

**CITY OF ONTARIO**  
**CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY**  
**TO THE ONTARIO REDEVELOPMENT AGENCY**  
**AGENDA**  
**DECEMBER 2, 2014**

**Paul S. Leon**  
Mayor

**Alan D. Wapner**  
Mayor pro Tem

**Jim W. Bowman**  
Council Member

**Debra Dorst-Porada**  
Council Member

**Paul Vincent Avila**  
Council Member



**Al C. Boling**  
City Manager

**John E. Brown**  
City Attorney

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

**James R. Milhiser**  
Treasurer

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

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

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

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

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

**6:00 p.m.**

***ROLL CALL***

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

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

***CLOSED SESSION***

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

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

***PLEDGE OF ALLEGIANCE***

Mayor pro Tem Wapner

***INVOCATION***

Pastor Brian Kennedy, Mt. Zion Baptist Church

***REPORT ON CLOSED SESSION***

City Attorney

## **PUBLIC COMMENTS**

**6:30 p.m.**

The Public Comment portion of the Council/Housing Authority 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.

## **SPECIAL CEREMONIES**

### ***RECOGNITION OF WALMART'S COMMUNITY SERVICE PROJECT***

### ***RECOGNITION OF GARY C. OVITT'S RETIREMENT***

## **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 November 4, 2014, and approving same as on file in the Records Management Department.

### ***2. BILLS/PAYROLL***

**Bills** October 19, 2014 through November 1, 2014 and **Payroll** October 19, 2014 through November 1, 2014, when audited by the Finance Committee.

**3. CANVASS OF GENERAL MUNICIPAL ELECTION ON NOVEMBER 4, 2014**

That the City Council adopt a resolution certifying the results of the General Municipal Election which was consolidated with the Statewide Election on November 4, 2014.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 4, 2014, DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW.

**4. AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 24 (PARK PLACE FACILITIES – PHASE I)**

That the City Council consider and adopt an ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 24 (Park Place Facilities – Phase I).

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 24 (PARK PLACE FACILITIES - PHASE I).

**5. AMENDMENT TO THE MANAGEMENT AGREEMENT WITH SMG FOR PROFESSIONAL MANAGEMENT SERVICES FOR ONTARIO TOWN SQUARE/SMG**

That the City Council authorize the City Manager to execute an amendment to the Management Agreement with SMG (on file with the Records Management Department), a Pennsylvania General Partnership, to provide professional management services for the promotion, programming and special event management of Ontario Town Square.

**6. AN ORDINANCE AMENDING CHAPTER 23 TO TITLE 4 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE REGULATION OF REGISTERED SEX OFFENDERS CONDUCT**

That the City Council consider and adopt an ordinance amending Chapter 23 to Title 4 of the Ontario Municipal Code relating to the regulation of registered sex offenders conduct.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 23 TO TITLE 4 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE REGULATION OF REGISTERED SEX OFFENDERS CONDUCT.

**7. A CONSTRUCTION CONTRACT WITH K & J AIR CONDITIONING, INC. FOR THE HVAC UNIT REPLACEMENTS AT VARIOUS CITY FACILITIES PROJECT/K & J AIR CONDITIONING, INC.**

That the City Council award the HVAC Unit Replacements Project construction contract to K & J Air Conditioning, Inc. of Buena Park, California, in the amount of \$337,420 plus a 15% contingency of \$50,613, for a total amount of \$388,033; authorize the City Manager to execute said contract (on file with Records Management Department); and file a notice of completion at the conclusion of all construction activities related to the project.

**8. AWARD OF BIDS FOR THE PURCHASE OF REPLACEMENT FLEET VEHICLES AND EQUIPMENT/FAIRVIEW FORD/ROTOLO CHEVROLET**

That the City Council take the following actions:

- (A) Award Bid No. 480 to Fairview Ford of San Bernardino, California, in the amount of \$22,398 for the purchase and delivery of one (1) 2015 Ford Transit Connect Van for the Police Department;
- (B) Award Bid No. 481 to Rotolo Chevrolet of Fontana, California, in the amount of \$88,812 for the purchase and delivery of four (4) 2015 Chevrolet Colorado Trucks for the Fire, Parks, and Solid Waste Departments;
- (C) Award Bid No. 482 to Fairview Ford of San Bernardino, California, in the amount of \$256,078 for the purchase and delivery of twelve (12) 2015 Ford Escapes for the Fire, Building, Development and Engineering Departments; and
- (D) Award Bid No. 483:
  - 1. To Rotolo Chevrolet of Fontana, California, in the amount of \$156,623 for the purchase and delivery of seven (7) 2015 ½ Ton Pickup Trucks for the Fire, Parks, and Utilities Departments; and
  - 2. To Fairview Ford of San Bernardino, California, in the amount of \$30,133 for the purchase and delivery of one (1) 2015 ½ Ton Crew Cab Pickup Truck for the Police Department.

**9. APPROVAL OF A FIVE-YEAR EXTENSION TO THE 2007 JACK GALVIN MOBILE HOME PARK ACCORD AGREEMENT**

That the City Council approve the First Amendment to the 2007 Agreement between the City of Ontario and owners of the mobile home parks within the City of Ontario regarding maximum rent adjustments for a five-year extension (on file with the Records Management Department).

**10. APPROVAL BY THE CITY OF ONTARIO AND THE ONTARIO HOUSING AUTHORITY, SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY, OF TRANSFERS OF WOODSIDE SENIOR II APARTMENTS AND WOODSIDE SENIOR III APARTMENTS, LOCATED AT 302 AND 408 WEST "G" STREET, ONTARIO, FROM ML CASA III, LP TO AVANATH WOODSIDE, LLC AND REDEMPTION OF RELATED MULTIFAMILY HOUSING REVENUE REFUNDING BONDS**

That the City Council and the Authority Board acting as the Successor Agency to the Ontario Redevelopment Agency:

- (A) Adopt resolutions approving the transfers of the projects and assistance in connection with the redemption of related City of Ontario Multifamily Housing Revenue Refunding Bonds (Woodside Senior II Apartments) 2004 Series C and Ontario Redevelopment Agency Multifamily Housing Revenue Refunding Bonds (Woodside Senior III Apartments) 2004 Series A; and
- (B) Authorize the City Manager/Executive Director to determine the sufficiency of the documents related to the transfers and to execute any documents necessary to desirable to implement the transfers of the projects and redemption of the bonds.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING TRANSFER OF OWNERSHIP OF WOODSIDE SENIOR II APARTMENTS.

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

A RESOLUTION OF THE ONTARIO HOUSING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING TRANSFER OF OWNERSHIP OF WOODSIDE SENIOR III APARTMENTS AND WATERFORD COURT APARTMENTS.

**11. MICROSOFT OFFICE 2013 STANDARD PURCHASE/SHI INTERNATIONAL CORPORATION**

That the City Council authorize the purchase of Microsoft Office 2013 licenses from SHI International Corporation of San Diego, California, in the amount of \$175,700.

**12. AN ORDINANCE APPROVING THE PROHIBITION OF THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF ONTARIO**

That the City Council consider and adopt an ordinance approving a Development Code Amendment, amending Title 9 of the Ontario Municipal Code, to prohibit the cultivation of marijuana within the City.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTIONS 9-1.0200 AND TABLE 13-1 OF TITLE 9 OF THE ONTARIO DEVELOPMENT CODE TO EXPLICITLY PROHIBIT THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF ONTARIO.

**13. AN ORDINANCE APPROVING A ZONE CHANGE REQUEST FROM C3 (COMMERCIAL SERVICE DISTRICT) TO R1.5 (LOW-MEDIUM DENSITY RESIDENTIAL - 5.1-11 DU/AC) FOR 6.11 ACRES OF LAND LOCATED AT 2041 EAST 4TH STREET**

That the City Council consider and adopt an ordinance approving a Zone Change (File No. PZC14-003) from C3 (Commercial Service District) to R1.5 (Low-Medium Density Residential) for property located at 2041 East 4<sup>th</sup> Street (APN: 0110-441-10).

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC14-003, A CHANGE IN THE ZONING DESIGNATION ON 6.11 GROSS ACRES OF LAND FROM C3 (COMMERCIAL SERVICE) TO R1.5 (LOW-MEDIUM DENSITY RESIDENTIAL – 5.1-11.0 DU/AC) FOR PROPERTY LOCATED AT 2041 EAST FOURTH STREET, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 0110-441-10.

**14. AN ORDINANCE APPROVING A ZONE CHANGE FROM AR (AGRICULTURAL RESIDENTIAL) TO R1 (SINGLE-FAMILY RESIDENTIAL) FOR FORTY-FOUR SINGLE-FAMILY RESIDENTIAL PROPERTIES, GENERALLY LOCATED AT THE SOUTHWEST CORNER OF FRANCIS STREET AND SAN ANTONIO AVENUE**

That the City Council consider and adopt an ordinance approving a Zone Change (File No. PZC14-004) from AR (Agricultural Residential) to R1 (Single-Family Residential) for forty-four properties in order to provide consistency with the Policy Plan (General Plan) of The Ontario Plan land use designations, for properties generally located at the southwest corner of Francis Street and San Antonio Avenue, bound by Francis Street to the north, Spruce Street to the south, San Antonio Avenue to the east, and Redwood Avenue to the west (APNs: 1050-341-01, 1050-341-04 thru 05, 1050-341-09 thru 35, 1050-342-01 thru 07, 1050-624-15, 1050-631-09 thru 12, 1050-631-14, and 1050-631-38).

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC14-004, A ZONE CHANGE FROM AR (AGRICULTURAL RESIDENTIAL) TO R1 (SINGLE-FAMILY RESIDENTIAL) FOR FORTY-FOUR (44) SINGLE-FAMILY RESIDENTIAL PROPERTIES, GENERALLY LOCATED AT THE SOUTHWEST CORNER OF FRANCIS STREET AND SOUTH SAN ANTONIO AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1050-341-01, 1050-341-04 THRU 05, 1050-341-09 THRU 35, 1050-342-01 THRU 07, 1050-624-15, 1050-631-09 THRU 12, 1050-631-14, AND 1050-631-38.

## **PUBLIC HEARINGS**

### **15. RESOLUTIONS REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 19 (COUNTRYSIDE PHASE 1 - SERVICES) AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 19 (COUNTRYSIDE PHASE 1 - SERVICES)**

That the City Council:

- (A) Adopt a resolution establishing City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services), authorizing the levy of a special tax within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services);
- (C) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien; and
- (D) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services).

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

Written communication.

Oral presentation.

Public hearing closed.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 19 (COUNTRYSIDE PHASE 1 - SERVICES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 19 (COUNTRYSIDE PHASE 1 - SERVICES).

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

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

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 19 (COUNTRYSIDE PHASE 1 - SERVICES).

**16. CONSIDERATION OF A SPENDING PLAN FOR CITIZEN'S OPTION FOR PUBLIC SAFETY / ENHANCING LAW ENFORCEMENT ACTIVITIES SUBACCOUNT GRANT PROGRAM**

That the City Council receive public comment for the Fiscal Year 2014-15 Citizen's Option for Public Safety (COPS) / Enhancing Law Enforcement Activities Subaccount (ELEAS) grant; and approve the proposed spending plan.

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.

**17. A PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 19 TO TITLE 4 OF THE ONTARIO MUNICIPAL CODE RELATING TO ROTATIONAL TOWING SERVICES**

That the City Council introduce and waive further reading of an ordinance amending Chapter 19 to Title 4 of the Ontario Municipal Code relating to rotational towing services.

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

Written communication.

Oral presentation.

Public hearing closed.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTION 4-19 OF THE ONTARIO MUNICIPAL CODE, RELATING TO ROTATIONAL TOWING SERVICES.

## **STAFF MATTERS**

City Manager Boling

## **COUNCIL MATTERS**

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

## **ADJOURNMENT**

**CITY OF ONTARIO  
CLOSED SESSION REPORT**

City Council // Housing Authority // Other // (GC 54957.1)  
**December 2, 2014**

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

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

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

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

No Reportable Action	Continue	Approved
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Disposition: \_\_\_\_\_

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

# **CITY OF ONTARIO**

## *Agenda Report*

**December 2, 2014**

## **SECTION: CONSENT CALENDAR**

**SUBJECT: CANVASS OF GENERAL MUNICIPAL ELECTION ON NOVEMBER 4, 2014**

**RECOMMENDATION:** That the City Council adopt a resolution certifying the results of the General Municipal Election which was consolidated with the Statewide Election on November 4, 2014.

