

CITY OF ONTARIO
CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR
AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY
AGENDA
OCTOBER 6, 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 5:30 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*)

5:30 p.m.

ROLL CALL

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

CLOSED SESSION PUBLIC COMMENT The Closed Session Public Comment portion of the City 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 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APNs. 218-201-19, 218-201-26 and 218-201-27; 10076, 9876 and 9928 Edison Avenue; City/Authority Negotiator: Al C. Boling or his designee; Negotiating parties: Jong and Jongsma; Under negotiation: Price and terms of payment.
- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APN: 1049-063-09; 109 South Lemon Avenue; City/Authority Negotiator: Al C. Boling or his designee; Negotiating parties: Bart Masciarelli; Under negotiation: Price and terms of payment.
- GC 54956.9 (d)(2), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION:
One (1) Case.

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *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 Wapner

INVOCATION

Reverend Frank Hamilton, First Christian Church of Ontario

REPORT ON CLOSED SESSION

City Attorney

PUBLIC COMMENTS

6:30 p.m.

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

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

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

CONSENT CALENDAR

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

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

1. APPROVAL OF MINUTES

Minutes for the regular meeting of the City Council and Housing Authority of September 1, 2015, and the special meetings of the City Council and Housing Authority of September 5 and September 12, 2015, approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills August 9, 2015 through August 22, 2015 and **Payroll** August 9, 2015 through August 22, 2015, when audited by the Finance Committee.

3. RESOLUTIONS APPROVING AN ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY AND THE CITY OF ONTARIO (THE ONTARIO CENTER – PIEMONTE PROJECT DISPOSITION AND DEVELOPMENT AGREEMENT – PARCEL 22)

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

- (A) The Successor Agency to the Ontario Redevelopment Agency adopt a resolution approving an Assignment and Assumption Agreement (“Agreement”) between the Successor Agency to the Ontario Redevelopment Agency (“Agency”) and the City of Ontario, (on file with the Records Management Department), and authorize the Executive Director to execute the Agreement and all other documents required for implementation of the Agreement; and
- (B) The City Council adopt a resolution approving an Assignment and Assumption Agreement (“Agreement”) between the Successor Agency to the Ontario Redevelopment Agency (“Agency”) and the City of Ontario, (on file with the Records Management Department), and authorize the City Manager to execute the Agreement and all other documents required for implementation of the Agreement.

RESOLUTION NO. _____

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ASSIGNMENT AND ASSUMPTION AGREEMENT (THE ONTARIO CENTER - PIEMONTE PROJECT DISPOSITION AND DEVELOPMENT AGREEMENT - PARCEL 22).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ASSIGNMENT AND ASSUMPTION AGREEMENT (THE ONTARIO CENTER - PIEMONTE PROJECT DISPOSITION AND DEVELOPMENT AGREEMENT - PARCEL 22).

4. PROFESSIONAL SERVICES AGREEMENT FOR PLAN CHECKING SUBDIVISION MAPS, IMPROVEMENT PLANS AND RELATED REPORTS FOR DEVELOPMENT PROJECTS/HARRIS AND ASSOCIATES

That the City Council approve a Professional Services Agreement (on file in the Records Management Department) with Harris and Associates of Irvine, California, to provide professional engineering plan check services and authorize the City Manager to execute the contract and to extend the agreement for up to four (4) additional one (1) year extensions at the City's option consistent with future approved budgets.

5. A RESOLUTION ADOPTING THE MEASURE I 2010-2040 MAINTENANCE OF EFFORT BASE YEAR FUNDING LEVEL

That the City Council adopt a resolution approving the Maintenance of Effort Base Year Funding Level as required by the San Bernardino County Measure I 2010-2040 Strategic Plan.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
ONTARIO, CALIFORNIA, ADOPTING THE MEASURE I 2010-2040
MAINTENANCE OF EFFORT BASE YEAR LEVEL.

6. A MAINTENANCE SERVICES AGREEMENT FOR WEED ABATEMENT SERVICES THROUGHOUT THE ONTARIO RANCH AREA/SOCAL LAND MAINTENANCE, INC.

That the City Council approve and authorize the City Manager to execute a three-year Maintenance Services Agreement (on file with the Records Management Department) for Contract No. PM 1516-01 with SoCal Land Maintenance, Inc. of Anaheim, California, for an annual estimated cost of \$103,912 (\$98,964 base contract plus a contingency of \$4,948); and authorize the addition of future service areas and the option to extend the agreement for up to two additional years consistent with City Council approved budgets.

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.

7. A PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 21, OF TITLE 4, OF THE ONTARIO MUNICIPAL CODE RELATING TO FIREWORKS, PYROTECHNIC DEVICES, EXPLOSIVES, DESTRUCTIVE DEVICES, OR THEIR COMPONENTS

That the City Council introduce and waive further reading of an ordinance amending Chapter 21, of Title 4, of the Ontario Municipal Code, relating to the regulation of fireworks, pyrotechnic devices, explosives, destructive devices, or their components.

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

Written communication.

Oral presentation.

Public hearing closed.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 21 OF TITLE 4 OF THE ONTARIO MUNICIPAL CODE RELATING TO FIREWORKS, PYROTECHNIC DEVICES, EXPLOSIVES, DESTRUCTIVE DEVICES OR THEIR COMPONENTS.

8. A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A ZONE CHANGE FOR 3 PARCELS, TOTALING 1.4 ACRES, FROM R1 (SINGLE FAMILY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL) AND TO CHANGE 11 PARCELS, TOTALING 3.25 ACRES, FROM R2 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), LOCATED ON FOURTH STREET BETWEEN BAKER AND CORONA AVENUES FROM 1673 TO 1733 EAST FOURTH STREET

That City Council adopt a resolution approving an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010, and introduce and waive further reading of an ordinance approving a Zone Change (File No. PZC15-001) from R1 (Single Family Residential) to HDR-45 (High Density Residential) and from R2 (Medium Density Residential) to HDR-45 (High Density Residential) to create consistency between the zoning and The Ontario Plan land use designation of High Density Residential.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ADDENDUM TO THE ONTARIO PLAN (TOP) CERTIFIED ENVIRONMENTAL IMPACT REPORT (SCH #2008101140).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC15-001, A REQUEST TO CHANGE THE ZONING ON 3 PARCELS, TOTALING 1.4 ACRES, FROM R1 (SINGLE FAMILY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL) AND TO CHANGE THE ZONING ON 11 PARCELS, TOTALING 3.25 ACRES, FROM R2 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), LOCATED ON FOURTH STREET BETWEEN BAKER AND CORONA AVENUES FROM 1673 TO 1733 E. FOURTH STREET, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 0108-551-01, 0108-551-06 THRU 09; 0108-551-34 THRU 35, AND 0108-551-44 THRU 50.

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)

October 6, 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 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APNs: 218-201-19, 218-201-26 and 218-201-27; 10076, 9876 and 9928 Edison Avenue; City/Authority Negotiator: Al C. Boling or his designee; Negotiating parties: Jong and Jongsma; Under Negotiation: Price and terms of payment.

No Reportable Action

Continue

Approved

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Disposition: _____

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

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APN: 1049-063-09; 109 South Lemon Avenue; City/Authority Negotiator: Al C. Boling or his designee; Negotiating parties: Bart Masciarelli; Under Negotiation; Price and terms of payment.

