Rehabilitation Project, and Tenant Based Rental Assistance Program.
- The City expended approximately \$1.4 million to implement eight infrastructure and community facility activities and two public service activities under the Community Development Strategy. The major projects within this strategy include, but are not limited to the following: Pavement Management Rehabilitation Program, Energy Efficiency Lighting at Cypress Park and Galvin Park, COPS Program, and YMCA Child Care Subsidies.
- Over \$350,000 was expended as part of the Homeless Strategy to implement six activities. The major projects within this strategy include, but are not limited to the following: Mercy House Continuum of Care, Project Gateway, Sova Hunger Program, Services for Battered Women and Children, and Stepping Stones Program.

The tables on the following pages demonstrate the breakdown of funds received and expended within each identified strategy: Community (Capital) Development, Housing, Homeless, Special Populations, Fair Housing, and Public Housing.

FUNDING SOURCES

FUNDING SOURCE	ACTIVITIES FUNDED	ACTUAL AMOUNT RECEIVED/ON HAND FOR FY 2014-15
Community Development Block Grant (CDBG)	Infrastructure improvements, code enforcement, housing rehabilitation, and social services.	\$1,802,546
CDBG Program Income	Infrastructure improvements, code enforcement, housing rehabilitation, and social services.	\$30,232
HOME Investment Partnership (HOME)	Housing rehabilitation.	\$483,778
HOME Program Income	Housing rehabilitation.	\$75,915
Emergency Solutions Grant (ESG)	Essential support services and operating expenses for homeless facilities and programs.	\$140,174
Housing Asset Fund (HAF)	Home ownership assistance, housing acquisition and rehabilitation, and homeless services.	\$22,462,972 ¹
Ontario Housing Authority (OHA)	Housing acquisition, property rehabilitation and maintenance.	\$2,746,260
BEGIN Program Reuse Account	Program provides deferred-payment second mortgage loans to qualified buyers of new homes.	\$119,878
State of California CalHome Program	Program provides rehabilitation loans to abate code violations in the form of a deferred loan to qualified home owners within designated noise impacted areas.	\$1,000,000 ²
State of California CalHome Program	Program provides downpayment assistance to qualified buyers within eligible census tracts.	\$1,000,000 ²
TOTAL		\$29,861,755

¹ This funding is available pending resolution of current discussions with the Department of Finance related to the dissolution of redevelopment in California.

² Full amount of grant reflected. Actual funding not received during FY 2014-15.

HOUSING STRATEGY

Program/Project	Funding Source	Expenses	Annual Accomplishment
<i>Priority 1: Preserve existing rental and owner-occupied housing resources.</i>			
Ontario CARES (CARES Exterior Beautification Grants)	CDBG HAF	\$0 \$0	This project is currently on hold due to the abolishment of redevelopment in California. Project is pending identification of an alternative funding source.
	Subtotal	\$0	
Quiet Home Program (formerly known as Part 150 Noise Compatibility Program)	FAA and LAWA	\$4,369,907	Completed sound insulation work on 165 homes, acquired 7 properties, and relocated 4 households.
CDBG Quiet Home Owner-Occupied Rehabilitation Grant Program	CDBG	\$0	Construction began on one home. Construction is expected to be completed in September 2015.
Community Improvement Team	CDBG	\$278,607	A total of 1,622 inspections were completed during the reporting period. 57 citations were given, 224 notices issued and 898 violations abated.
Low-Mod Assisted Housing Developments	N/A	N/A	Monitored 1,750 housing units
CalHome Owner-Occupied Rehabilitation Loan Program	CDBG CalHome Funds	\$0 \$0	During FY 2014-15, the funds for this program expired and the contract was closed.
	Subtotal	\$0	
California Catalyst Community Projects	Other Funds	\$2,843,492	The California Department of Housing and Community Development awarded the City of Ontario's Downtown Core Catalyst Project (DCCP) as one of only thirteen communities within the State of California as a Catalyst Project. Currently, two projects are underway in the DCCP area, the Civic Center Community Conservation Park (\$1,601,191 was expended during FY 2014-15) and the CalHome Mortgage Assistance Program. The Ontario Town Square park was completed this year (\$1,242,301 was expended during FY 2014-15).