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

**FISCAL IMPACT:** None.

**BACKGROUND:** In accordance with Ontario's status as a general law city, elections are held every two years. In 1988 the City Council decided to consolidate the City's Municipal Election with San Bernardino County. The 2014 General Municipal Election required positions be filled for Mayor for the full term of four years; and two City Council Members for the full term of four years.

The County Registrar of Voters conducted the elections at the City's request and has completed a canvass of the votes; and provided certification of those results, which is included as Exhibit "A" to the resolution submitted for adoption.

Based upon the County's certified election results, Paul S. Leon was elected as Mayor for the full term of four years; Alan D. Wapner was elected as Member of the City Council for the full term of four years; and Jim W. Bowman was elected as Member of the City Council for the full term of four years.

**STAFF MEMBER PRESENTING:** Jacob Green, Assistant City Manager

Prepared by: Vicki Kasad  
Department: City Clerk/Records Management

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/02/2014

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

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

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

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 4, 2014, DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW.

WHEREAS, a General Municipal Election was held and conducted in the City of Ontario, California, on Tuesday, November 4, 2014, as required by law; and

WHEREAS, notice of the election was given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

WHEREAS, pursuant to Resolution Nos. 2014-058 and 2014-059 adopted on June 17, 2014, the Registrar of Voters canvassed the returns of the election and has certified the results to this City Council, the results are received and the appropriate sections are attached and made a part hereof as "Exhibit A."

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the whole number of votes cast in the precincts except Vote by Mail ballots was 7,396. That the whole number of Vote by Mail ballots cast in the City was 9,985 making a total of 17,381 votes cast in the City.

SECTION 2. That the names of persons voted for at the election for Mayor are as follows:

Paul Vincent Avila  
Rodolfo Favila  
Paul S. Leon

That the names of persons voted for at the election for Council are as follows:

Jim W. Bowman  
Yolanda Garcia  
Reyna Machado  
Ruben Valencia  
Alan D. Wapner

SECTION 3. That the number of votes given at each precinct and the number of votes given in the City to each of the persons above named for the respective offices for which the persons were candidates are listed in Exhibit "A" attached.

SECTION 4. The City Council does declare and determine that Paul Leon was elected as Mayor for the full term of four years; that Jim W. Bowman was elected as Member of the City Council for the full term of four years; and that Alan Wapner was elected as Member of the City Council for the full term of four years.

SECTION 5. The City Clerk shall enter on the records of the City Council of the City, a statement of the result of the election, showing: (1) The whole number of votes cast in the City; (2) The names of the persons voted for; (3) For what office each person was voted; (4) The number of votes given at each precinct to each person; and (5) The total number of votes given to each person.

SECTION 6. That the City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Election signed by the City Clerk and authenticated; that the City Clerk shall also administer to each person elected the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

SECTION 7. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 2<sup>nd</sup> day of December, 2014.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2014-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 2, 2014 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. 2014-       duly passed and adopted by the Ontario City Council at their regular meeting held December 2, 2014.

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

(SEAL)



## Elections Office of the Registrar of Voters

**Michael J. Scarpello**  
Registrar of Voters


**STATEMENT OF CERTIFICATION OF ELECTION RESULTS**  
**2014 STATEWIDE GENERAL ELECTION**

STATE OF CALIFORNIA )  
 )  
 ) SS,  
COUNTY OF SAN BERNARDINO )

I, Michael J. Scarpello, San Bernardino County Registrar of Voters, do hereby certify that pursuant to the provisions of the California Elections Code §15300 et seq., I did canvass the returns of the votes cast in 2014 Statewide General Election held on November 4 in San Bernardino County, and that the *Certified Election Results*, to which this Statement of Certification is attached, shows the total number of votes cast in San Bernardino County and that the totals as shown are full, true and correct.

Witness my hand and official seal this 24th day of November, 2014.



  
Michael J. Scarpello  
Registrar of Voters

## BOARD OF SUPERVISORS

**ROBERT A. LOVINGOOD**  
First District

**JANICE RUTHERFORD**  
Chair, Second District

**JAMES RAMOS**  
Third District

**GARY C. OVITT**  
Vice Chair, Fourth District

**JOSIE GONZALES**  
Fifth District

SAN BERNARDINO COUNTY Statement of Vote  
STATEWIDE GENERAL ELECTION

100096	CITY OF ONTARIO														
	Registration	Ballots Cast	Turnout (%)		CITY OF ONTARIO - MAYOR PAUL LEON	PAUL VINCENT AVILA	RODOLFO FAVILA		CITY OF ONTARIO - CITY COUNCIL RUBEN VALENCIA	YOLANDA GARCIA	JIM W. BOWMAN	REYNA MACHADO	ALAN WAPNER		
ONT1027 1027	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1027 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1398 1398	1242	172	13.85		120	19	18		47	27	70	24	72		
ONT1398 - Vote by Mail	1242	213	17.15		168	15	16		38	26	124	24	123		
ONT1399 1399	862	99	11.48		60	11	17		29	10	50	12	38		
ONT1399 - Vote by Mail	862	169	19.61		111	25	21		37	25	93	24	95		
ONT1400 1400	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1400 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1401 1401	1099	227	20.66		136	20	47		47	36	115	32	123		
ONT1401 - Vote by Mail	1099	208	18.93		151	20	23		45	25	126	27	124		
ONT1402 1402	1757	213	12.12		127	46	32		63	41	89	32	96		
ONT1402 - Vote by Mail	1757	317	18.04		205	62	33		95	41	167	36	163		
ONT1403 1403	1701	226	13.29		125	38	43		56	48	88	47	85		
ONT1403 - Vote by Mail	1701	298	17.52		193	34	47		72	56	129	48	157		
ONT1404 1404	862	162	18.79		108	15	24		33	19	98	20	84		
ONT1404 - Vote by Mail	862	213	24.71		162	19	27		37	13	150	22	148		
ONT1405 1405	1680	267	15.89		179	34	30		52	25	144	35	148		
ONT1405 - Vote by Mail	1680	351	20.89		235	28	57		78	49	204	48	186		
ONT1406 1406	1386	244	17.60		149	31	37		36	41	118	39	125		
ONT1406 - Vote by Mail	1386	204	14.72		144	20	26		45	22	114	32	123		
ONT1407 1407	752	82	10.90		48	16	12		12	18	35	18	39		
ONT1407 - Vote by Mail	752	131	17.42		81	22	16		28	25	53	22	61		
ONT1408 1408	155	7	4.52		5	1	0		3	1	2	1	3		
ONT1408 - Vote by Mail	155	17	10.97		10	5	2		8	3	6	3	8		
ONT1409 1409	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1409 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1410 1410	1380	122	8.84		65	26	22		46	32	35	20	37		
ONT1410 - Vote by Mail	1380	149	10.80		85	35	24		48	26	60	32	64		
ONT1411 1411	858	95	11.07		50	17	19		22	18	39	13	37		
ONT1411 - Vote by Mail	858	127	14.80		71	34	17		30	26	55	19	51		
ONT1412 1412	1507	120	7.96		80	19	13		28	18	56	24	62		
ONT1412 - Vote by Mail	1507	194	12.87		125	39	24		60	29	85	31	93		
ONT1413 1413	543	54	9.94		33	9	6		21	7	15	8	22		
ONT1413 - Vote by Mail	543	57	10.50		46	7	2		15	10	24	11	26		
ONT1414 1414	1275	147	11.53		83	25	26		40	42	44	29	55		
ONT1414 - Vote by Mail	1275	188	14.75		121	27	24		55	46	81	31	79		
ONT1415 1415	2	0	0.00		0	0	0		0	0	0	0	0		
ONT1415 - Vote by Mail	2	0	0.00		0	0	0		0	0	0	0	0		
ONT1416 1416	1060	118	11.13		65	27	17		31	28	57	23	41		
ONT1416 - Vote by Mail	1060	149	14.06		108	23	12		44	27	69	17	74		
ONT1417 1417	11	1	9.09												
ONT1417 - Vote by Mail	11	2	18.18												
ONT1418 1418	1221	108	8.85		72	19	10		22	22	48	11	64		
ONT1418 - Vote by Mail	1221	211	17.28		143	25	32		59	35	108	33	101		
ONT1419 1419	668	90	13.47		52	12	11		24	21	30	11	38		
ONT1419 - Vote by Mail	668	122	18.26		69	28	11		32	23	62	16	57		
ONT1420 1420	1142	112	9.81		73	20	11		35	19	40	23	49		
ONT1420 - Vote by Mail	1142	206	18.04		149	27	18		51	29	97	36	117		
ONT1421 1421	1217	153	12.57		87	25	23		38	24	65	18	68		
ONT1421 - Vote by Mail	1217	157	12.90		114	24	11		34	25	80	8	95		
ONT1422 1422	1367	205	15.00		117	34	37		73	37	65	31	87		
ONT1422 - Vote by Mail	1367	314	22.97		202	40	51		119	51	143	46	137		
ONT1423 1423	9	0	0.00		0	0	0		0	0	0	0	0		
ONT1423 - Vote by Mail	9	4	44.44												
ONT1424 1424	767	92	11.99		55	9	11		38	7	25	7	33		
ONT1424 - Vote by Mail	767	240	31.29		174	10	26		79	22	117	32	129		
ONT1425 1425	158	9	5.70		8	0	0		2	2	3	3	4		
ONT1425 - Vote by Mail	158	20	12.66		11	5	4		4	2	11	1	10		
ONT1426 1426	981	98	9.99		63	14	15		28	19	33	20	40		
ONT1426 - Vote by Mail	981	207	21.10		125	28	47		57	37	92	44	114		
ONT1427 1427	677	60	8.86		34	9	14		20	10	17	12	24		