No Reportable Action

Continue

Approved

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Disposition: _____

**CITY OF ONTARIO
CLOSED SESSION REPORT**

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

October 6, 2015
(continued)

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

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

No Reportable Action

Continue

Approved

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Disposition: _____

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
October 6, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: RESOLUTIONS APPROVING AN ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY AND THE CITY OF ONTARIO (THE ONTARIO CENTER – PIEMONTE PROJECT DISPOSITION AND DEVELOPMENT AGREEMENT – PARCEL 22)

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

- (A) The Successor Agency to the Ontario Redevelopment Agency adopt a resolution approving an Assignment and Assumption Agreement (“Agreement”) between the Successor Agency to the Ontario Redevelopment Agency (“Agency”) and the City of Ontario, (on file with the Records Management Department), and authorize the Executive Director to execute the Agreement and all other documents required for implementation of the Agreement; and
- (B) The City Council adopt a resolution approving an Assignment and Assumption Agreement (“Agreement”) between the Successor Agency to the Ontario Redevelopment Agency (“Agency”) and the City of Ontario, (on file with the Records Management Department), and authorize the City Manager to execute the Agreement and all other documents required for implementation of the Agreement.

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

FISCAL IMPACT: There is no fiscal impact to the City or the Successor Agency to the Redevelopment Agency as a result of entering into the Assignment and Assumption Agreement.

BACKGROUND: The Ontario Redevelopment Agency (“Former Redevelopment Agency”) and Panattoni Development Company, LLC (“Panattoni”) entered into a Disposition and Development

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

Prepared by: John Andrews
Department: Economic Development

City Manager
Approval: 

Submitted to Council/O.H.A. 10/06/2015
Approved: _____
Continued to: _____
Denied: _____

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Agreement on November 9, 2004 for the development of a multi-phase mixed-use commercial, office and residential project on property located in The Ontario Center and commonly referred to as the Piemonte project ("Project"). Consistent with the terms and conditions of the DDA, certain phases of the Project were completed, specifically the Target commercial center on Fourth Street and the professional office building located on Via Piemonte, immediately adjacent to the Citizen's Business Bank Arena. Implementation of the subsequent phases of the Project as described in the DDA were impacted by the negative effects of the economic downturn, which impacted the entire region.

In accordance with the DDA, Panattoni assigned its rights, title and interest in and to the DDA pertaining to Parcel 22 of Parcel Map No. 17550 to Panattoni Investments, LLC and Phelan Properties, LLC, and Panattoni and Phelan then assigned their rights, title and interest in and to the DDA pertaining to Parcel 22 to Piemonte Business Park, LLC ("Developer"). Piemonte Business Park, LLC is the fee owner of Parcel 22.

In furtherance of the DDA, the Former Redevelopment Agency and Developer entered into an Option Agreement to Reacquire Real Property, dated October 10, 2006, and an Agreement Affecting Real Property, dated February 27, 2008. The Option Agreement is recorded against Parcel 22 and provides the Agency with the exclusive right to reacquire Parcel 22 from the Developer under the conditions set forth in the Option Agreement.

Specifically with regard to development of Parcel 22, the DDA calls for the development of a hotel including amenities which together would serve as a catalyst for additional development in the Piemonte project and complement event activity at the adjacent Citizen's Business Bank Arena. Development of new full-service hotels in the Ontario market was severely impacted for a number of years by the negative effects of the economic downturn. There are recent signs, however, that this segment of the Ontario market is gaining momentum.

Due to the importance of the development of Parcel 22 and overall development of The Ontario Center, staff recommends that the City Council and Successor Agency adopt resolutions assigning to the City the portions of the DDA pertaining to Parcel 22 and all related agreements to which the Successor Agency is a party, with the City assuming all rights and obligations of the Successor Agency as they apply to the subject parcel. Implementation of the Assignment Agreement will help wind down the affairs of the Former Redevelopment Agency by transferring contractual obligations of the Former Redevelopment Agency to the City and will help facilitate and further assist the City Council in achieving its goals as they relate to Parcel 22 and economic development of The Ontario Center as a whole.

RESOLUTION NO. _____

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ASSIGNMENT AND ASSUMPTION AGREEMENT (THE ONTARIO CENTER - PIEMONTE PROJECT DISPOSITION AND DEVELOPMENT AGREEMENT - PARCEL 22).

WHEREAS, the City of Ontario ("City") formed the Ontario Redevelopment Agency ("Former Redevelopment Agency") pursuant to the Community Redevelopment Law (Health and Safety Code sections 33000 *et seq.*) ("CRL"); and

WHEREAS, the Redevelopment Agency Dissolution Law (Assembly Bill No. X1 26, as modified by the California Supreme Court pursuant to California Redevelopment Association v. Matosantos et al. (2011) 53 Cal.4th 231, as further amended by Assembly Bill No. 1484, as further amended by Assembly Bill No. 1585, as further amended by Senate Bill No. 341, as further amended by Assembly Bill No. 471, as further amended by Assembly Bill No. 1963, and as further amended by Assembly Bill No. 1793) makes certain changes to the CRL including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of the Health and Safety Code. Pursuant to the Redevelopment Agency Dissolution Law, all California redevelopment agencies, including the Former Redevelopment Agency, were dissolved on February 1, 2012, and "successor agencies" were designated and vested with the responsibility of paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and expeditiously winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City elected to be the successor agency to the Former Redevelopment Agency ("Successor Agency"), confirmed by Resolution No. 2012-001 on January 10, 2012; and

WHEREAS, pursuant to Health and Safety Code section 34179(a), the Oversight Board is the Successor Agency's oversight board; and

WHEREAS, pursuant to Health and Safety Code section 34177(h), the Successor Agency is required to expeditiously wind down the affairs of the Former Redevelopment Agency pursuant to the provisions of the Redevelopment Agency Dissolution Law and in accordance with the direction of the Oversight Board; and

WHEREAS, pursuant to Health and Safety Code section 34177(i), the Successor Agency is required to continue to oversee development of properties until the contracted work has been completed or the contractual obligations of the Former Redevelopment Agency can be transferred to other parties; and

WHEREAS, the Former Redevelopment Agency and Panattoni Development Company, LLC ("Panattoni") entered into that certain Disposition and Development Agreement dated as of November 9, 2004, as amended by that certain First Implementation Agreement dated as of October 10, 2006, as further amended, modified, or implemented (collectively, the "DDA") pertaining to development of the property described in Section 104 of the DDA. The DDA is incorporated herein by this reference. DDA, as used herein shall mean, refer to, and include the DDA, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in the DDA. Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in the DDA; and

WHEREAS, in accordance with the DDA, Panattoni assigned Panattoni's right, title and interest in and to the DDA pertaining to Parcel 22 of Parcel Map No. 17550 (former Lot 6 of the DDA) ("Parcel 22") to Panattoni Investments, LLC and Phelan Properties, LLC ("Panattoni and Phelan") and Panattoni and Phelan then assigned their rights, title and interest in and to the DDA pertaining to Parcel 22 to Piemonte Business Park, LLC, a California limited liability company ("Developer"). Developer is the fee title owner of the Parcel 22. Parcel 22 is located within the area of the City known as The Ontario Center. Also within The Ontario Center is the City-built and City-owned Citizens Business Bank Arena, which provides quality facilities for diverse entertainment, business functions, social gatherings and educational opportunities; and