Program/Project	Funding Source	Expenses	Annual Accomplishment
Guadalupe Residence (412 North Parkside Avenue)	HOME	\$280,645	This project was completed providing seven units of affordable housing, including two units reserved for very low income tenants. All but one unit has been leased to eligible households.
BEGIN Reuse Owner-Occupied Rehabilitation Loan Program	BEGIN Reuse Funds	\$2,670	One homeowner was qualified to participate in this program during FY 2014-15. Construction work for the rehabilitation began and is expected to be completed in September 2015.
TOTAL HOUSING PRIORITY #1		\$7,775,321	
<i>Priority 2: Increase affordable homeownership opportunities, particularly for low- and moderate-income persons.</i>			
Extra Credit Teacher Home Purchase Program (CalHFA)	Bond	\$0	No homebuyers were assisted in Ontario during FY 2014-15.
Home Buyer Assistance (County of San Bernardino Mortgage Revenue Bond Program)	Bond Financing	\$547,705	Three (3) Mortgage Credit Certificates (MCCs) were issued for homes in Ontario during FY 2014-15.
Neighborhood Partnership Housing Services (NPHS) Programs	Private Financing	N/A	During FY 2014-15, NPHS provided homeownership services to 94 Ontario residents resulting in prevention of 12 foreclosures, 21 first-time Ontario homebuyers assisted, and 53 Ontario residents educated on pre-purchase/financial wellness. NPHS also provided four senior home repair grants to Ontario families.
Officer/Teacher/Fireman/Emergency Technician Next Door Program	HUD & FHA	\$0	No homebuyers were assisted in Ontario during FY 2014-15.
Police Residence Assistance Program	Ontario General Fund	\$2,000	One loan was paid off during FY 2014-15. There are two outstanding loans with a total of \$2,000 forgiven during FY 2014-15.
Edenglen BEGIN Program	State of California BEGIN Funds	\$0	Two loans were paid off during FY 2014-15.

Program/Project	Funding Source	Expenses	Annual Accomplishment
Mission Oakland Single-Family Housing Development	OHA	\$33,478	The Ontario Housing Authority acting as the successor agency to the Ontario Redevelopment Agency is maintaining this site pending future housing development. During FY 2014-15, the Authority worked with the California Department of Finance to resolve title issues as a result of the abolishment of redevelopment in California.
	HAF	\$0	
	Subtotal	\$33,478	
CalHome Mortgage Assistance Program	CDBG	\$0	City staff worked with NPHS to market this program to potential homebuyers. No homebuyers were assisted during FY 2014-15.
	CalHome Funds	\$0	
	Subtotal	\$0	
TOTAL HOUSING PRIORITY #2		\$583,183	
<i>Priority 3: Expand affordable rental housing opportunities, particularly for low-income persons.</i>			
Tenant Based Rental Assistance Program	HOME	\$35,273	Five households were assisted through this program during FY 2014-15.
520-526 West Vesta Street	CDBG	\$10,576	The Ontario Housing Authority and City worked with Housing Opportunities Group, Inc. (HOGI) to begin the process of acquiring the property at 520-526 W. Vesta St. in order to preserve these six units of affordable housing. Acquisition is expected to be completed in the early Fall of 2015 and light rehabilitation work will be completed in the Winter of 2015.

Program/Project	Funding Source	Expenses	Annual Accomplishment
Sites for Future Affordable Housing Development	HAF	\$60,419	The Ontario Housing Authority acting as the successor agency to the Ontario Redevelopment Agency and the City of Ontario acting as the successor agency to the Ontario Redevelopment Agency is currently maintaining approximately six sites for future development of affordable housing. During FY 2014-15, these agencies worked with the California State Department of Finance to resolve title concerns regarding these sites as a result of the abolishment of redevelopment in California.
TOTAL HOUSING PRIORITY #3		\$106,268	
GRAND TOTAL – HOUSING STRATEGY		\$8,464,772	

HOMELESS STRATEGY

Program/Agency	Funding Source	Expenses	Accomplishments
<i>Priority 1: Preserve and improve the supply of supportive housing and public services for the homeless.</i>			
Foothill Family Shelter – First Steps Transitional Housing Program	ESG	\$6,122	A total of 20 unduplicated homeless persons were served.
Mercy House Living Centers - Ontario Continuum of Care	CDBG	\$71,211	A total of 49 unduplicated homeless persons were served through the Assisi House and Aftercare Services Program. A total of 1,237 unduplicated homeless persons were served at the Ontario Access Center.
	ESG	\$92,529	
	Subtotal	\$163,740	
House of Ruth – Services for Battered Women and Children	ESG	\$12,600	A total of 114 unduplicated battered women and children were provided with services.
Inland Valley Council of Churches - SOVA Food Security Center	ESG	\$18,410	A total of 3,746 unduplicated persons were served.

Program/Agency	Funding Source	Expenses	Accomplishments
Project Gateway (Shelter + Care Program)	HUD	\$149,690	Thirteen households were housed using Shelter + Care vouchers.
GRAND TOTAL – HOMELESS STRATEGY		\$350,562	

SPECIAL NEEDS STRATEGY

Program/Agency	Funding Source	Expenses	Accomplishments
<i>Priority 1: Provide supportive services for special needs populations.</i>			
Inland Fair Housing and Mediation Board – Senior Services	OTHER	N/A	A total of 253 seniors were served. This project is part of the Fair Housing and Mediation Services Project.
GRAND TOTAL – SPECIAL NEEDS STRATEGY		N/A	