SAN BERNARDINO COUNTY Statement of Vote  
STATEWIDE GENERAL ELECTION

100096	CITY OF ONTARIO														
	Registration	Ballots Cast	Turnout (%)		CITY OF ONTARIO - MAYOR PAUL LEON	PAUL VINCENT AVILA	RODOLFO FAVILA		CITY OF ONTARIO - CITY COUNCIL RUBEN VALENCIA	YOLANDA GARCIA	JIM W. BOWMAN	REYNA MACHADO	ALAN WAPNER		
ONT1427 - Vote by Mail	677	89	13.15		53	17	10		23	13	41	11	47		
ONT1428 1428	1353	162	11.97		83	34	38		40	36	46	43	60		
ONT1428 - Vote by Mail	1353	168	12.42		78	51	30		45	42	66	36	64		
ONT1429 1429	1418	152	10.72		75	32	21		57	29	50	22	50		
ONT1429 - Vote by Mail	1418	207	14.60		120	29	34		51	32	76	26	90		
ONT1430 1430	1501	195	12.99		114	41	27		58	30	83	25	89		
ONT1430 - Vote by Mail	1501	270	17.99		175	40	43		96	40	117	45	128		
ONT1431 1431	1353	196	14.49		119	34	22		73	28	66	19	78		
ONT1431 - Vote by Mail	1353	197	14.56		136	18	35		70	30	88	25	112		
ONT1432 1432	1552	122	7.86		75	25	18		37	32	41	18	52		
ONT1432 - Vote by Mail	1552	168	10.82		88	34	35		57	42	60	25	71		
ONT1433 1433	1472	149	10.12		85	32	15		44	38	41	16	58		
ONT1433 - Vote by Mail	1472	231	15.69		148	37	30		84	34	98	34	108		
ONT1434 1434	1697	203	11.96		136	29	22		50	26	79	28	102		
ONT1434 - Vote by Mail	1697	344	20.27		227	42	43		64	56	168	53	193		
ONT1435 1435	1185	162	13.67		96	30	21		60	28	64	20	57		
ONT1435 - Vote by Mail	1185	191	16.12		128	25	17		53	34	96	18	100		
ONT1436 1436	1000	89	8.90		57	11	12		31	13	33	16	40		
ONT1436 - Vote by Mail	1000	130	13.00		87	18	18		42	17	57	29	56		
ONT1437 1437	97	11	11.34		6	0	4		2	1	3	1	3		
ONT1437 - Vote by Mail	97	16	16.49		10	3	2		2	1	9	2	7		
ONT1438 1438	35	3	8.57												
ONT1438 - Vote by Mail	35	7	20.00		6	1	0		1	0	7	0	4		
ONT1439 1439	1532	228	14.88		150	33	37		79	29	92	44	104		
ONT1439 - Vote by Mail	1532	284	18.54		210	36	23		70	53	151	39	156		
ONT1440 1440	1728	223	12.91		138	30	23		50	36	83	29	97		
ONT1440 - Vote by Mail	1728	321	18.58		232	36	33		103	53	143	39	154		
ONT1441 1441	1323	186	14.06		129	25	23		60	27	78	29	85		
ONT1441 - Vote by Mail	1323	187	14.13		116	26	34		52	36	90	41	92		
ONT1442 1442	1479	207	14.00		123	32	28		70	29	71	38	79		
ONT1442 - Vote by Mail	1479	283	19.13		192	39	37		62	40	143	46	163		
ONT1443 1443	1689	220	13.03		139	33	25		59	35	93	35	100		
ONT1443 - Vote by Mail	1689	295	17.47		210	38	25		72	37	152	39	171		
ONT1444 1444	1468	212	14.44		123	37	29		62	39	82	37	84		
ONT1444 - Vote by Mail	1468	241	16.42		164	32	31		57	41	116	43	129		
ONT1445 1445	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1445 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1446 1446	1	1	100.00												
ONT1446 - Vote by Mail	1	0	0.00		0	0	0		0	0	0	0	0		
ONT1447 1447	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1447 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1448 1448	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1448 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1449 1449	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1449 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1450 1450	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1450 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1451 1451	8	0	0.00		0	0	0		0	0	0	0	0		
ONT1451 - Vote by Mail	8	4	50.00												
ONT1452 1452	1452	139	9.57		76	21	14		30	24	44	25	51		
ONT1452 - Vote by Mail	1452	192	13.22		124	24	23		42	34	68	41	84		
ONT1453 1453	40	5	12.50		4	1	0		1	4	1	2	1		
ONT1453 - Vote by Mail	40	3	7.50												
ONT1570 1570	631	55	8.72		24	14	10		23	8	13	8	13		
ONT1570 - Vote by Mail	631	62	9.83		37	9	7		11	14	22	20	22		
ONT1571 1571	1176	194	16.50		132	23	23		35	26	100	33	107		
ONT1571 - Vote by Mail	1176	248	21.09		156	47	31		59	35	134	35	149		
ONT1572 1572	663	70	10.56		41	12	11		14	17	24	12	27		
ONT1572 - Vote by Mail	663	89	13.42		50	29	6		24	22	41	16	41		
ONT1576 1576	178	13	7.30		9	2	0		4	1	4	0	7		
ONT1576 - Vote by Mail	178	25	14.04		15	3	3		3	3	9	4	11		

**SAN BERNARDINO COUNTY Statement of Vote  
STATEWIDE GENERAL ELECTION**

100096	CITY OF ONTARIO														
	Registration	Ballots Cast	Turnout (%)		CITY OF ONTARIO - MAYOR PAUL LEON	PAUL VINCENT AVILA	RODOLFO FAVILA		CITY OF ONTARIO - CITY COUNCIL RUBEN VALENCIA	YOLANDA GARCIA	JIM W. BOWMAN	REYNA MACHADO	ALAN WAPNER		
ONT1577 1577	268	24	8.96		17	3	3		8	5	8	2	10		
ONT1577 - Vote by Mail	268	38	14.18		23	5	3		12	4	13	6	20		
ONT1502 1502	5	0	0.00		0	0	0		0	0	0	0	0		
ONT1502 - Vote by Mail	5	0	0.00		0	0	0		0	0	0	0	0		
ONT1503 1503	112	11	9.82		7	2	1		6	0	3	1	3		
ONT1503 - Vote by Mail	112	35	31.25		18	4	10		20	3	7	6	11		
ONT1504 1504	237	17	7.17		11	4	1		6	5	6	2	7		
ONT1504 - Vote by Mail	237	38	16.03		32	2	1		8	2	15	5	19		
ONT1505 1505	1669	246	14.74		172	24	22		70	27	86	33	119		
ONT1505 - Vote by Mail	1669	329	19.71		244	41	29		105	49	150	34	175		
ONT1506 1506	1461	209	14.31		128	32	33		59	32	79	33	84		
ONT1506 - Vote by Mail	1461	305	20.88		211	36	37		87	37	135	49	163		
ONT1507 1507	1521	212	13.94		131	35	35		71	32	75	34	92		
ONT1507 - Vote by Mail	1521	296	19.46		203	34	29		78	41	124	33	168		
ONT1508 1508	1292	187	14.47		101	37	31		56	22	58	31	74		
ONT1508 - Vote by Mail	1292	205	15.87		114	48	29		56	40	93	29	89		
ONT1509 1509	85	10	11.76		10	0	0		4	0	7	0	8		
ONT1509 - Vote by Mail	85	19	22.35		12	4	1		10	1	7	1	11		
Precinct Totals	59020	7396	12.53		4509	1165	1044		2066	1233	2895	1152	3216		
Vote by Mail Totals	59020	9985	16.92		6630	1413	1260		2694	1566	4750	1474	5145		
Grand Totals	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
California	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
San Bernardino County	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
State Bd of Equal 1	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
U. S. Representative District 31	0	0	0.00		0	0	0		0	0	0	0	0		
U. S. Representative District 35	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
Senatorial District 20	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
Senatorial District 23	0	0	0.00		0	0	0		0	0	0	0	0		
State Assembly District 40	0	0	0.00		0	0	0		0	0	0	0	0		
State Assembly District 52	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
Supervisory District 2	0	0	0.00		0	0	0		0	0	0	0	0		
Supervisory District 4	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
City of Ontario	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		

SAN BERNARDINO COUNTY Statement of Vote  
STATEWIDE GENERAL ELECTION

100096	CITY OF ONTARIO														
	Registration	Ballots Cast	Turnout (%)		CITY OF ONTARIO - MAYOR PAUL LEON	PAUL VINCENT AVILA	RODOLFO FAVILA		CITY OF ONTARIO - CITY COUNCIL RUBEN VALENCIA	YOLANDA GARCIA	JIM W. BOWMAN	REYNA MACHADO	ALAN WAPNER		
ONT1027 1027	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1027 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1398 1398	1242	172	13.85		120	19	18		47	27	70	24	72		
ONT1398 - Vote by Mail	1242	213	17.15		168	15	16		38	26	124	24	123		
ONT1399 1399	862	99	11.48		60	11	17		29	10	50	12	38		
ONT1399 - Vote by Mail	862	169	19.61		111	25	21		37	25	93	24	95		
ONT1400 1400	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1400 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1401 1401	1099	227	20.66		136	20	47		47	36	115	32	123		
ONT1401 - Vote by Mail	1099	208	18.93		151	20	23		45	25	126	27	124		
ONT1402 1402	1757	213	12.12		127	46	32		63	41	89	32	96		
ONT1402 - Vote by Mail	1757	317	18.04		205	62	33		95	41	167	36	163		
ONT1403 1403	1701	226	13.29		125	38	43		56	48	88	47	85		
ONT1403 - Vote by Mail	1701	298	17.52		193	34	47		72	56	129	48	157		
ONT1404 1404	862	162	18.79		108	15	24		33	19	98	20	84		
ONT1404 - Vote by Mail	862	213	24.71		162	19	27		37	13	150	22	148		
ONT1405 1405	1680	267	15.89		179	34	30		52	25	144	35	148		
ONT1405 - Vote by Mail	1680	351	20.89		235	28	57		78	49	204	48	186		
ONT1406 1406	1386	244	17.60		149	31	37		36	41	118	39	125		
ONT1406 - Vote by Mail	1386	204	14.72		144	20	26		45	22	114	32	123		
ONT1407 1407	752	82	10.90		48	16	12		12	18	35	18	39		
ONT1407 - Vote by Mail	752	131	17.42		81	22	16		28	25	53	22	61		
ONT1408 1408	155	7	4.52		5	1	0		3	1	2	1	3		
ONT1408 - Vote by Mail	155	17	10.97		10	5	2		8	3	6	3	8		
ONT1409 1409	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1409 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1410 1410	1380	122	8.84		65	26	22		46	32	35	20	37		
ONT1410 - Vote by Mail	1380	149	10.80		85	35	24		48	26	60	32	64		
ONT1411 1411	858	95	11.07		50	17	19		22	18	39	13	37		
ONT1411 - Vote by Mail	858	127	14.80		71	34	17		30	26	55	19	51		
ONT1412 1412	1507	120	7.96		80	19	13		28	18	56	24	62		
ONT1412 - Vote by Mail	1507	194	12.87		125	39	24		60	29	85	31	93		
ONT1413 1413	543	54	9.94		33	9	6		21	7	15	8	22		
ONT1413 - Vote by Mail	543	57	10.50		46	7	2		15	10	24	11	26		
ONT1414 1414	1275	147	11.53		83	25	26		40	42	44	29	55		
ONT1414 - Vote by Mail	1275	188	14.75		121	27	24		55	46	81	31	79		
ONT1415 1415	2	0	0.00		0	0	0		0	0	0	0	0		
ONT1415 - Vote by Mail	2	0	0.00		0	0	0		0	0	0	0	0		
ONT1416 1416	1060	118	11.13		65	27	17		31	28	57	23	41		
ONT1416 - Vote by Mail	1060	149	14.06		108	23	12		44	27	69	17	74		
ONT1417 1417	11	1	9.09												
ONT1417 - Vote by Mail	11	2	18.18												
ONT1418 1418	1221	108	8.85		72	19	10		22	22	48	11	64		
ONT1418 - Vote by Mail	1221	211	17.28		143	25	32		59	35	108	33	101		
ONT1419 1419	668	90	13.47		52	12	11		24	21	30	11	38		
ONT1419 - Vote by Mail	668	122	18.26		69	28	11		32	23	62	16	57		
ONT1420 1420	1142	112	9.81		73	20	11		35	19	40	23	49		
ONT1420 - Vote by Mail	1142	206	18.04		149	27	18		51	29	97	36	117		
ONT1421 1421	1217	153	12.57		87	25	23		38	24	65	18	68		
ONT1421 - Vote by Mail	1217	157	12.90		114	24	11		34	25	80	8	95		
ONT1422 1422	1367	205	15.00		117	34	37		73	37	65	31	87		
ONT1422 - Vote by Mail	1367	314	22.97		202	40	51		119	51	143	46	137		
ONT1423 1423	9	0	0.00		0	0	0		0	0	0	0	0		
ONT1423 - Vote by Mail	9	4	44.44												
ONT1424 1424	767	92	11.99		55	9	11		38	7	25	7	33		
ONT1424 - Vote by Mail	767	240	31.29		174	10	26		79	22	117	32	129		
ONT1425 1425	158	9	5.70		8	0	0		2	2	3	3	4		
ONT1425 - Vote by Mail	158	20	12.66		11	5	4		4	2	11	1	10		
ONT1426 1426	981	98	9.99		63	14	15		28	19	33	20	40		
ONT1426 - Vote by Mail	981	207	21.10		125	28	47		57	37	92	44	114		
ONT1427 1427	677	60	8.86		34	9	14		20	10	17	12	24		