WHEREAS, in furtherance of the DDA, Former Redevelopment Agency and Developer entered into that certain Option Agreement to Reacquire Real Property dated October 10, 2006 and recorded against Parcel 22 in the Official Records of the County of San Bernardino as Instrument #06-0704830, as amended by that certain First Amendment to Option Agreement to Reacquire Real Property dated February 27, 2008 and recorded against Parcel 22 in the Official Records of the County of San Bernardino as Instrument #08-119766 (collectively, the "Option Agreement") wherein Developer provided Successor Agency with the exclusive right to reacquire Parcel 22 from Developer under the conditions set forth in the Option Agreement; and

WHEREAS, in furtherance of the DDA, Former Redevelopment Agency and Developer entered into that certain Agreement Affecting Real Property dated February 27, 2008 and recorded against Parcel 22 in the Official Records of the County of San Bernardino as Instrument #08-119765 ("AARP"); and

WHEREAS, in furtherance of the DDA, Developer executed that certain Deed of Trust in favor of Former Redevelopment Agency as beneficiary recorded March 8, 2008 against Parcel 22 in the Official Records of the County of San Bernardino as Instrument #08-119767 ("Deed of Trust"); and

WHEREAS, due to the importance of the development of Parcel 22 and overall development of The Ontario Center, the Successor Agency desires to assign to City the portions of the DDA pertaining to Parcel 22 and all related agreements to which Successor Agency is a party or to which Successor Agency is a beneficiary (express or implied) (including, without limitation, all documents entered into in furtherance of the

DDA, such as the Option Agreement, the AARP and the Deed of Trust) as to Parcel 22 only, and City desires to assume all rights and obligations of Successor Agency thereunder. In connection therewith, the Successor Agency and City have negotiated a draft Assignment and Assumption Agreement ("Assignment Agreement"), a copy of which is on file with the City Records Management Department; and

WHEREAS, the implementation of the Assignment Agreement will help wind down the affairs of the Former Redevelopment Agency by transferring contractual obligations of the Former Redevelopment Agency to the City and will help facilitate and further assist the City in achieving the municipal and other public purposes in developing Parcel 22 and The Ontario Center as a whole; and

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

NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Successor Agency hereby finds and determines that the foregoing recitals are true and correct.

SECTION 2. The Successor Agency hereby approves the Assignment Agreement, a copy of which is on file with the City Records Management Department, subject to approval by the Successor Agency Oversight Board.

SECTION 3. Without the requirement of any further approval of the Successor Agency, the Executive Director or designee is authorized and directed to do all of the following: (a) execute the Assignment Agreement on behalf of the Successor Agency, subject to approval by the Successor Agency Oversight Board; (b) make non-substantive changes or modifications to the Assignment Agreement requested by the Oversight Board or as deemed necessary by the Executive Director; and (c) take any action and execute any and all documents and agreements necessary to implement this Resolution, the Assignment Agreement and the portions of the DDA pertaining to Parcel 22 and all related agreements as to Parcel 22 only which are assigned pursuant to the Assignment Agreement and administer the Successor Agency's obligations, responsibilities and duties to be performed thereunder.

SECTION 4. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency declares that the Successor Agency would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

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

SECTION 6. The City Clerk of the City, acting on behalf of the Successor Agency as its Secretary, shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 6th day of October 2015.

PAUL S. LEON, CHAIRMAN

ATTEST:

MARY E. WIRTES, AGENCY SECRETARY

APPROVED AS TO FORM:

AGENCY COUNSEL

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, in my official capacity as secretary to the Successor Agency to the Ontario Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. SA- was duly adopted by the Successor Agency to the Ontario Redevelopment Agency at a regular meeting held on October 6, 2015 by the following vote:

AYES: AGENCY MEMBERS:

NOES: AGENCY MEMBERS:

ABSENT: AGENCY MEMBERS:

MARY E. WIRTES, AGENCY SECRETARY

(SEAL)

The foregoing is the original of Resolution No. SA- duly passed and adopted by the Successor Agency to the Ontario Redevelopment Agency at their regular meeting held October 6, 2015.

MARY E. WIRTES, AGENCY SECRETARY

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ASSIGNMENT AND ASSUMPTION AGREEMENT (THE ONTARIO CENTER - PIEMONTE PROJECT DISPOSITION AND DEVELOPMENT AGREEMENT - PARCEL 22).

THE CITY OF ONTARIO HEREBY RESOLVES AND ORDERS AS FOLLOWS:

WHEREAS, the City of Ontario ("City") formed the Ontario Redevelopment Agency ("Former Redevelopment Agency") pursuant to the Community Redevelopment Law (Health and Safety Code sections 33000 *et seq.*) ("CRL"); and

WHEREAS, the Redevelopment Agency Dissolution Law (Assembly Bill No. X1 26, as modified by the California Supreme Court pursuant to *California Redevelopment Association v. Matosantos et al.* (2011) 53 Cal.4th 231, as further amended by Assembly Bill No. 1484, as further amended by Assembly Bill No. 1585, as further amended by Senate Bill No. 341, as further amended by Assembly Bill No. 471, as further amended by Assembly Bill No. 1963, and as further amended by Assembly Bill No. 1793) makes certain changes to the CRL including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of the Health and Safety Code. Pursuant to the Redevelopment Agency Dissolution Law, all California redevelopment agencies, including the Former Redevelopment Agency, were dissolved on February 1, 2012, and "successor agencies" were designated and vested with the responsibility of paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and expeditiously winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, pursuant to Health and Safety Code section 34173(d), the City elected to be the successor agency to the Former Redevelopment Agency ("Successor Agency"), confirmed by Resolution No. 2012-001 on January 10, 2012; and

WHEREAS, pursuant to Health and Safety Code section 34179(a), the Oversight Board is the Successor Agency's oversight board; and

WHEREAS, pursuant to Health and Safety Code section 34177(h), the Successor Agency is required to expeditiously wind down the affairs of the Former Redevelopment Agency pursuant to the provisions of the Redevelopment Agency Dissolution Law and in accordance with the direction of the Oversight Board; and

WHEREAS, pursuant to Health and Safety Code section 34177(i), the Successor Agency is required to continue to oversee development of properties until the contracted work has been completed or the contractual obligations of the Former Redevelopment Agency can be transferred to other parties; and

WHEREAS, the Former Redevelopment Agency and Panattoni Development Company, LLC ("Panattoni") entered into that certain Disposition and Development Agreement dated as of November 9, 2004, as amended by that certain First Implementation Agreement dated as of October 10, 2006, as further amended, modified, or implemented (collectively, the "DDA") pertaining to development of the property described in Section 104 of the DDA. The DDA is incorporated herein by this reference. DDA, as used herein shall mean, refer to, and include the DDA, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in the DDA. Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in the DDA; and

WHEREAS, in accordance with the DDA, Panattoni assigned Panattoni's right, title and interest in and to the DDA pertaining to Parcel 22 of Parcel Map No. 17550 (former Lot 6 of the DDA) ("Parcel 22") to Panattoni Investments, LLC and Phelan Properties, LLC ("Panattoni and Phelan") and Panattoni and Phelan then assigned their rights, title and interest in and to the DDA pertaining to Parcel 22 to Piemonte Business Park, LLC, a California limited liability company ("Developer"). Developer is the fee title owner of the Parcel 22. Parcel 22 is located within the area of the City known as The Ontario Center. Also within The Ontario Center is the City-built and City-owned Citizens Business Bank Arena, which provides quality facilities for diverse entertainment, business functions, social gatherings and educational opportunities; and