FAIR HOUSING STRATEGY

Program/Agency	Funding Source	Expenses	Accomplishments
<i>Priority 1: Continue to implement the Fair Housing Laws by providing funding to further fair housing.</i>			
Inland Fair Housing and Mediation Board – Fair Housing and Mediation Services	CDBG	\$32,200	A total of 168 persons were provided with fair housing services and 1,438 persons were provided with landlord/tenant mediation services.
GRAND TOTAL – FAIR HOUSING STRATEGY		\$32,200	

PUBLIC HOUSING STRATEGY

Program/Agency	Funding Source	Expenses	Accomplishments
<i>Priority 1: Continue to support ongoing efforts of the Housing Authority of the County of San Bernardino to maximize the use of Section 8 subsidies and other resources in the City.</i>			
Housing Authority of the County of San Bernardino (Housing Choice Voucher Program)	HUD	\$3,606,096	379 households assisted in Ontario.
Housing Authority of the County of San Bernardino (Family Self-Sufficiency)	HUD	N/A	Four Ontario residents served.
GRAND TOTAL – PUBLIC HOUSING STRATEGY		\$3,606,096	

COMMUNITY DEVELOPMENT STRATEGY

Program/Project	Funding Source	Expenses	Accomplishments
<i>Priority 1: Provide for needed infrastructure improvements in lower and moderate-income neighborhoods.</i>			
Pavement Management Rehabilitation Program and Alley Pavement Management Program (FY 2013-14)	CDBG	\$121,335	Construction began on July 3, 2014 and was completed on September 12, 2014.
	Gas Tax	\$446,987	
	Measure I	\$479,422	
	Subtotal	\$1,047,744	
Pavement Management Rehabilitation Program and Alley Pavement Management Program (FY 2014-15)	CDBG	\$0	Bids were solicited for the project in June 2015. The project is expected to be completed by October 2015.
	Gas Tax	\$0	
	Measure I	\$0	
	Subtotal	\$0	
Wheelchair Ramp Installation	CDBG	\$101,569	A total of 63 wheelchair ramps, adjoining sidewalks, and curbs were constructed.
TOTAL COMMUNITY DEVELOPMENT PRIORITY #1		\$1,149,313	

Program/Project	Funding Source	Expenses	Accomplishments
<i>Priority 2: Provide for new community facilities, neighborhood enhancement activities, and improve the quality of existing community facilities to serve lower- and moderate-income neighborhoods.</i>			
Energy Efficient Lighting at Galvin Park	CDBG	\$9,979	This project was completed replacing 28 high pressure sodium light fixtures with induction light fixtures resulting in a 71% savings in annual energy costs.
Energy Efficient Lighting at Cypress Park	CDBG	\$10,270	This project was completed replacing 25 high pressure sodium light fixtures with induction light fixtures resulting in a 51% savings in annual energy costs.
James R. Bryant Park and Sam Alba Park Restroom Rehabilitation Projects	CDBG	\$16,435	The projects were awarded to New Millennium Construction Services and were completed including rehabilitation of the restroom facilities at both parks.
Galvin Park West Side Picnic Structure/BBQ Area Improvements and California Friendly Landscape Renovation Project	CDBG	\$0	During FY 2014-15, the Parks Department solicited for bids twice for this project. The first solicitation resulted in bids that exceeded the budget available for the project. The scope of work was revised and the project rebid. The second solicitation also resulted in bids that exceed the budget available for the project. The City is currently working with California Conservation Corps (CCC) to review if CCC would be interested in completing the project. The project is expected to be completed by Winter 2015.
Galvin Park Renovation of Tennis Court to Futsal Court	CDBG	\$35,000	The project was awarded in March 2015 and construction was completed in June 2015. The existing unused tennis courts were converted to two Futsal Courts including a new playing surface and fence repairs. The lighting for the courts was also repaired and equipment was purchased for use at the new courts.
TOTAL COMMUNITY DEVELOPMENT PRIORITY #2		\$71,684	

Program/Project	Funding Source	Expenses	Accomplishments
<i>Priority 3: Provide needed community services to serve lower- and moderate-income residents.</i>			
COPS Program	CDBG	\$177,171	During FY 2014-15, the COPS Division addressed many community concerns including but not limited to: graffiti, the transients/homeless population, panhandlers, prostitution, metal theft, theft of utilities, illegal dumping, truancy, curfew violations, and violations of various city building and habitation codes.
Ontario-Montclair YMCA - Child Care Subsidies Program	CDBG	\$21,999	Ninety-four unduplicated youths were served.
TOTAL COMMUNITY DEVELOPMENT PRIORITY #3		\$199,170	
GRAND TOTAL – COMMUNITY DEVELOPMENT STRATEGY		\$1,420,167	

ADMINISTRATIVE COSTS

Program/Project	Funding Source	Expenses	Accomplishments
CDBG Administration	CDBG	\$328,308	Administration of the CDBG Program.
HOME Administration	HOME	\$48,377	Administration of HOME Program.
ESG Administration	ESG	\$6,625	Administration of ESG Program.
GRAND TOTAL – Administrative Costs		\$383,310	
GRAND TOTAL – All Projects & Administration		\$14,257,107	