SAN BERNARDINO COUNTY Statement of Vote  
STATEWIDE GENERAL ELECTION

100096	CITY OF ONTARIO														
	Registration	Ballots Cast	Turnout (%)		CITY OF ONTARIO - MAYOR PAUL LEON	PAUL VINCENT AVILA	RODOLFO FAVILA		CITY OF ONTARIO - CITY COUNCIL RUBEN VALENCIA	YOLANDA GARCIA	JIM W. BOWMAN	REYNA MACHADO	ALAN WAPNER		
ONT1427 - Vote by Mail	677	89	13.15		53	17	10		23	13	41	11	47		
ONT1428 1428	1353	162	11.97		83	34	38		40	36	46	43	60		
ONT1428 - Vote by Mail	1353	168	12.42		78	51	30		45	42	66	36	64		
ONT1429 1429	1418	152	10.72		75	32	21		57	29	50	22	50		
ONT1429 - Vote by Mail	1418	207	14.60		120	29	34		51	32	76	26	90		
ONT1430 1430	1501	195	12.99		114	41	27		58	30	83	25	89		
ONT1430 - Vote by Mail	1501	270	17.99		175	40	43		96	40	117	45	128		
ONT1431 1431	1353	196	14.49		119	34	22		73	28	66	19	78		
ONT1431 - Vote by Mail	1353	197	14.56		136	18	35		70	30	88	25	112		
ONT1432 1432	1552	122	7.86		75	25	18		37	32	41	18	52		
ONT1432 - Vote by Mail	1552	168	10.82		88	34	35		57	42	60	25	71		
ONT1433 1433	1472	149	10.12		85	32	15		44	38	41	16	58		
ONT1433 - Vote by Mail	1472	231	15.69		148	37	30		84	34	98	34	108		
ONT1434 1434	1697	203	11.96		136	29	22		50	26	79	28	102		
ONT1434 - Vote by Mail	1697	344	20.27		227	42	43		64	56	168	53	193		
ONT1435 1435	1185	162	13.67		96	30	21		60	28	64	20	57		
ONT1435 - Vote by Mail	1185	191	16.12		128	25	17		53	34	96	18	100		
ONT1436 1436	1000	89	8.90		57	11	12		31	13	33	16	40		
ONT1436 - Vote by Mail	1000	130	13.00		87	18	18		42	17	57	29	56		
ONT1437 1437	97	11	11.34		6	0	4		2	1	3	1	3		
ONT1437 - Vote by Mail	97	16	16.49		10	3	2		2	1	9	2	7		
ONT1438 1438	35	3	8.57												
ONT1438 - Vote by Mail	35	7	20.00		6	1	0		1	0	7	0	4		
ONT1439 1439	1532	228	14.88		150	33	37		79	29	92	44	104		
ONT1439 - Vote by Mail	1532	284	18.54		210	36	23		70	53	151	39	156		
ONT1440 1440	1728	223	12.91		138	30	23		50	36	83	29	97		
ONT1440 - Vote by Mail	1728	321	18.58		232	36	33		103	53	143	39	154		
ONT1441 1441	1323	186	14.06		129	25	23		60	27	78	29	85		
ONT1441 - Vote by Mail	1323	187	14.13		116	26	34		52	36	90	41	92		
ONT1442 1442	1479	207	14.00		123	32	28		70	29	71	38	79		
ONT1442 - Vote by Mail	1479	283	19.13		192	39	37		62	40	143	46	163		
ONT1443 1443	1689	220	13.03		139	33	25		59	35	93	35	100		
ONT1443 - Vote by Mail	1689	295	17.47		210	38	25		72	37	152	39	171		
ONT1444 1444	1468	212	14.44		123	37	29		62	39	82	37	84		
ONT1444 - Vote by Mail	1468	241	16.42		164	32	31		57	41	116	43	129		
ONT1445 1445	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1445 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1446 1446	1	1	100.00												
ONT1446 - Vote by Mail	1	0	0.00		0	0	0		0	0	0	0	0		
ONT1447 1447	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1447 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1448 1448	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1448 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1449 1449	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1449 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1450 1450	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1450 - Vote by Mail	0	0	0.00		0	0	0		0	0	0	0	0		
ONT1451 1451	8	0	0.00		0	0	0		0	0	0	0	0		
ONT1451 - Vote by Mail	8	4	50.00												
ONT1452 1452	1452	139	9.57		76	21	14		30	24	44	25	51		
ONT1452 - Vote by Mail	1452	192	13.22		124	24	23		42	34	68	41	84		
ONT1453 1453	40	5	12.50		4	1	0		1	4	1	2	1		
ONT1453 - Vote by Mail	40	3	7.50												
ONT1570 1570	631	55	8.72		24	14	10		23	8	13	8	13		
ONT1570 - Vote by Mail	631	62	9.83		37	9	7		11	14	22	20	22		
ONT1571 1571	1176	194	16.50		132	23	23		35	26	100	33	107		
ONT1571 - Vote by Mail	1176	248	21.09		156	47	31		59	35	134	35	149		
ONT1572 1572	663	70	10.56		41	12	11		14	17	24	12	27		
ONT1572 - Vote by Mail	663	89	13.42		50	29	6		24	22	41	16	41		
ONT1576 1576	178	13	7.30		9	2	0		4	1	4	0	7		
ONT1576 - Vote by Mail	178	25	14.04		15	3	3		3	3	9	4	11		

**SAN BERNARDINO COUNTY Statement of Vote**  
**STATEWIDE GENERAL ELECTION**

100096	CITY OF ONTARIO														
	Registration	Ballots Cast	Turnout (%)		CITY OF ONTARIO - MAYOR PAUL LEON	PAUL VINCENT AVILA	RODOLFO FAVILA		CITY OF ONTARIO - CITY COUNCIL RUBEN VALENCIA	YOLANDA GARCIA	JIM W. BOWMAN	REYNA MACHADO	ALAN WAPNER		
ONT1577 1577	268	24	8.96		17	3	3		8	5	8	2	10		
ONT1577 - Vote by Mail	268	38	14.18		23	5	3		12	4	13	6	20		
ONT1502 1502	5	0	0.00		0	0	0		0	0	0	0	0		
ONT1502 - Vote by Mail	5	0	0.00		0	0	0		0	0	0	0	0		
ONT1503 1503	112	11	9.82		7	2	1		6	0	3	1	3		
ONT1503 - Vote by Mail	112	35	31.25		18	4	10		20	3	7	6	11		
ONT1504 1504	237	17	7.17		11	4	1		6	5	6	2	7		
ONT1504 - Vote by Mail	237	38	16.03		32	2	1		8	2	15	5	19		
ONT1505 1505	1669	246	14.74		172	24	22		70	27	86	33	119		
ONT1505 - Vote by Mail	1669	329	19.71		244	41	29		105	49	150	34	175		
ONT1506 1506	1461	209	14.31		128	32	33		59	32	79	33	84		
ONT1506 - Vote by Mail	1461	305	20.88		211	36	37		87	37	135	49	163		
ONT1507 1507	1521	212	13.94		131	35	35		71	32	75	34	92		
ONT1507 - Vote by Mail	1521	296	19.46		203	34	29		78	41	124	33	168		
ONT1508 1508	1292	187	14.47		101	37	31		56	22	58	31	74		
ONT1508 - Vote by Mail	1292	205	15.87		114	48	29		56	40	93	29	89		
ONT1509 1509	85	10	11.76		10	0	0		4	0	7	0	8		
ONT1509 - Vote by Mail	85	19	22.35		12	4	1		10	1	7	1	11		
Precinct Totals	59020	7396	12.53		4509	1165	1044		2066	1233	2895	1152	3216		
Vote by Mail Totals	59020	9985	16.92		6630	1413	1260		2694	1566	4750	1474	5145		
Grand Totals	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
California	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
San Bernardino County	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
State Bd of Equal 1	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
U. S. Representative District 31	0	0	0.00		0	0	0		0	0	0	0	0		
U. S. Representative District 35	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
Senatorial District 20	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
Senatorial District 23	0	0	0.00		0	0	0		0	0	0	0	0		
State Assembly District 40	0	0	0.00		0	0	0		0	0	0	0	0		
State Assembly District 52	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
Supervisory District 2	0	0	0.00		0	0	0		0	0	0	0	0		
Supervisory District 4	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		
City of Ontario	59020	17381	29.45		11139	2578	2304		4760	2799	7645	2626	8361		

# CITY OF ONTARIO

*Agenda Report*  
December 2, 2014

**SECTION:**  
**CONSENT CALENDAR**

**SUBJECT: AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 24 (PARK PLACE FACILITIES – PHASE I)**

**RECOMMENDATION:** That the City Council consider and adopt an ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 24 (Park Place Facilities – Phase I).

**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 the Park Place Facilities – Phase I project is estimated to generate approximately \$14 million, which will be used to help fund a portion of the public improvements that will serve the 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 issuance of Mello-Roos bonds.

**BACKGROUND:** On September 2, 2014, the City Council, in accordance with the Mello-Roos Act, took the initial steps in the formation of Community Facilities District No. 24 with the adoption of Resolution No. 2014-090, declaring the City's intention to establish the district and to authorize the levying of special taxes in the district. The Resolution of Intention set the public hearing on the establishment of the CFD for the regularly scheduled City Council meeting of October 7, 2014 to consider formation matters. The public hearing date was subsequently continued to October 21, 2014, and later to November 18, 2014. On November 18, 2014, the City Council conducted the public hearing, adopted the resolution of formation for the District, and introduced and waived further reading of the ordinance authorizing the levy of special taxes within City of Ontario Community Facilities

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

Prepared by: Bob L. Chandler  
Department: Management Services

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/02/2014

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

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

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

4

District No. 24 (Park Place Facilities - Phase I). Adoption of the ordinance will conclude the formation process for the District.

The Mello-Roos Community Facilities Act of 1982 provides 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 finance various kinds of public infrastructure facilities and government services. On September 2, 2014, the City Council approved Resolution No. 2014-090, a Resolution of the City of Ontario, California, of Intention to establish City of Ontario Community Facilities District No. 24 (Park Place Facilities – Phase I) and to authorize the levy of special taxes within the district. The Park Place Facilities – Phase I project addresses the residential development of approximately 72 acres located East of Archibald Avenue, generally west of Haven Avenue, generally south of Merrill Avenue and north of Bellegrave Avenue. At build out, the development is projected to include 432 single family units.

Included, as part of the Resolution of Intention and the Resolution of Formation, is the proposed Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 24 (Park Place Facilities - Phase I). 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 threshold by an aggregate .09%. The policy threshold for the percentage of assessed value of the total annual tax obligation plus the HOA fee is 2.15%. In aggregate, as proposed, the percentage of assessed value of the total annual tax obligation plus the HOA fee is 2.24%. However, it is recommended that the policy threshold limitation be waived in this instance due to the enhanced level of HOA amenities and services to be provided to the residents of the Park Place project. Staff has discussed the proposed Rate and Method of Apportionment of Special Tax with the landowners. The CFD is being formed pursuant to the provisions of the Park Place Development Agreement, and the First Amended and Restated Construction Agreement between the City and NMC Builders.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 24 (PARK PLACE FACILITIES - PHASE I).

WHEREAS, on September 2, 2014, 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"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 24 (Park Place Facilities - Phase I) (the "Community Facilities District") and to finance certain public facilities (the "Facilities") and services (the "Services"); and

WHEREAS, on October 7, 2014, the City Council opened a noticed public hearing and continued said hearing to October 21, 2014 and, on October 21, 2014, the City Council opened said hearing and continued said hearing to November 18, 2014; and

WHEREAS, on November 18, 2014, the City Council held said hearing on the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 24 (Park Place Facilities - Phase I), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation"), "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within City of Ontario Community Facilities District No. 24 (Park Place Facilities - Phase I)" and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 24 (Park Place Facilities - Phase I)", which resolutions established the Community Facilities District, authorized the levy of a special tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of incurring indebtedness, levying a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District, respectively; and

WHEREAS, on November 18, 2014, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act.

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

SECTION 1. The City Council hereby authorizes and levies special taxes within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method of Apportionment"). The special taxes are hereby levied commencing in fiscal year 2014-15 and in each fiscal year thereafter until the last fiscal year in which such special taxes are authorized to be levied pursuant to the Rate and Method of Apportionment.

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

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

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

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

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

SECTION 7. 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 2<sup>nd</sup> day of December 2014.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3002 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 18, 2014 and adopted at the regular meeting held December 2, 2014 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. 3002 duly passed and adopted by the Ontario City Council at their regular meeting held December 2, 2014 and that Summaries of the Ordinance were published on November 25, 2014 and December 9, 2014, in the Inland Valley Daily Bulletin newspaper.

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

(SEAL)

# CITY OF ONTARIO

*Agenda Report*  
December 2, 2014

**SECTION:**  
**CONSENT CALENDAR**

**SUBJECT: AMENDMENT TO THE MANAGEMENT AGREEMENT WITH SMG FOR PROFESSIONAL MANAGEMENT SERVICES FOR ONTARIO TOWN SQUARE**

**RECOMMENDATION:** That the City Council authorize the City Manager to execute an amendment to the Management Agreement with SMG (on file with the Records Management Department), a Pennsylvania General Partnership, to provide professional management services for the promotion, programming and special event management of Ontario Town Square.

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

**FISCAL IMPACT:** The Fiscal Year 2014-15 Budget includes appropriations of \$125,000 for programming and special event management of Ontario Town Square. Under the proposed amendment, the City and SMG will mutually agree to utilize these funds for the current Fiscal Year, for all expenses incurred for programming and special event management of Ontario Town Square. SMG will invoice the City for reimbursement of these costs for a total amount not to exceed \$125,000.