WHEREAS, in furtherance of the DDA, Former Redevelopment Agency and Developer entered into that certain Option Agreement to Reacquire Real Property dated October 10, 2006 and recorded against Parcel 22 in the Official Records of the County of San Bernardino as Instrument #06-0704830, as amended by that certain First Amendment to Option Agreement to Reacquire Real Property dated February 27, 2008 and recorded against Parcel 22 in the Official Records of the County of San Bernardino as Instrument #08-119766 (collectively, the "Option Agreement") wherein Developer provided Successor Agency with the exclusive right to reacquire Parcel 22 from Developer under the conditions set forth in the Option Agreement; and

WHEREAS, in furtherance of the DDA, Former Redevelopment Agency and Developer entered into that certain Agreement Affecting Real Property dated February 27, 2008 and recorded against Parcel 22 in the Official Records of the County of San Bernardino as Instrument #08-119765 ("AARP"); and

WHEREAS, in furtherance of the DDA, Developer executed that certain Deed of Trust in favor of Former Redevelopment Agency as beneficiary recorded March 8, 2008 against Parcel 22 in the Official Records of the County of San Bernardino as Instrument #08-119767 ("Deed of Trust"); and

WHEREAS, due to the importance of the development of Parcel 22 and overall development of The Ontario Center, the Successor Agency desires to assign to City the portions of the DDA pertaining to Parcel 22 and all related agreements to which Successor Agency is a party or to which Successor Agency is a beneficiary (express or

implied) (including, without limitation, all documents entered into in furtherance of the DDA, such as the Option Agreement, the AARP and the Deed of Trust) as to Parcel 22 only, and City desires to assume all rights and obligations of Successor Agency thereunder. In connection therewith, the Successor Agency and City have negotiated a draft Assignment and Assumption Agreement ("Assignment Agreement"), a copy of which is on file with the City Records Management Department; and

WHEREAS, the implementation of the Assignment Agreement will help wind down the affairs of the Former Redevelopment Agency by transferring contractual obligations of the Former Redevelopment Agency to the City and will help facilitate and further assist the City in achieving the municipal and other public purposes in developing Parcel 22 and The Ontario Center as a whole; and

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

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

1. The City Council of the City of Ontario hereby finds and determines that the foregoing recitals are true and correct.
2. The City Council hereby approves the Assignment Agreement, a copy of which is on file with the City Records Management Department, subject to approval by the Successor Agency Oversight Board.
3. Without the requirement of any further approval of the City, the City Manager or designee is authorized and directed to do all of the following: (a) execute the Assignment Agreement on behalf of the City, subject to approval by the Successor Agency Oversight Board; (b) make non-substantive changes or modifications to the Assignment Agreement requested by the Oversight Board or as deemed necessary by the City Manager; and (c) take any action and execute any and all documents and agreements necessary to implement this Resolution, the Assignment Agreement and the portions of the DDA pertaining to Parcel 22 and all related agreements as to Parcel 22 only which are assigned pursuant to the Assignment Agreement and administer the City's obligations, responsibilities and duties to be performed thereunder (including, without limitation, exercising the option and executing a grant deed certificate of acceptance in connection with the Option Agreement).
4. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City declares that the City would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

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

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

PASSED, APPROVED, AND ADOPTED this 6th day of October 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 October 6, 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 October 6, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
October 6, 2015

SECTION:
CONSENT CALENDAR

**SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR PLAN CHECKING
SUBDIVISION MAPS, IMPROVEMENT PLANS AND RELATED REPORTS
FOR DEVELOPMENT PROJECTS**

RECOMMENDATION: That the City Council approve a Professional Services Agreement (on file in the Records Management Department) with Harris and Associates of Irvine, California, to provide professional engineering plan check services and authorize the City Manager to execute the contract and to extend the agreement for up to four (4) additional one (1) year extensions at the City's option consistent with future approved budgets.

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

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

FISCAL IMPACT: There is no net impact to the General Fund Balance. Under the terms of the agreement, the City will compensate Harris and Associates at the rate of 55% and 60% of the plan check fees collected for specific improvement plans and subdivision maps, respectively. The adopted budget for Fiscal Year 2015-16 included \$250,000 for plan check services which are considered a pass-thru cost to the applicants. Additional appropriations may be requested in future budget periods depending on the volume of developer plans submitted for plan check review.

BACKGROUND: The City provides in-house plan checking services for the majority of projects within Ontario. However, due to the massive infrastructure planning activities anticipated in Ontario Ranch and the unpredictable timing of plan submittals, consultant plan check services are required on an as-needed basis to supplement the City's in-house plan checking services in order to maintain the City's plan check review schedule commitment.

The City solicited proposals for consultant engineering plan checking services for development projects from the following seven firms:

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

Prepared by: Khoi Do, P.E.
Department: Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 10/06/2015

Approved: _____

Continued to: _____

Denied: _____

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COMPANY	LOCATION
Bureau Veritas	Corona, CA
FCG Consultants	Irvine, CA
Harris and Associates	Irvine, CA
Hunsaker and Associates	Riverside, CA
McLean and Schultz	Brea, CA
Vali Cooper	Riverside, CA
Willdan	San Bernardino, CA

Using Quality Based Selection, a panel of City staff reviewed the proposals; and Harris and Associates was judged to be the most qualified firm and is being recommended based on their broad range of expertise as demonstrated by their services provided to municipal agencies and capability to perform the work in a timely manner. Harris and Associates has provided consultant plan checking services to the City of Ontario for the past five years and has agreed to maintain their current fee structure for this contract, which is 55% of the plan check fees collected by the City for improvement plans and 60% of the collected fees for subdivision maps.

CITY OF ONTARIO

Agenda Report
October 6, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION ADOPTING THE MEASURE I 2010-2040 MAINTENANCE OF EFFORT BASE YEAR FUNDING LEVEL

RECOMMENDATION: That the City Council adopt a resolution approving the Maintenance of Effort Base Year Funding Level as required by the San Bernardino County Measure I 2010-2040 Strategic Plan.

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

FISCAL IMPACT: None. Approval of the Maintenance of Effort Base Year Funding Level sets the mandatory minimum spending level for the City of Ontario for street maintenance projects as required by Measure I.

BACKGROUND: Ontario's 2008-2009 Base Year Funding Level is \$4,214,559. This is the City's annual local fund commitment toward street maintenance before the Measure I pass-thru funds are applied. The calculation of Base Year Funding Level and identification of allowances is shown in Exhibit A of this report.

San Bernardino County voters approved the passage of Measure I in November 2004, authorizing 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 areas of the County of San Bernardino. Measure I includes a Local Streets Program that provides funds through a pass-through mechanism directly to local jurisdictions for expenditure on street and road construction, repair, maintenance and other eligible local transportation priorities. In accordance with California Public Utilities Code 190300 and Measure I Ordinance No. 04-01 of the San Bernardino County Transportation Authority, Local Street Program funds shall not be used to supplant existing local discretionary or general funds being used for street and highway purposes. Additionally, the Measure I Strategic Plan requires each local jurisdiction adopt a Maintenance of Effort Base Year Level that is equivalent to the discretionary General Fund expenditures for transportation-related construction and maintenance activities in Fiscal Year 2008-2009, with allowances for exception, subject to approval by the SANBAG Board of Directors.