**BACKGROUND:** The Ontario Town Square in Downtown Ontario was created by the City Council as a central gathering place for residents and visitors. The Town Square is a unique Ontario amenity and is part of an overall commitment by the City Council to promote arts and culture institutions and recreation services for the region's population. As such, the Ontario Town Square is a vital attraction that must be integrated into the marketing and destination activities currently facilitated by SMG.

As an alternative to having City staff manage programming and marketing aspects for the facility, it is recommended that the existing management agreement with SMG be amended to allow their promotion and event management for Ontario Town Square. SMG has been a great asset to Ontario with the amount of attraction and growth in the Convention and Visitor's Bureau and the City has enjoyed this partnership throughout the years.

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

Prepared by: Nicholas Gonzalez  
Department: Citywide Administration

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/02/2014

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

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

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

# CITY OF ONTARIO

*Agenda Report*  
December 2, 2014

**SECTION:**  
**CONSENT CALENDAR**

**SUBJECT: AN ORDINANCE AMENDING CHAPTER 23 TO TITLE 4 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE REGULATION OF REGISTERED SEX OFFENDERS CONDUCT**

**RECOMMENDATION:** That the City Council consider and adopt an ordinance amending Chapter 23 to Title 4 of the Ontario Municipal Code relating to the regulation of registered sex offenders conduct.

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

**FISCAL IMPACT:** None.

**BACKGROUND:** On November 18, 2014, the City Council introduced an ordinance amending the Ontario Municipal Code relating to the regulation of registered sex offenders conduct. As a result of a recent decision of a California Court of Appeal, and the denial of review by the California Supreme Court, a portion of the Ontario Municipal Code is now preempted by State law. To bring the City's code into consistency with controlling authority, and to reduce the risk of civil lawsuits, it is recommended that the City amend its Code.

Under Penal Code 3003.5(c), a City may enact residency restrictions applicable to registered sex offenders. The City Council has previously done so, adopting Ordinance 2941 in October 2011, which added Chapter 23 to Title 4 of the City of Ontario Municipal Code. Section 4-23.03(d) of the City's Municipal Code currently prohibits a registered sex offender from "being located within three hundred feet of a school, day care center, park, bus stops in the immediate vicinity of parks, public and private playgrounds, public library, public museum, public or private crisis center or shelter, arcade, youth sports facilities, and amusement parks (indoor and outdoor), when children are present" subject to certain exceptions.

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

Prepared by: Nicholas Gonzalez  
Department: Citywide Administration

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/02/2014

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

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

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

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In January 2014, a California Court of Appeal held that the California Legislature had established a comprehensive scheme for regulating the daily lives of sex offenders thereby prohibiting local legislation on the subject unless it is expressly permitted by a statute. The decision, *People v. Nguyen*, undermines the ability of municipalities to restrict where a sex offender may go and what a sex offender may do. In April 2014, the California Supreme Court declined to review the ruling in *Nguyen*, leaving the decision intact.

Under the holding in *Nguyen*, the current Section 4-23.03(d) of the Ontario Municipal Code is now preempted by California law. The recommended amendments to the Ontario Municipal Code will conform to State law.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, AMENDING CHAPTER 23 TO TITLE 4 OF THE ONTARIO  
MUNICIPAL CODE RELATING TO THE REGULATION OF  
REGISTERED SEX OFFENDERS CONDUCT.

WHEREAS, in November 2011, the City Council of the City of Ontario adopted Ordinance No. 2941 adding Chapter 23 to Title 4 of the City of Ontario Municipal Code pertaining to sex offender residency restrictions within the City; and

WHEREAS, Section 4-23.03(d) of the Municipal Code currently prohibits a registered sex offender from “being located within three hundred (300) feet of a school, day care center, park, bus stops in the immediate vicinity of parks, public and private playgrounds, public library, public museum, public or private crisis center or shelter, arcade, youth sports facilities, and amusement parks (indoor and outdoor), when children are present” subject to certain exceptions; and

WHEREAS, in January 2014, a California Court of Appeal held that the California Legislature had established a comprehensive scheme for regulating the daily lives of sex offenders thereby prohibiting local legislation on the subject unless it is expressly permitted by a statute. The decision, *People v. Nguyen*, undermines the ability of municipalities to restrict where a sex offender may go and what a sex offender may do; and

WHEREAS, in April 2014, the California Supreme Court declined to review the ruling in *Nguyen*, leaving the decision intact; and

WHEREAS, as a result of the *Nguyen* decision, provisions of the City’s Municipal Code purporting to regulate where a registered sex offender may go are in violation of current law; and

WHEREAS, the remaining provisions of the City’s Municipal Code relating to the residency restrictions on registered sex offenders remain unaffected by the *Nguyen* decision; and

WHEREAS, in order to bring the City’s Municipal Code into conformity with current law, the City now wishes to amend Chapter 23 of Title 4.

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

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

SECTION 2. Chapter 23 of Title 4 of the Ontario Municipal Code is hereby amended, in its entirety, to read as follows:

## CHAPTER 23: REGULATION OF REGISTERED SEX OFFENDERS

- 4-23.01 Purpose
- 4-23.02 Definitions
- 4-23.03 Prohibitions
- 4-23.04 Penalties

### Sec. 4-23.01 Purpose.

The City of Ontario desires to impose safety precautions in furtherance of the compelling interest of protecting children from registered sex offenders by restricting where registered sex offenders' may reside. The City Council finds that sex offenders pose a clear threat to the children residing in or visiting the community. It is the intent of these restrictions to reduce the threat that sex offenders pose to these children by limiting the ability of sex offenders to be in contact with these children. This chapter is not intended to conflict with, but to supplement, state law by imposing more stringent restrictions on the locations where sex offenders may reside.

### Sec. 4-23.02. Definitions.

For the purposes of this chapter, the City Council established and defined locations prohibited from registered sex offenders as those that are primarily dedicated to providing programs to children. The following definitions shall apply unless the context clearly indicates or requires a different meaning:

(a) "Child" or "children". Any person under the age of eighteen (18) years of age.

(b) "Day care center". Any licensed child day care facility including infant centers, preschools, extended day care facilities, and school-age child care centers. It does not include a family day care home as defined in Health and Safety Code Section 1596.78.

(c) "Park or Playground". Means one of the following:

(1) Any land, including improvements to the land that is administered, operated or managed by the City of Ontario and/or any private home owners group for use by the public as a recreational area.

(2) City recreational areas include, but are not limited to, conservation area, jogging trail, hiking trail, bicycle trail, recreational center, water park, swimming pool, soccer field or baseball field.

(3) Any areas owned, leased, controlled, maintained, or managed by a public entity which are open to the public where children regularly gather and which provide recreational, cultural, and/or community service activities, including but not limited to public parks, playgrounds, playfields, athletic courts or fields, and amusement centers.

(d) "Permanent residence". A place where the person abides, lodges or resides for fourteen (14) or more consecutive days.

(e) "Registered sex offender". An individual who is required by law to register with a governmental entity as a sex offender as a result of a conviction, or placed on deferred adjudication, of any specified sex offense outlined in California Penal Code 290.

(1) It shall be prima facie evidence that this chapter applies to such a person if that person's record appears in/on the Department of Justice Sex Offender Tracking Program Database.

(f) "School". The buildings and grounds of any public or private school used for purposes of the education of children in kindergarten or any grades one(1) to twelve (12), inclusive.

(g) "Temporary Residence". A place where a person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate, during any calendar year which is not the person's permanent address; or a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

#### Sec. 4-23.03 Prohibitions.

(a) Any registered sex offender is prohibited from residing within two thousand (2,000) feet of any school, park or day care center. The two thousand (2,000) feet residence prohibition shall not apply to a registered sex offender who was registered with a governmental agency as residing at an address within two thousand (2,000) feet from a school, park or day care center prior to initial operation of the day care center, park or school or on the initial effective date of this Chapter (i.e., November 18, 2011).

(b) Any registered sex offender is prohibited from living in single family dwellings, multi-family dwellings, duplex dwelling, multi-unit residential dwellings, or hotel/motel/inns where another sex offender already resides. This prohibition does not apply under the following condition(s):

(1) State Parole has mandated placement of said registered sex offender in a state housing facility that houses multiple sex offenders at one time to include any prison or mental health facility.

(2) Registered sex offenders reside together as they are related by blood, marriage or adoption.

(c) Sex offenders may not rent or otherwise occupy a single-family dwelling or any unit in a multi-family dwelling as a temporary resident. This prohibition does not apply under the following condition:

(1) State Parole has mandated placement of said registered sex offender in a state housing/boarding facility on a temporary housing status.

(d) A registered sex offender shall not, on October 31st (or any other date set by the City of Ontario for trick-or-treaters) between the hours of 4:00 p.m. and 12:00 a.m., leave an exterior porch light, which faces the street, on or otherwise invite trick-or-treaters to solicit the premises in which the sex registrant resides.

(e) For the purposes of this Chapter, distances shall be measured from the edge of the parcel or contiguous parcels where the identified use is located.

#### Sec. 4-23.04 Penalties.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, the penalty shall be a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail for a period of not more than six (6) months or by both such fine and imprisonment. Other penalties set forth in the California Penal Code and Municipal Code may also be applicable.

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 2<sup>nd</sup> day of December 2014.

---

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. 3003 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 18, 2014 and adopted at the regular meeting held December 2, 2014 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. 3003 duly passed and adopted by the Ontario City Council at their regular meeting held December 2, 2014 and that Summaries of the Ordinance were published on November 25, 2014 and December 9, 2014, in the Inland Valley Daily Bulletin newspaper.

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MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

# CITY OF ONTARIO

*Agenda Report*  
December 2, 2014

**SECTION:**  
**CONSENT CALENDAR**

**SUBJECT: A CONSTRUCTION CONTRACT WITH K & J AIR CONDITIONING, INC. FOR THE HVAC UNIT REPLACEMENTS AT VARIOUS CITY FACILITIES PROJECT**

**RECOMMENDATION:** That the City Council award the HVAC Unit Replacements Project construction contract to K & J Air Conditioning, Inc. of Buena Park, California, in the amount of \$337,420 plus a 15% contingency of \$50,613, for a total amount of \$388,033; authorize the City Manager to execute said contract (on file with Records Management Department); and file a notice of completion at the conclusion of all construction activities related to the project.

**COUNCIL GOALS:** 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 total cost of \$388,033, including contingency, for the replacement of twenty-four HVAC units at various facilities is included in the Fiscal Year 2014-15 Public Facilities Repairs Program.

**BACKGROUND:** Project No. MS1415-2 provides for the replacement and installation of twenty-four HVAC units at various City facilities. The new HVAC units will be installed at the Public Works Facility, Fire Stations Nos. 1, 2, and 3, Chaffey Community Museum of Art, and the Armstrong Community Center. Most of the current HVAC units at these facilities are 20 to 30 years old and are no longer energy efficient. The new units will reduce electrical consumption by up to 30 to 45 percent and increase the cooling and heating efficiency of the facilities.

On October 30, 2014, seven bids were received. The lowest responsive bidder was K & J Air Conditioning, Inc., located in Buena Park, California. The seven bids are summarized below:

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

Prepared by: Pat Malloy  
Department: MS/Facilities

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/02/2014

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

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

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

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<b><u>Company</u></b>	<b><u>Location</u></b>	<b><u>Bid Amount</u></b>
K & J Air Conditioning, Inc.	Buena Park, CA	\$337,420
Western Allied Corporation	Santa Fe Springs, CA	\$387,911
JCT Mechanical	Lancaster, CA	\$387,999
Pacific West Industries, Inc.	Anaheim, CA	\$388,000
Airite Heating and Air Conditioning, Inc.	Ontario, CA	\$488,466*
NKS Mechanical Contracting, Inc.	Anaheim, CA	\$498,600
United Mechanical Contractors, Inc.	Simi Valley, CA	\$621,671

\*Reflects 1% local vendor preference per Ontario Municipal Code Section 2-6.19.

K & J Air Conditioning, Inc. submitted the lowest responsive bid that met all the plans and specifications required of the construction contract and have performed this type work for other various municipalities and school districts in the past. Staff recommends award to K & J Air Conditioning, Inc. based on their expertise and ability to perform the work in a timely manner.

Upon approval of contract, a Notice to Proceed will be issue to K & J Air Conditioning, Inc. in December 2014. It is estimated that the project will be completed in March 2014.