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

Prepared by: Tom Danna
Department: Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 10/06/2015

Approved: _____

Continued to: _____

Denied: _____

Exhibit A
Measure I 2010-2040 Maintenance of Effort Base Year Calculation
Based on Fiscal Year 2008/2009 Construction and Maintenance Expenditures
(Rounded to nearest dollar)

Project Expenditures Included in General Ledger	Total Project Cost	Funding Breakdown					
		General Fund	Measure I	Federal	State	City Funds	Other
Construction Projects:							
1. Project #1							
2. Project #2							
Maintenance Projects:							
1. Traffic Signal / Street Lighting	\$ 1,716,169	\$ 1,716,169					
2. Sidewalk	\$ 1,334,396	\$ 1,334,396					
3. Street Light Maintenance	\$ 401,591	\$ 401,591					
4. Transfer Out from GF - Pavement Management Prog	\$ 1,700,000	\$ 1,700,000					
5. Roadway Maintenance	\$ 912,568	\$ 912,568					
6. Traffic Management	\$ 139,948	\$ 139,948					
7. Paint Striping/Sign Maintenance	\$ 420,435	\$ 420,435					
8. Sign Repair and Construction	\$ 335,053	\$ 335,053					
Engineering/Administrative Overhead Not Allocated to Specific Projects:	\$ 228,341	\$ 228,341					
Expenditure Total:	\$ 7,188,501	\$ 7,188,501	\$ -	\$ -	\$ -	\$ -	\$ -

Deductions for Special Consideration (Deduction Must Also be Included in Project Expenditures Above):	Total Project Cost	General Fund	State Reason Why Project Expenditure Should Be Deducted from MOE
Construction Projects:			
1. Project #			
2. Project #			
Maintenance Projects:			
1. Acacia St. Reconstruction: Baker to Vineyard	\$ 478,442	\$ 478,442	Per the direction from City Council, emergency repairs requested by businesses in the area. Cost is included in Pavement Management Program.
2. Etiwanda Rehab: Mills Parkway to 4th	\$ 459,155	\$ 459,155	Per the direction from City Council, emergency repairs requested by businesses in the area. Cost is included in Pavement Management Program.
5. Roadway Maintenance	\$ 912,568	\$ 912,568	Gas Tax transfer reimbursed General Fund
6. Traffic Management	\$ 139,948	\$ 139,948	Gas Tax transfer reimbursed General Fund
7. Paint Striping/Sign Maintenance	\$ 420,435	\$ 420,435	Gas Tax transfer reimbursed General Fund
8. Sign Repair and Construction	\$ 335,053	\$ 335,053	Gas Tax transfer reimbursed General Fund
Engineering/Administrative Overhead Not Allocated to Specific Projects:	\$ 228,341	\$ 228,341	
Deduction Total:	\$ 2,973,942	\$ 2,973,942	

Total GF Expenditures	\$ 7,188,501
Minus Deductions	\$ 2,973,942
MOE Base Year	\$ 4,214,559

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,
CALIFORNIA, ADOPTING THE MEASURE I 2010-2040 MAINTENANCE
OF EFFORT BASE YEAR LEVEL.

WHEREAS, San Bernardino County voters approved passage of Measure I in November 2004, authorizing 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 improvement and traffic management programs authorized in the Expenditure Plans set forth in Ordinance No. 04-1 of the Authority; and

WHEREAS, the Local Streets Program is a Measure I program that provides funds through a pass-through mechanism directly to local jurisdictions for expenditure on street and road construction, repair, maintenance and other eligible local transportation priorities; and

WHEREAS, in accordance with California Public Utilities Code 190300 and Ordinance No. 04-01 of the San Bernardino County Transportation Authority, Local Street Program funds shall not be used to supplant existing local discretionary funds being used for street and highway purposes; and

WHEREAS, the Measure I Strategic Plan requires each local jurisdiction adopt a Maintenance of Effort Base Year Level that is equivalent to the discretionary General Fund expenditures for transportation-related construction and maintenance activities in Fiscal Year 2008-2009, with allowances for exception, subject to approval by the SANBAG Board of Directors; and

WHEREAS, SANBAG will monitor local jurisdiction annual use of discretionary General Fund Expenditures for transportation-related construction and maintenance activities relative to the Maintenance of Effort Base Year Level through 2040 through the annual audit process; and

WHEREAS, failure to meet the Maintenance of Effort Base Year Level requirements can result in temporary to permanent withholding of Measure I Local Street Program funds.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Ontario, California, that the Measure I 2010-2040 Maintenance of Effort Base Year Level of \$4,214,559 is hereby adopted.

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

PASSED, APPROVED, AND ADOPTED this 6th day of October 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 October 6, 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 October 6, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
October 6, 2015

SECTION:
CONSENT CALENDAR

SUBJECT: A MAINTENANCE SERVICES AGREEMENT FOR WEED ABATEMENT SERVICES THROUGHOUT THE ONTARIO RANCH AREA

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute a three-year Maintenance Services Agreement (on file with the Records Management Department) for Contract No. PM 1516-01 with SoCal Land Maintenance, Inc. of Anaheim, California, for an annual estimated cost of \$103,912 (\$98,964 base contract plus a contingency of \$4,948); and authorize the addition of future service areas and the option to extend the agreement for up to two additional years consistent with City Council approved budgets.

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

FISCAL IMPACT: The estimated annual base cost of the proposed Maintenance Service Agreement is \$98,964 plus \$4,948 of contingency for urgency services for a total contract amount of \$103,912 for each of the first three years for a total of \$311,736. Appropriations for maintenance cost for Ontario Ranch are included in the Fiscal Year 2015-16 adopted operating budget; however additional funding in the amount of \$11,400 is needed and will be included in the first quarter budget report

At the City's discretion, two additional one-year extensions may be exercised with an increase of 3% for the fourth year and 1.5% for the fifth year. Future contracting actions will be commensurate with City Council authorized work programs and budgets. Contracting for the multi-year period will allow the City to limit the potential for yearly increase to the bid amounts, avoid the costs of re-bidding the contract annually, provide service continuity, and project future costs.

BACKGROUND: In July 2015, the City solicited proposals for weed abatement maintenance services throughout the Ontario Ranch area. Three proposals were received that met bid criteria and standards necessary to perform this work. Base cost proposals ranged from \$98,640 to \$139,440.

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

Prepared by: Roberto Perez
Department: Parks and Maintenance

City Manager
Approval: 

Submitted to Council/O.H.A. 10/06/2015

Approved: _____

Continued to: _____

Denied: _____

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<u>Vendor</u>	<u>Location</u>	<u>Base Amount</u>
Brickman	Upland, CA	\$ 98,640
Marina's Landscape	Anaheim, CA	\$ 139,440
SoCal Land Maintenance	Anaheim, CA	\$ 98,964

SoCal Land Maintenance Inc., located in Anaheim, California, submitted a proposal that met all the required specifications with a base cost, three-year total of \$296,892, or \$324 per year more than Brickman. SoCal Land Maintenance, Inc. proposal included an enhanced level of service which would guaranty an additional 192 hours of service each year for the nominal price difference. Based on their proposal, additional service hours, credentials, pricing and favorable references, staff recommends award of a Maintenance Services Agreement to SoCal Land Maintenance, Inc.

CITY OF ONTARIO

Agenda Report
October 6, 2015

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 21, OF TITLE 4, OF THE ONTARIO MUNICIPAL CODE RELATING TO FIREWORKS, PYROTECHNIC DEVICES, EXPLOSIVES, DESTRUCTIVE DEVICES, OR THEIR COMPONENTS

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance amending Chapter 21, of Title 4, of the Ontario Municipal Code, relating to the regulation of fireworks, pyrotechnic devices, explosives, destructive devices, or their components.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Maintain the Current High Level of Public Safety
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: There is no additional cost associated with implementing this amendment. The Fiscal Year 2015-16 Adopted Budget includes annual appropriations of \$10,000 for fireworks and explosives public awareness and education program including signage, banners, and other educational materials and \$10,600 for the storage and destruction of confiscated fireworks and explosives. Revenue received from fines collected offset a portion of these annual expenses.

BACKGROUND: In 2007, the City Council adopted Ordinance No. 2859, which regulates fireworks, pyrotechnic devices, explosives, and destructive devices or their components. That ordinance contains strict prohibitions on the use of these items and also establishes an administrative fine which provides the Fire and Police Departments with an additional tool to help reduce and prevent damage and injuries associated with illegal/dangerous fireworks and explosives. Nevertheless, fireworks usage within the City has persisted; and there is a need to amend the City's Municipal Code to further deter the use of fireworks within the City.

Ontario Fire and Police Departments are tasked with the enforcement of fireworks and explosives laws as well as the response to and investigation of fire and medical emergencies caused by misuse or accidental discharge of these materials. Seeking ways to reduce fireworks usage, staff has consulted

STAFF MEMBER PRESENTING: Fire Chief Floyd E. Clark/Police Chief Brad Kaylor

Prepared by: Art Andres
Department: Fire

City Manager
Approval: 

Submitted to Council/O.H.A. 10/06/2015
Approved: _____
Continued to: _____
Denied: _____

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with law enforcement personnel in the cities surrounding Ontario: Chino, Chino Hills, Fontana, Montclair, Rancho Cucamonga, and Upland. Additionally, staff has reviewed the State Fire Marshal's model ordinance, and has reviewed the fireworks ordinances of the cities surrounding Ontario.

Chino and Fontana allow the sale as well as the usage of safe and sane fireworks within their jurisdictions, but prohibit dangerous fireworks. Their numbers for citations issued this past Fourth of July were much higher than Ontario and the other neighboring City's that prohibit the sale and usage of all fireworks. While staffing levels on or near the fourth of July play a large role in the number of citations issued by Chino and Fontana, the enforceability of their respective municipal codes is also significant.

The number of citations issued by city on or near July 4, 2015 is provided below for comparison purposes.

- Chino – 70
- Fontana – 32
- Ontario – 9
- Rancho Cucamonga – 2
- Chino Hills – 0
- Montclair – 0
- Upland - 0

Staff recommends that the City Council consider amending Ontario's fireworks ordinance to include provision similar to those seen in Chino and Fontana. These changes would include:

- Holding residential property owners responsible for violations occurring on their property
- Holding parents and legal guardians responsible for any violations of the code by a minor
- Issuing citations via mail
- Including corporations and partnerships in the definition of "persons"
- Making it unlawful to permit the storage of prohibited items

These changes will allow for more effective enforcement of the City's prohibition on fireworks and will serve as further deterrence against the use of illegal fireworks.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 21 OF TITLE 4 OF THE ONTARIO MUNICIPAL CODE RELATING TO FIREWORKS, PYROTECHNIC DEVICES, EXPLOSIVES, DESTRUCTIVE DEVICES OR THEIR COMPONENTS.

WHEREAS, in 2007, the City Council adopted Ordinance No. 2859, which comprehensively regulated fireworks, pyrotechnic devices, explosives, dangerous devices or their components; and

WHEREAS, the use of fireworks within the City is ongoing, and enforcement of these regulations has proven difficult; and

WHEREAS, the number of complaints about fireworks usage in the community has risen in recent years; and

WHEREAS, there is a need to amend the City's Ordinance to further deter the use of fireworks within the City; and

WHEREAS, there is a need to make enforcement of the Ordinance safe and effective.

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

SECTION 1. Findings. The above recitals are true and correct and are incorporated herein by this reference. The findings associated with the adoption of Ordinance 2859 are also incorporated by reference.

SECTION 2. Chapter 21, of Title 4 of the Ontario Municipal Code is amended, in its entirety, to read as follows:

“ CHAPTER 21: FIREWORKS, PYROTECHNIC DEVICES, EXPLOSIVES, DESTRUCTIVE DEVICES OR THEIR COMPONENTS

4-21.01 Definitions

4-21.02 Prohibitions

4-21.03 Responsible Persons – Violations Occurring on Real Property

4-21.04 Responsible Persons – Parental Responsibilities.

4-21.05 Administrative Fines

4-21.06 Dangerous Fireworks

Sec. 4-21.01. Definitions.

(a) "Explosives" and "Destructive Devices" shall include any items listed as such in: Articles 2 and 77 of the California Fire Code; Section 12000 of the California Health & Safety Code; and Section 12301 of the California Penal Code. These items include, but are not limited to, the following:

- (1) Bombs, grenades, explosive missiles, firecracker-type devices containing fifty (50) mg or more of pyrotechnic/explosive composition.
- (2) Detonators and blasting caps.
- (3) Firebombs consisting of an ignitable liquid, breakable container and a wick or similar device capable of being ignited.
- (4) Homemade destructive devices including pipe bombs, chemical bombs, acid bombs, dry ice bombs, etc.
- (5) Military explosives and explosive devices such as grenades, mines, rockets, missiles, detonation cord.
- (6) Components to construct or manufacture explosives or destructive devices, including explosives, gunpowder/propellant, pyrotechnic compositions and fuses.

(b) "Fireworks" and "Pyrotechnic Devices" shall mean any items or materials listed as such in: Articles 2 and 78 of the California Fire Code; Sections 12500 through 12726 of the California Health & Safety Code; and Chapter 6 of the California Code of Regulations. These items include, but are not limited to, the following:

- (1) 'Dangerous fireworks' as that term is defined by Section 12505 of the California Health & Safety Code, which includes, but is not limited to, the following: firecrackers, rockets, skyrockets, Roman candles, and torpedoes among others.
- (2) 'Safe and sane fireworks' as that term is defined by Section 12529 of the California Health & Safety Code, which includes, but is not limited to, the following: cones; fountains; smoke bombs; and "Piccolo-Pete" type fountains/cones among others.
- (3) Homemade fireworks or pyrotechnic devices that are constructed using pyrotechnic compositions/filler with the intent to explode or burn, including fireworks kits and components to construct fireworks or pyrotechnic devices.
- (4) Military pyrotechnic devices, such as smoke signals and signal flares.
- (5) Components to construct or manufacture fireworks or pyrotechnic devices including explosives, gunpowder/propellant, pyrotechnic compositions and fuses.

(c) "Person" means a natural person, legal entity (such as a partnership, corporation, or joint venture), or any other entity of any nature.

(d) “Responsible Person” means a person who causes a violation of this Chapter to occur or allows a violation to exist or continue, by his or her action or failure to act, or whose agent, employee or independent contractor causes a violation to occur, or allows a violation to exist or continue.

(e) “Use” shall include the acts of lighting, discharging, displaying, or attempting to do any of these.

Sec. 4-21.02. Prohibitions.

(a) Any violation of this Chapter is punishable as a misdemeanor. All provisions of Chapter 2 of Title 1 of this Code shall apply to this Chapter unless contradicted by the specific provisions of this Chapter. Responsible Persons are considered in violation of this Chapter to the same extent as if they committed the violation themselves.

(b) No Person may Use Fireworks, Pyrotechnic Devices, Explosives, Destructive Devices, or the components of Fireworks, Pyrotechnic Devices, Explosives, or Dangerous Devices, without a permit issued by the Fire Department, in any location in the City.