# CITY OF ONTARIO

*Agenda Report*  
December 2, 2014

**SECTION:**  
**CONSENT CALENDAR**

**SUBJECT: AWARD OF BIDS FOR THE PURCHASE OF REPLACEMENT FLEET VEHICLES AND EQUIPMENT**

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

- (A) Award Bid No. 480 to Fairview Ford of San Bernardino, California, in the amount of \$22,398 for the purchase and delivery of one (1) 2015 Ford Transit Connect Van for the Police Department;
- (B) Award Bid No. 481 to Rotolo Chevrolet of Fontana, California, in the amount of \$88,812 for the purchase and delivery of four (4) 2015 Chevrolet Colorado Trucks for the Fire, Parks, and Solid Waste Departments;
- (C) Award Bid No. 482 to Fairview Ford of San Bernardino, California, in the amount of \$256,078 for the purchase and delivery of twelve (12) 2015 Ford Escapes for the Fire, Building, Development and Engineering Departments; and
- (D) Award Bid No. 483:
  - 1. To Rotolo Chevrolet of Fontana, California, in the amount of \$156,623 for the purchase and delivery of seven (7) 2015 ½ Ton Pickup Trucks for the Fire, Parks, and Utilities Departments; and
  - 2. To Fairview Ford of San Bernardino, California, in the amount of \$30,133 for the purchase and delivery of one (1) 2015 ½ Ton Crew Cab Pickup Truck for the Police Department.

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

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

Prepared by: Michael Johnson  
Department: HMS/Fleet Services

Submitted to Council/O.H.A. 12/02/2014

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

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

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

City Manager  
Approval: 

8

**FISCAL IMPACT:** The Fiscal Year 2014-15 Adopted Budget includes appropriations in the amount of \$560,500 for the purchase of the replacement vehicles and equipment listed above. The total cost of the vehicles and equipment recommended for purchase is \$554,044.

**BACKGROUND:** The vehicles and equipment recommended for replacement in this action have outlived their useful life and it is no longer cost effective to maintain them. They 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.

**(A) Bid No. 480: One (1) 2015 Ford Transit Connect Van for the Police Department**

<b>One (1) 2015 Ford Transit Connect Van</b>		
<b><u>Supplier</u></b>	<b><u>Location</u></b>	<b><u>Bid Amount</u></b>
<b>Fairview Ford</b>	<b>San Bernardino, CA</b>	<b>\$22,398</b>
Frontier Ford	Santa Clara, CA	\$22,421
Raceway Ford	Costa Mesa, CA	\$22,558
Theodore Robins Ford	Riverside, CA	\$22,558
Fritts Ford	Riverside, CA	\$22,574
*Empire Nissan	Ontario, CA	\$22,614

Staff recommends award to Fairview Ford, located in San Bernardino, California, in the amount of \$22,398 as the lowest responsive bidder to meet specifications to replace a vehicle that is over 12 years old. A Ford or General Motors product was specified to continue the City's efforts in standardization of fleet vehicles for operational and maintenance efficiencies. Empire Nissan did not comply with the specified bid request and therefore was deemed non-responsive.

**(B) Bid No. 481: Four (4) 2015 Chevrolet Colorado Trucks for the Fire, Parks, and Solid Waste Departments**

<b>Four (4) 2015 Chevrolet Colorado Trucks</b>		
<b><u>Supplier</u></b>	<b><u>Location</u></b>	<b><u>Bid Amount</u></b>
<b>Rotolo Chevrolet</b>	<b>Fontana, CA</b>	<b>\$88,812</b>
Lake Chevrolet	Lake Elsinore, CA	\$92,421
*Empire Nissan	Ontario, CA	\$86,448

Staff recommends award to Rotolo Chevrolet, located in Fontana, California, in the amount of \$88,812 as the lowest responsive bidder to meet specifications to replace vehicles that are over 13 years old. A Ford or General Motors product was specified to continue the City's efforts in standardization of fleet vehicles for operational and maintenance efficiencies. Empire Nissan did not comply with the specified bid request and therefore was deemed non-responsive.

**(C) Bid No. 482: Twelve (12) 2015 Ford Escapes for the Fire, Building, Development and Engineering Departments**

<b>Twelve (12) 2015 Ford Escapes</b>		
<b><u>Supplier</u></b>	<b><u>Location</u></b>	<b><u>Bid Amount</u></b>
<b>Fairview Ford</b>	<b>San Bernardino, CA</b>	<b>\$256,078</b>
Theodore Robins Ford	Costa Mesa, CA	\$256,522
* Redlands Ford	Redlands, CA	\$257,572
Raceway Ford	Riverside, CA	\$258,048

Frontier Ford	Santa Clara, CA	\$260,599
Perry Ford of National	National City, CA	\$265,436

Staff recommends award to Fairview Ford, located in San Bernardino, California, in the amount of \$256,078 as the lowest responsive bidder to meet specifications to replace vehicles that are over 9 years old. Redlands Ford was deemed non-responsive as they did not adhere to the prescribed online procurement bid procedures and requirements.

(D) **Bid No. 483:**

**1. Seven (7) 2015 ½ Ton Pickup Trucks for the Fire, Parks and Utilities Departments**

<b>Seven (7) 2015 ½ Ton Pickup Trucks</b>		
<b><u>Supplier</u></b>	<b><u>Location</u></b>	<b><u>Bid Amount</u></b>
<b>Rotolo Chevrolet</b>	<b>Fontana, CA</b>	<b>\$156,623</b>
Lake Chevrolet	Lake Elsinore, CA	\$161,918
Fairview Ford	San Bernardino, CA	\$163,587
Raceway Ford	Riverside, CA	\$164,990

Staff recommends award to Rotolo Chevrolet, located in Fontana, California, in the amount of \$156,623 as the lowest responsive bidder to meet specifications to replace vehicles that are over 12 years old.

**2. One (1) 2015 Crew Cab Pickup Truck for the Police Department**

<b>One (1) 2015 Crew Cab Pickup Truck</b>		
<b><u>Supplier</u></b>	<b><u>Location</u></b>	<b><u>Bid Amount</u></b>
<b>Fairview Ford</b>	<b>San Bernardino, CA</b>	<b>\$30,133</b>
Raceway Ford	Riverside, CA	\$31,192
Rotolo Chevrolet	Fontana, CA	\$34,029
Lake Chevrolet	Lake Elsinore, CA	\$34,403

Staff recommends award to Fairview Ford, located in San Bernardino, California, in the amount of \$30,133 as the lowest responsive bidder to meet specifications to replace a vehicle that is over 6 years old.

# CITY OF ONTARIO

*Agenda Report*  
December 2, 2014

**SECTION:**  
**CONSENT CALENDAR**

**SUBJECT: APPROVAL OF A FIVE-YEAR EXTENSION TO THE 2007 JACK GALVIN MOBILE HOME PARK ACCORD AGREEMENT**

**RECOMMENDATION:** That the City Council approve the First Amendment to the 2007 Agreement between the City of Ontario and owners of the mobile home parks within the City of Ontario regarding maximum rent adjustments for a five-year extension (on file with the Records Management Department).

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

**FISCAL IMPACT:** None.

**BACKGROUND:** In 2007, the City of Ontario and ten mobile home park owners entered into the 2007 Jack Galvin Mobile Home Park Accord Agreement (the "Accord") to provide a procedure to address annual rental rates and adjustments in mobile home parks in Ontario. The Accord was to address concerns raised over rent increases and other park related costs by mobile home park residents. The Accord provides for annual rent adjustment based on the Consumer Price Index for the previous calendar year. In addition, the annual rent adjustment is further limited by a maximum and minimum annual adjustment percentage not to exceed ten percent maximum and four percent minimum. Since the implementation of the Agreement, City staff has monitored all annual rental rate increases and other adjustments.

The Accord expires on January 5, 2015. The City has received a letter from the participating 10 mobile home park owners indicating that they are unanimous in approving a five-year extension of the Accord. In addition, Peter Herzog, who represents the Manufactured Housing Educational Trust (MHET), has also indicated support of the five-year extension.

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

Prepared by: Melinda Kwan  
Department: Housing and Municipal Services

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/02/2014

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

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

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

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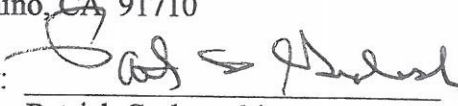
City staff recommends the extension of the Accord through to January 5, 2020 as a method to continue to provide a reasonable and predictable rent increases for the mobile home park owners and mutually satisfy the Homeowners. The participating mobile home parks are listed in Exhibit A.

# EXHIBIT "A"

SIGNATURE PAGE TO  
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TO THE  
2007 AGREEMENT BETWEEN THE CITY OF ONTARIO AND  
OWNERS OF THE MOBILE HOME PARKS WITHIN THE CITY OF  
ONTARIO REGARDING MAXIMUM RENT ADJUSTMENTS

## Mobilehome Park Owners

Comet Trailer Court  
12018 Central Avenue  
Chino, CA 91710

By:   
Patrick Grabowski

Rancho Ontario, ACLP  
1400 East Philadelphia Avenue  
Ontario, CA 91761  
By: Ontario Mobilehome Park Corp., GP  
503 West Palm Drive  
Placentia, CA 92870

Fernwood Mobilehome Park  
1512 East Fifth Street  
Ontario, CA 91764  
Tower Management Co.  
80 South Lake Ave., #3719  
Pasadena, CA 91101

By: \_\_\_\_\_  
Alex Boggs

By: \_\_\_\_\_  
Richard H. O'Hara, President

Lamplighter Ontario Mobilehome Community  
19435 68<sup>th</sup> Avenue South, Suite S104  
Kent, WA 98032

By: \_\_\_\_\_  
Thomas E. Morgan, General Partner  
Lamplighter Ontario Associates, LP

Samoa Village Mobilehome Estates, I & II  
310 East Philadelphia Avenue  
Ontario, CA 91761  
Community Asset Management  
P.O. Box 3670  
Ontario, CA 91761

By: \_\_\_\_\_  
KL Staddon

Country Meadows Mobile Home Community  
1855 East Riverside Drive  
Ontario, CA 91761  
Kingsley Management Company  
5314 N. River Run-Drive, Suite 210  
Provo, Utah 84604

By: \_\_\_\_\_  
Norman Sorensen

Garden Gate Mobilehome Park LLC  
9873 Alder Avenue  
Bloomington, CA 92316

By: \_\_\_\_\_  
Steve McLemore

Grove Manor Ontario, LLC  
444 W. Ocean Blvd., #1616  
Long Beach, CA 90802

By: \_\_\_\_\_  
Gregg Kirkpatrick

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Richard H. O'Hara, President

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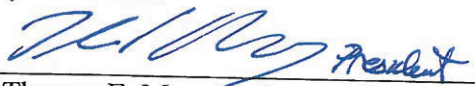
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Placentia, CA 92870

By: \_\_\_\_\_  
Richard H. O'Hara, President

Lamplighter Ontario Mobilehome Community  
19435 68<sup>th</sup> Avenue South, Suite S104  
Kent, WA 98032

By:  \_\_\_\_\_  
Thomas E. Morgan, General Partner  
Lamplighter Ontario Associates, LP

Country Meadows Mobile Home Community  
1855 East Riverside Drive  
Ontario, CA 91761  
Kingsley Management Company  
5314 N. River Run-Drive, Suite 210  
Provo, Utah 84604

By: \_\_\_\_\_  
Norman Sorensson

Grove Manor Ontario, LLC  
444 W. Ocean Blvd., #1616  
Long Beach, CA 90802

By: \_\_\_\_\_  
Gregg Kirkpatrick

SIGNATURE PAGE TO  
FIRST AMENDMENT  
TO THE  
2007 AGREEMENT BETWEEN THE CITY OF ONTARIO AND  
OWNERS OF THE MOBILE HOME PARKS WITHIN THE CITY OF  
ONTARIO REGARDING MAXIMUM RENT ADJUSTMENTS

**Mobilehome Park Owners**

Comet Trailer Court  
12018 Central Avenue  
Chino, CA 91710

By: \_\_\_\_\_  
Patrick Grabowski

Fernwood Mobilehome Park  
1512 East Fifth Street  
Ontario, CA 91764  
Tower Management Co.  
80 South Lake Ave., #3719  
Pasadena, CA 91101