(c) No Person may possess, store, manufacture, or grant permission to store Fireworks, Pyrotechnic devices, Explosives, Destructive Devices, or the components of Fireworks, Pyrotechnic Devices, Explosives, or Destructive Devices, without a permit issued by the Fire Department, in any location in the City.

(d) The failure of any Person to comply with any permit conditions or requirements imposed by the Fire Department for the possession, Use, storage or manufacture of Fireworks, Pyrotechnic Devices, Explosives, Destructive Devices, or the components of Fireworks, Pyrotechnic Devices, Explosives, or Destructive Devices is prohibited.

Sec. 4-21.03. Responsible Persons – Violations Occurring on Real Property.

(a) There is a rebuttable presumption that the record owner of a residential parcel, as shown on the County’s latest equalized property taxes assessment rolls, and lessee of a residential parcel has a notice of any violation existing on said property. As such, these individuals shall be treated as Responsible Persons for all violations of this Chapter occurring on their real property.

(b) For purposes of this Chapter, there may be more than one Responsible Person for a violation.

Sec. 4-21.04. Responsible Persons – Parental Responsibilities.

(a) Every parent, guardian or other person, having the legal care, custody or control of any Person under the age of 18 years, who knows or reasonably should know that a minor is in violation of this Chapter, may be issued a citation in accordance with the provisions of this Chapter, in addition to any citation that may be issued to the offending minor.

Sec. 4-21.05. Administrative Fines.

(a) In addition to any other remedy available at law, any Person in violation of this Chapter is subject to an administrative fine of one thousand dollars (\$1,000).

(b) The provisions and procedures concerning administrative citations set forth in Chapter 5 of Title 1 of the Ontario Municipal Code shall apply to administrative citations issued for violations of this Chapter. A violation of this Chapter shall constitute a “transient” violation within the meaning of that Chapter. To the extent there are any conflicts between the provisions of the two Chapters, the provisions of this Chapter shall supersede and control administrative citations issued for violations of this Chapter.

Sec. 4-21.06. Dangerous Fireworks – Additional Costs.

(a) Where dangerous fireworks are involved, to the extent this Ordinance is subject to Section 12557 of the California Health & Safety Code, the Ordinance shall apply only to the seizure of 25 pounds or less of such fireworks. In such cases, in addition to the administrative fines set forth above, violators will be subject to an additional fine to reimburse the Office of the State Fire Marshal for the cost of transportation and disposal of the seized fireworks. In such cases, the citation for the violation of this Chapter will indicate that the violator may be responsible for such additional costs. Fines collected in connection with this procedure shall not be subject to Section 12706 of the California Health & Safety Code.”

SECTION 3. CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Bernardino in accordance with CEQA Guidelines.

SECTION 4. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings and this Ordinance are based are located at the City Clerk’s office located at 303 East “B” Street, Ontario, CA 91764. The custodian of these records is the City Clerk.

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

would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

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

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

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

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

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

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

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

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
October 6, 2015

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A ZONE CHANGE FOR 3 PARCELS, TOTALING 1.4 ACRES, FROM R1 (SINGLE FAMILY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL) AND TO CHANGE 11 PARCELS, TOTALING 3.25 ACRES, FROM R2 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), LOCATED ON FOURTH STREET BETWEEN BAKER AND CORONA AVENUES FROM 1673 TO 1733 EAST FOURTH STREET

RECOMMENDATION: That City Council adopt a resolution approving an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010, and introduce and waive further reading of an ordinance approving a Zone Change (File No. PZC15-001) from R1 (Single Family Residential) to HDR-45 (High Density Residential) and from R2 (Medium Density Residential) to HDR-45 (High Density Residential) to create consistency between the zoning and The Ontario Plan land use designation of High Density Residential.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Invest in the Growth and Evolution of the City's Economy
Operate in a businesslike manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: The potential fiscal impacts were analyzed as part of The Ontario Plan ("TOP") adoption in January 2010. The Zone Change proposed is implementing TOP. The Zone Change will not introduce any fiscal impacts that were not previously analyzed as part of TOP.


BACKGROUND: TOP designates the project site as High Density Residential ("HDR"), allowing for residential development at a range of 25.1-45 dwelling units per acre. The applicant, Dayu Capital, Inc., has requested a zone change for three properties located at the northwest corner of Fourth Street and Corona Avenue that are currently developed with a church. The current zoning of R1 (Single Family Residential) is not consistent with the current TOP land use designation. The applicant is in escrow to purchase the properties and plans, in the future, to develop the site with multi-family units in

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Clarice Burden

Department: Planning

City Manager

Approval: 

Submitted to Council/O.H.A. 10/06/2015

Approved: _____

Continued to: _____

Denied: _____

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conformance with TOP. In order to allow the future development of the properties in this manner, the zoning and land use designation must be consistent.

Staff analyzed the surrounding area and determined that the 11 parcels to the west of the applicant's property are also in need of zone changes from R2 (Medium Density Residential) to HDR-45 (High Density Residential) in order to be in conformance with their TOP land use designation of High Density Residential. Therefore, as shown in Exhibit A (attached), staff expanded the zone change area to incorporate these parcels. The zone change encompasses a total of 14 parcels and is part of the on-going effort to achieve consistency between TOP land use designation and zoning throughout the City.

A community open house was held on July 8, 2015 to receive input from the surrounding property owners on the proposed zone changes. Twelve people attended the meeting. After staff's presentation regarding the zone changes, there were many questions about the continued use of the existing single family homes. Staff assured the property owners that the existing single family residences may remain within the proposed High Density Residential zone but that new development would need to comply with the zoning requirements in place at the time of development. There were no objections to the proposed zone changes from those attending the open house.

On August 25, 2015 the Planning Commission voted 6 to 0 to recommend City Council adopt an Addendum to The Ontario Plan Environmental Impact Report and approve the Zone Change.

ENVIRONMENTAL REVIEW: The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts. The environmental impacts of this project were reviewed in conjunction with an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010, in conjunction with File No. PGPA06-001. The Addendum was prepared pursuant to CEQA, the State CEQA Guidelines and the City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)", which provides for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This application introduces no new significant environmental impacts not previously analyzed in the Environmental Impact Report. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by reference. The environmental documentation for this project is available for review at the Planning Department public counter.

Exhibit A: Proposed Zone Changes

F25 EXISTING ZONING	PARCELS	PROPOSED ZONING
<p>HARVARD</p> <p>CORONA</p> <p>FOURTH</p> <p>MARIPOSA</p>	<p>10855101 10855134 – 10855135</p> <p>(3 Properties)</p>	<p>HARVARD</p> <p>CORONA</p> <p>FOURTH</p> <p>MARIPOSA</p>
R1, Single Family Residential	TOP: High Density Residential	HDR-45, High Density Residential

F26 EXISTING ZONING	PARCELS	PROPOSED ZONING
<p>HARVARD</p> <p>CORONA</p> <p>FOURTH</p> <p>MARIPOSA</p>	<p>10855106 – 10855109 10855144 – 10855150</p> <p>(11 Properties)</p>	<p>HARVARD</p> <p>CORONA</p> <p>FOURTH</p> <p>MARIPOSA</p>
R2, Medium Density Residential	TOP: High Density Residential	HDR-45, High Density Residential

Legend:

	R1, Single Family Residential
	R2, Medium Density Residential
	C3, Commercial Service
	PF, Public Facilities
	HDR-45, High Density Residential

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ADDENDUM TO THE ONTARIO PLAN (TOP) CERTIFIED ENVIRONMENTAL IMPACT REPORT (SCH #2008101140).