By: \_\_\_\_\_  
Alex Boggs

Samoa Village Mobilehome Estates, I & II  
310 East Philadelphia Avenue  
Ontario, CA 91761  
Community Asset Management  
P.O. Box 3670  
Ontario, CA 91761

By: \_\_\_\_\_  
KL Staddon

Garden Gate Mobilehome Park LLC  
9873 Alder Avenue  
Bloomington, CA 92316

By: Steve McLemore  
Steve McLemore

Rancho Ontario, ACLP  
1400 East Philadelphia Avenue  
Ontario, CA 91761

By: Ontario Mobilehome Park Corp., GP  
503 West Palm Drive  
Placentia, CA 92870

By: \_\_\_\_\_  
Richard H. O'Hara, President

Lamplighter Ontario Mobilehome Community  
Morgan Partners, Inc.  
321 High School Road NE #351, D3 PMB 381  
Bainbridge Island, WA 98110-2648

By: \_\_\_\_\_  
Thomas E. Morgan, General Partner  
Lamplighter Ontario Associates, LP

Country Meadows Mobile Home Community  
1855 East Riverside Drive  
Ontario, CA 91761  
Kingsley Management Company  
5314 N. River Run-Drive, Suite 210  
Provo, Utah 84604

By: \_\_\_\_\_  
Norman Sorensson

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By: \_\_\_\_\_  
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321 High School Road NE #351, D3 PMB 381  
Bainbridge Island, WA 98110-2648

By: \_\_\_\_\_  
Thomas E. Morgan, General Partner  
Lamplighter Ontario Associates, LP

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Ontario, CA 91761  
Kingsley Management Company  
5314 N. River Run-Drive, Suite 210  
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By: \_\_\_\_\_  
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444 W. Ocean Blvd., #1616  
Long Beach, CA 90802

By: \_\_\_\_\_  
Gregg Kirkpatrick

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MOBILE HOME PARKS WITHIN THE CITY OF ONTARIO REGARDING  
MAXIMUM RENT ADJUSTMENTS

**Mobilehome Park Owners**

Webb's Mobilehome Park  
637 West Brooks  
Ontario, CA 91761  
Pama Management  
4900 Santa Ana Ave., Ste. 2C  
El Monte, CA 91761

By: \_\_\_\_\_  
Mike Nijjar

Star Trailer Park  
1230 Nocta  
Ontario, CA 91764  
5311 Bridgewood Drive  
La Palma, CA 90623

By: Kyung Sam Kim  
Kyung Sam Kim

By: Kathy J. Kim  
Kathy J. Kim

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MOBILE HOME PARKS WITHIN THE CITY OF ONTARIO REGARDING  
MAXIMUM RENT ADJUSTMENTS

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637 West Brooks  
Ontario, CA 91761  
Pama Management  
4900 Santa Ana Ave., Ste. 2C  
El Monte, CA 91761

By: \_\_\_\_\_

Mike Nijjar

10/15/11

Star Trailer Park  
1230 Nocta  
Ontario, CA 91764  
5311 Bridgewood Drive  
La Palma, CA 90623

By: \_\_\_\_\_

Kyung Sam Kim

By: \_\_\_\_\_

Kathy J. Kim

# **CITY OF ONTARIO**

*Agenda Report*  
**December 2, 2014**

**SECTION:  
CONSENT CALENDAR**

**SUBJECT: APPROVAL BY THE CITY OF ONTARIO AND THE ONTARIO HOUSING AUTHORITY, SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY, OF TRANSFERS OF WOODSIDE SENIOR II APARTMENTS AND WOODSIDE SENIOR III APARTMENTS, LOCATED AT 302 AND 408 WEST "G" STREET, ONTARIO, FROM ML CASA III, LP TO AVANATH WOODSIDE, LLC AND REDEMPTION OF RELATED MULTIFAMILY HOUSING REVENUE REFUNDING BONDS**

**RECOMMENDATION:** That the City Council and the Authority Board acting as the Successor Agency to the Ontario Redevelopment Agency:

- (A) Adopt resolutions approving the transfers of the projects and assistance in connection with the redemption of related City of Ontario Multifamily Housing Revenue Refunding Bonds (Woodside Senior II Apartments) 2004 Series C and Ontario Redevelopment Agency Multifamily Housing Revenue Refunding Bonds (Woodside Senior III Apartments) 2004 Series A; and
- (B) Authorize the City Manager/Executive Director to determine the sufficiency of the documents related to the transfers and to execute any documents necessary to desirable to implement the transfers of the projects and redemption of the bonds.

**COUNCIL GOALS: Regain Local Control of the Ontario International Airport  
Operate in a Businesslike Manner  
Focus Resources in Ontario's Commercial and Residential Neighborhoods**

**FISCAL IMPACT:** All costs and expenses related to the transfers of the projects and redemption of the bonds will be paid by the current owner or new owner of the projects. A prepayment of the annual monitoring fee due under the two Regulatory Agreements, in the amount of \$27,396, will be paid by the new owner to the City and Authority. No City or Authority funds will be expended for this matter.

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

Prepared by: Julie Bjork  
Department: Housing and Municipal Services

City Manager  
Approval: \_\_\_\_\_

Submitted to Council/O.H.A. 12/02/2014  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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**BACKGROUND:** In 1996, the City and the Ontario Redevelopment Agency (ORA) each issued bonds to refinance prior bond issues, the proceeds of which were used to finance the Woodside Senior II and III Apartments (formerly known as Sunnyside II and III Apartments) along with other multifamily properties. In 2004, the then owner of the projects requested, and the City and the ORA approved, the issuance of new bonds to refund the existing bonds on the projects.

Under the bond documents, the owner of the project has the right to transfer the properties subject to City and ORA approval which is to be granted upon receipt of various documents related to financial soundness and management experience.

The purchaser of the projects will be Avanath Woodside, LLC, a Delaware limited liability company, with an office located at 17901 Von Karman, Suite 150, Irvine, California. Founded by Daryl J. Carter in 2008, Avanath has been successful in acquiring over 3,000 housing units with affordable features within the states of California, Florida, Illinois, Indiana, Michigan, Texas and Virginia.

The property management firm of McKinley Inc. will manage the projects upon closing. McKinley Inc. oversees a portfolio of approximately 35,000 housing units nationwide. McKinley Inc. is headquartered in Ann Arbor, Michigan.

The purchaser has indicated that it would like to effect a redemption of the bonds immediately prior to or concurrently with the transfer of the projects to the new owner, and that it will advance all funds, necessary for such redemption. It is expected that the current owner of the bonds will tender them for payoff by the bond trustee on the date of transfer of the projects.

Based on review of all required documents, approval of the requested transfer by the City and the Ontario Housing Authority, as successor to the ORA is appropriate. All existing affordability requirements will remain in place.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, APPROVING TRANSFER OF OWNERSHIP OF  
WOODSIDE SENIOR II APARTMENTS.

WHEREAS, on November 30, 2004, the City of Ontario (the "City") issued its \$1,513,000 initial principal amount of Multifamily Housing Revenue Refunding Bonds (Woodside Senior II Apartments) 2004 Series C (the "2004 Bonds"), and the proceeds of the 2004 Bonds were used to refinance the Woodside Senior II Apartments, located in the City (the "Project"); and

WHEREAS, ML CASA III, L.P., a Delaware limited partnership, the current owner of the Project (the "Current Owner") now desires to transfer the Project to Avanath Woodside, LLC, a Delaware limited liability company (the "New Owner"), and the agreements related to the 2004 Bonds require the prior written consent of the City to such transfer after the submission of certain documents to the City specified in the 2004 Bond documents; and

WHEREAS, representatives of the New Owner have provided information relative to the experience of the New Owner in respect of the ownership and operation of rental housing facilities similar to the Project, and have submitted drafts of an Assignment and Assumption Agreement (the "Assignment Agreement") and an opinion of counsel to the New Owner (the "Opinion"), as required by the 2004 Bond documents; and

WHEREAS, City Housing Department Staff and consultants have reviewed information and documents provided on behalf of the New Owner, and have confirmed that the New Owner has experience in the ownership of rental housing facilities and that the Assignment Agreement and Opinion conform to the requirements of the applicable 2004 Bond documents; and

WHEREAS, the Current Owner has indicated its intent to cause a redemption of all of the outstanding 2004 Bonds immediately prior to or concurrently with the transfer of the Project to the New Owner, and has requested that the City provide assistance as may be required under the 2004 Bond documents to cause such redemption to occur; and

WHEREAS, the Current Owner has agreed to pay all costs of the City in connection with the City's approval of the transfer of ownership of the Project and its assistance with the redemption of the 2004 Bonds; and

WHEREAS, the City Council now desires to approve the transfer of the ownership of the Project to the New Owner and to authorize the execution of documents related to such transfer, and otherwise to authorize City Staff to assist the Current Owner with the redemption of the 2004 Bonds.

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

SECTION 1. The City hereby approves the transfer of the Project from the Current Owner to the New Owner, subject to the receipt by the City Manager of an Assignment Agreement executed by the parties thereto, an executed Opinion and an opinion of Bond Counsel as referenced in Section 10(v) of the Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants, dated as of November 1, 2004 (the "Regulatory Agreement"), among the City, the trustee for the 2004 Bonds (the "Trustee") and the Current Owner. The City Manager is hereby authorized and directed to execute and deliver a Consent of Issuer in the form attached to the Assignment Agreement, and the execution and delivery by the City Manager of the Consent of Issuer shall be conclusive evidence of the approval by the City of the transfer of the Project to the New Owner.

SECTION 2. The City Council hereby authorizes the City Manager to execute and deliver instructions to the Trustee prepared by Bond Counsel in connection with the redemption of the 2004 Bonds; provided that such instructions impose no cost or obligation on the City in respect of such redemption.

SECTION 3. Quint & Thimmig LLP is hereby approved as Bond Counsel to the City with respect to the transfer of ownership of the Project and the redemption of the 2004 Bonds; provided that the fees and expenses of Bond Counsel shall be paid by the Current Owner.

SECTION 4. All actions heretofore taken by the officers and agents of the City with respect to the transfer of the Project and the proposed redemption of the 2004 Bonds described in this Resolution are hereby approved, confirmed and ratified, and the proper officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable in order to consummate the transfer of the Project to the New Owner and the redemption of the 2004 Bonds.

SECTION 5. The City Manager is hereby delegated the authority to approve, for and on behalf of the City, subsequent transfers of the Project, so long as the requirements of Section 10(v) of the Regulatory Agreement are, to his satisfaction, satisfied in connection with any such subsequent transfer, and the 2004 Bonds have theretofore been paid in full.

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

PASSED, APPROVED, and ADOPTED this 2<sup>nd</sup> day of December, 2014.

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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. 2014-\_\_\_\_\_ was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 2, 2014 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. 2014-\_\_\_\_\_ duly passed and adopted by the Ontario City Council at their regular meeting held December 2, 2014.

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

(SEAL)

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

A RESOLUTION OF THE ONTARIO HOUSING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING TRANSFER OF OWNERSHIP OF WOODSIDE SENIOR III APARTMENTS AND WATERFORD COURT APARTMENTS.

WHEREAS, on November 30, 2004, the former Ontario Redevelopment Agency (the "Former Agency") issued its \$2,448,000 initial principal amount of Multifamily Housing Revenue Refunding Bonds (Woodside Senior III Apartments) 2004 Series A (the "2004 Bonds"), and the proceeds of the 2004 Bonds were used to refinance the Woodside Senior III Apartments, located in the City of Ontario (the "Project"); and

WHEREAS, ML CASA III, L.P., a Delaware limited partnership, the current owner of the Project (the "Current Owner") now desires to transfer the Project to Avanath Woodside, LLC, a Delaware limited liability company (the "New Owner"), and the documents related to the 2004 Bonds require the prior written consent of the Former Agency to such transfer after the submission of certain documents to the Former Agency specified in the 2004 Bond documents; and

WHEREAS, the Ontario Housing Authority (the "Authority"), by a series of actions including, without limitation (a) adoption by the City Council of the City of Ontario, acting as the Successor Agency to the Former Agency, of Resolution No. 2012-022 on May 15, 2012, and (b) adoption by the Authority of Resolution No. OHA-069 on May 15, 2012, has succeeded to certain rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Former Agency, including, without limitation, those under the agreements with respect to the 2004 Bonds; and

WHEREAS, representatives of the New Owner have provided information relative to the experience of the New Owner in respect of the ownership and operation of rental housing facilities similar to the Project, and have submitted drafts of an Assignment and Assumption Agreement (the "Assignment Agreement") and an opinion of counsel to the New Owner (the "Opinion"), as required by the 2004 Bond documents; and

WHEREAS, City Housing Department Staff and consultants have reviewed information and documents provided on behalf of the New Owner, and have confirmed that the New Owner has experience in the ownership of rental housing facilities and that the Assignment Agreement and Opinion conform to the requirements of the applicable 2004 Bond documents; and

WHEREAS, the Current Owner has indicated its intent to cause a redemption of all of the outstanding 2004 Bonds immediately prior to or concurrently with the transfer of the Project to the New Owner, and has requested that the Authority provide assistance as may be required under the 2004 Bond documents to cause such redemption to occur; and

WHEREAS, the Current Owner has agreed to pay all costs of the Authority in connection with its approval of the transfer of ownership of the Project and its assistance with the redemption of the 2004 Bonds; and

WHEREAS, the Authority now desires to approve the transfer of the Project to the New Owner and to authorize the execution of documents related to such transfer, and otherwise to authorize Authority Staff to assist the Current Owner with the redemption of the 2004 Bonds.