WHEREAS, Dayu Capital, Inc. ("Applicant") has filed an Application for the approval of a Zone Change, File No. PZC15-001, as described below; and

WHEREAS, the Applicant's application requested a Zone Change for 3 parcels from R1 (Single Family Residential) to HDR-45 (High Density Residential) in order to be consistent with their TOP designation of High Density Residential; and

WHEREAS, the City of Ontario has expanded the application to include 11 additional parcels to the west of the Applicant's parcels that are in need of a zone change from R2 (Medium Density Residential) to HDR-45 (High Density Residential) in order to be consistent with their TOP designation of High Density Residential; and

WHEREAS, the combination of the Applicant's application and the additional parcels added by the City of Ontario are hereinafter referred to as "Application" or "Project"; and

WHEREAS, the Application applies to 14 parcels totaling approximately 4.65 acres of land located on the north side of Fourth Street between Baker and Corona Avenues from 1673 to 1733 E. Fourth Street that are currently developed with a church and single family residences; and

WHEREAS, the Environmental Impact Report ("EIR") for The Ontario Plan (TOP) was certified on January 27, 2010, in which development and use of the Project site was discussed; and

WHEREAS, pursuant to California Environmental Quality Act ("CEQA") Guidelines Section 15164(a), a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary to a project, but the preparation of a subsequent or supplemental EIR is not required; and

WHEREAS, the City determined that none of the conditions requiring preparation of a subsequent or supplemental EIR would occur from the Project and that preparation of an addendum to the EIR was appropriate; and

WHEREAS, to consider the potential environmental impacts of the Project, the City prepared an addendum to the certified EIR pursuant to CEQA and the Guidelines promulgated thereunder (hereinafter referred to as "Addendum"); and

WHEREAS, pursuant to CEQA Guidelines Section 15164(c), the Addendum is not required to be circulated for public review, but can be attached to the certified EIR; and

WHEREAS, on August 25, 2015, the Planning Commission of the City of Ontario conducted a hearing and approved Resolution No. PC15-050 recommending City Council approve the Addendum; and

WHEREAS, the City Council has reviewed the Addendum and all other relevant information presented to it regarding the Addendum; and

WHEREAS, the City Council, after evaluating the environmental impacts associated with the Project, has concluded that none of the conditions requiring preparation of a subsequent or supplemental EIR have occurred; and

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

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

SECTION 1. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Addendum and supporting documentation. Based upon the facts and information contained in the Addendum and supporting documentation, the City Council finds as follows:

- a. The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project; and
- b. The Addendum has been completed in compliance with CEQA and the Guidelines promulgated thereunder; and.
- c. The Addendum reflects the independent judgement of the City Council.

SECTION 2. Based upon the Addendum and all related information presented to the City Council, the City Council finds that the preparation of a subsequent or supplemental EIR is not required for the Project, as the Project:

- a. Does not constitute substantial changes to the certified EIR that will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- b. Does not constitute substantial changes with respect to the circumstances under which the certified EIR was prepared, that will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and.
- c. Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, that shows any of the following:

1. The project will have one or more significant effects not discussed in the certified EIR; or

2. Significant effects previously examined will be substantially more severe than shown in the certified EIR; or

3. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

4. Mitigation measures or alternatives considerably different from those analyzed in the certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

SECTION 3. The City Council hereby approves the Addendum to the certified EIR.

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

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

SECTION 6. The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED AND ADOPTED this 6th day of October 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 October 6, 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 October 6, 2015.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC15-001, A REQUEST TO CHANGE THE ZONING ON 3 PARCELS, TOTALING 1.4 ACRES, FROM R1 (SINGLE FAMILY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL) AND TO CHANGE THE ZONING ON 11 PARCELS, TOTALING 3.25 ACRES, FROM R2 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), LOCATED ON FOURTH STREET BETWEEN BAKER AND CORONA AVENUES FROM 1673 TO 1733 E. FOURTH STREET, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 0108-551-01, 0108-551-06 THRU 09; 0108-551-34 THRU 35, AND 0108-551-44 THRU 50.

WHEREAS, Dayu Capital, Inc. ("Applicant") has filed an application for the approval of a zone change, File No. PZC15-001, as described in the title of this Ordinance; and

WHEREAS, the Applicant's application requested a Zone Change for 3 parcels from R1 (Single Family Residential) to HDR-45 (High Density Residential) in order to be consistent with their TOP designation of High Density Residential; and

WHEREAS, the City of Ontario has expanded the application to include 11 additional parcels to the west of the Applicant's parcels that are also in need of a zone change from R2 (Medium Density Residential) to HDR-45 (High Density Residential) in order to be consistent with their TOP designation of High Density Residential; and

WHEREAS, the combination of the Applicant's application and the additional parcels added by the City of Ontario as shown in Exhibit A are hereinafter referred to as "Application" or "Project"; and

WHEREAS, the Application applies to 14 parcels totaling approximately 4.65 acres of land located on the north side of Fourth Street between Baker and Corona Avenues from 1673 to 1733 E. Fourth Street that are currently developed with a church and single family residences; and

WHEREAS, the zoning of the properties is inconsistent with The Ontario Plan ("TOP") land use designation of the properties and the proposed zone changes will make the zoning consistent with TOP land use designation of the properties as shown in Exhibit A; and

WHEREAS, the City of Ontario held a community open house on July 8, 2015, to gain input from impacted property owners and property owners within a 300 foot radius; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts; and

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

WHEREAS, on August 25, 2015, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and approved Resolution No. PC15-051 recommending City Council approve the application; and

WHEREAS, as the first action on the Project, on October 6, 2015, the City Council approved a resolution adopting an Addendum to a previously approved Environmental Impact Report ("EIR"), prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

WHEREAS, on October 6, 2015, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

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

a. The Addendum, initial study, and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

b. The Addendum and initial study contain a complete and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment of the City Council; and

c. There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and

d. All environmental impacts of the Project are either insignificant or can be mitigated to a level of insignificance pursuant to the mitigation measures outlined in the Addendum.

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

a. The proposed zone change is consistent with the goals and policies of the general plan.

b. The proposed zone change is reasonable and beneficial, and in the interest of good zoning practice.

c. The project site is physically suitable, including, but not limited to parcel size, shape, access, availability of utilities and compatibility with adjoining land uses, for the requested zoning designation and anticipated development.

d. The proposed zone change will not adversely affect the harmonious relationship with adjacent parcels and land uses.

e. The proposed zone change will not have a significant adverse impact on the environment.

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

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

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

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

SECTION 7. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are

severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 8. Effective Date. This Ordinance shall become effective 30 days following its adoption.

SECTION 9. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

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

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

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

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

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

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Exhibit A
(Proposed Zone Changes)

F25 EXISTING ZONING	PARCELS	PROPOSED ZONING
<p align="center">HARVARD FOURTH MARIPOSA</p>	<p>0108-551-01 0108-551-34 0108-551-35</p> <p>(3 Properties)</p>	<p align="center">HARVARD FOURTH MARIPOSA</p>
R1, Single Family Residential	TOP: HDR-45	HDR-45, High Density Residential

F26 EXISTING ZONING	PARCELS	PROPOSED ZONING
<p align="center">HARVARD FOURTH MARIPOSA</p>	<p>0108-551-06 Thru 0108-551-09 0108-551-44 Thru 0108-551-50</p> <p>(11 Properties)</p>	<p align="center">HARVARD FOURTH MARIPOSA</p>
R2, Medium Density Residential	TOP: HDR-45	HDR-45, High Density Residential