NOW, THEREFORE, BE IT RESOLVED by the Ontario Housing Authority as follows:

SECTION 1. The Authority hereby approves the transfer of the Project from the Current Owner to the New Owner, subject to the receipt by the Executive Director of an Assignment Agreement executed by the parties thereto, an executed Opinion and an opinion of Bond Counsel as referenced in Section 10(v) of the Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants, dated as of November 1, 2004 (the "Regulatory Agreement"), among the Authority, as successor to the Former Agency, the trustee for the 2004 Bonds (the "Trustee") and the Current Owner. The Executive Director is hereby authorized and directed to execute and deliver a Consent of Issuer in the form attached to the Assignment Agreement, and the execution and delivery by the Executive Director of the Consent of Issuer shall be conclusive evidence of the approval by the Authority of the transfer of the Project to the New Owner.

SECTION 2. The Authority hereby authorizes the Executive Director to execute and deliver instructions to the Trustee prepared by Bond Counsel in connection with the redemption of the 2004 Bonds; provided that such instructions impose no cost or obligation on the Authority in respect of such redemption.

SECTION 3. Quint & Thimmig LLP is hereby approved as Bond Counsel to the Authority with respect to the transfer of ownership of the Project and the redemption of the 2004 Bonds; provided that the fees and expenses of Bond Counsel shall be paid by the Current Owner.

SECTION 4. All actions heretofore taken by the officers and agents of the Authority with respect to the transfer of the Project and the proposed redemption of the 2004 Bonds described in this Resolution are hereby approved, confirmed and ratified, and the proper officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable in order to consummate the transfer of the Project to the New Owner and the redemption of the 2004 Bonds.

SECTION 5. The Executive Director is hereby delegated the authority to approve, for and on behalf of the Authority, subsequent transfers of the Project, so long as the requirements of Section 10(v) of the Regulatory Agreement are, to his satisfaction, satisfied in connection with any such subsequent transfer, and the 2004 Bonds have theretofore been paid in full.

SECTION 6. The Secretary of the Ontario Housing Authority shall certify as to the adoption of this Resolution.

PASSED, APPROVED and ADOPTED this 2<sup>nd</sup> day of December, 2014.

---

PAUL S. LEON, CHAIRMAN

ATTEST:

---

MARY E. WIRTES, AUTHORITY  
SECRETARY

APPROVED AS TO FORM:

---

AUTHORITY COUNSEL

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

I, MARY E. WIRTES, Secretary of the Ontario Housing Authority, DO HEREBY CERTIFY that the foregoing Resolution No. OHA-\_\_\_\_\_ was duly passed and adopted by the Board Members of the Ontario Housing Authority at their regular meeting held December 2, 2014 by the following roll call vote, to wit:

AYES:           BOARD MEMBERS:

NOES:           BOARD MEMBERS:

ABSENT:        BOARD MEMBERS:

\_\_\_\_\_  
MARY E. WIRTES, AUTHORITY  
SECRETARY

(SEAL)

The foregoing is the original of Resolution No. OHA-\_\_\_\_\_ duly passed and adopted by the Ontario Housing Authority at their regular meeting held December 2, 2014.

\_\_\_\_\_  
MARY E. WIRTES, AUTHORITY  
SECRETARY

(SEAL)

# CITY OF ONTARIO

*Agenda Report*  
December 2, 2014

## SECTION: CONSENT CALENDAR

**SUBJECT: MICROSOFT OFFICE 2013 STANDARD PURCHASE**

**RECOMMENDATION:** That the City Council authorize the purchase of Microsoft Office 2013 licenses from SHI International Corporation of San Diego, California, in the amount of \$175,700.

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

**FISCAL IMPACT:** Total cost of 800 Microsoft Office Standard 2013 licenses is \$175,700. Appropriations have been made in the 2014-15 budget.

**BACKGROUND:** The City standardized on the Microsoft Office Suite and has been using Microsoft Office 2007 for nearly eight years. The City always strives to maximize the useful life of software. However, Microsoft ended support for Office 2007 in 2012 and staff is experiencing compatibility issues with newer applications and in interfacing with external organizations.

In October 2014, two bids were received for the purchase of Microsoft Office 2013 licenses. The lowest responsive bidder was SHI International Corporation. Responding bidders included the following:

<u>Vendor</u>	<u>Location</u>	<u>Bid Amount</u>
Peacock Systems	Chino, CA	\$177,890
SHI International Corporation	San Diego, CA	\$175,700

This cost includes the purchases of Microsoft Office 2013 Standard at two different price tiers. The Ontario City Library qualifies for the heavily discounted academic pricing while the City qualifies for the State of California's Select Plus pricing for government agencies.

**STAFF MEMBER PRESENTING:** Elliott Ellsworth, Information Technology Director

Prepared by: Dale Wishner  
Department: Information Technology

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/02/2014

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

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

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

# CITY OF ONTARIO

*Agenda Report*  
December 2, 2014

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN ORDINANCE APPROVING THE PROHIBITION OF THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF ONTARIO**

**RECOMMENDATION:** That the City Council consider and adopt an ordinance approving a Development Code Amendment, amending Title 9 of the Ontario Municipal Code, to prohibit the cultivation of marijuana within the City.

**COUNCIL GOALS:** Regain Local Control of the Ontario International Airport

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

Focus Resources in Ontario's Commercial and Residential Neighborhoods

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

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

**FISCAL IMPACT:** None.

**BACKGROUND:** On November 18, 2014, the City Council introduced an ordinance approving a Development Code Amendment, amending Title 9 of the Ontario Municipal Code, to prohibit the cultivation of marijuana within the City. On March 20, 2007, the City Council adopted Ordinance No. 2858 prohibiting the establishment and operation of medical marijuana dispensaries and other similar uses within the City of Ontario. In keeping with the City's position in regards to the prohibition of medical marijuana dispensaries and other similar uses, the City wishes to clarify that cultivation of marijuana is also prohibited in the City of Ontario.

The cultivation of marijuana is not a permitted use in the City of Ontario. Article 13 [Section 9-1.1300 (a)] of the City of Ontario Development Code, states that a use is not specifically allowed by Table 13-1 (Permitted, Conditional and Ancillary Land Uses – All Zoning Districts) and may be deemed a prohibited use, unless otherwise allowed by the Zoning Administrator in accordance with the provisions

**STAFF MEMBER PRESENTING:** Scott Murphy, Planning Director

Prepared by: Richard Ayala  
Department: Planning

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/02/2014

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

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

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

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contained in Sec. 9-1.1310 (Determination of Use). In addition, Table 13-1 expressly prohibits Medical Marijuana Dispensaries in all zone classifications.

Similar to Medical Marijuana Dispensaries, cultivation of marijuana should be expressly prohibited in the City's zoning ordinance. Such a prohibition on the cultivation of marijuana has been upheld by the Courts in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975. The Court of Appeal determined that the Compassionate Use Act and the Medical Marijuana Program Act did not preempt an ordinance prohibiting the cultivation of all marijuana.

The cultivation of marijuana increases the risk of criminal activity, degradation of the natural environment and often results in illegal electric and water connections and alterations. Marijuana cultivation also creates increased nuisance impacts to neighboring properties because of the strong, malodorous, and potentially noxious odors which come from the plants. Marijuana remains an illegal substance under the Federal Controlled Substances Act (21 USC Sections 801, et seq.). It continues to be classified as a Schedule 1 Drug, making it unlawful under federal law to cultivate, manufacture, distribute, dispense or transport marijuana.

Therefore, in order to protect public health, safety and welfare and to comply with Federal law, staff recommends:

1. That Section 9-1.0200 (Definitions) of the Ontario Municipal Code be amended by adding the following new definition:

*"Marijuana Cultivation." The indoor or outdoor planting, growing, harvesting, drying, or processing of the plant Cannabis, or any part thereof.*

2. That the City of Ontario prohibit the cultivation of marijuana within City limits.
3. That Table 13-1 (Permitted, Conditional, and Ancillary Land Uses – All Zoning Districts) of the Ontario Development Code be amended to prohibit marijuana cultivation all zoning districts in the city.

On October 28, 2014, the Planning Commission voted unanimously (6-0) to recommend City Council adoption of an ordinance approving Development Code Amendment File No. PDA14-003.

**ENVIRONMENTAL REVIEW:** The proposed ordinance is not a project subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(3) and 15061 (b)(3) because the activity will not result in a direct or reasonably foreseeable physical change in the environment.



# PLANNING COMMISSION STAFF REPORT

October 28, 2014

**SUBJECT:** The initiation of a Development Code Amendment, File No. PDCA14-003, to amend the City of Ontario's Development Code to explicitly prohibit the cultivation of marijuana within the City.

The project is not subject to CEQA pursuant to Sections 15061(b)(3) and 15060(c)(3) of the Guidelines. (City Council action is required)

**SUBMITTED BY:** City of Ontario

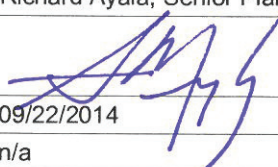
**RECOMMENDED ACTION:** That the Planning Commission hold a public hearing on the attached Development Code Amendment (File No. PDCA14-000) and adopt the attached Resolution, pursuant to the facts and reasons contained in the staff report.

**PROJECT DESCRIPTION:** On March 20, 2007, the Ontario City Council adopted Ordinance No. 2858 prohibiting the establishment and operation of medical marijuana dispensaries and other similar uses within the City of Ontario. In keeping with the City's position in regards to the prohibition of medical marijuana dispensaries and other similar uses, the City wishes to clarify that cultivation of marijuana is also prohibited in the City of Ontario.

**PROJECT ANALYSIS:** The cultivation of marijuana is not a permitted use in the City of Ontario. Article 13 [Section 9-1.1300 (a)] of the City of Ontario Development Code, states that a use is not specifically allowed by Table 13-1 (Permitted, Conditional and Ancillary Land Uses – All Zoning Districts) shall be deemed a prohibited use, unless otherwise allowed by the Zoning Administrator in accordance with the provisions contained in Sec. 9-1.1310 (Determination of Use). In addition, Table 13-1 expressly prohibits Medical Marijuana Dispensaries in all zone classifications.

Like Medical Marijuana Dispensaries, cultivation of marijuana should be expressly prohibited in the City's zoning ordinance. Such a prohibition on the cultivation of marijuana has been upheld by the Courts in *Maral v. City of Live Oak* (2013) 221 Cal.App.4<sup>th</sup> 975. There, the Court of Appeal determined that the Compassionate Use Act and the Medical Marijuana Program Act did not preempt an ordinance prohibiting the cultivation of all marijuana.

The cultivation of marijuana increases the risk of criminal activity, degradation of the natural environment and often results in illegal electric and water connections and alterations. Marijuana cultivation also creates increased nuisance impacts to neighboring properties because of the strong, malodorous, and potentially noxious

Case Planner: Richard Ayala, Senior Planner	<b>Hearing Body</b>	<b>Date</b>	<b>Decision</b>	<b>Action</b>
Planning Director	DAB			
Approval: 	ZA			
Submittal Date: 09/22/2014	PC	10/28/14	Approved	Recommend
Hearing Deadline: n/a	CC	11/18/14		Final

odors which come from the plants. Marijuana remains an illegal substance under the Federal Controlled Substances Act (21 USC Sections 801, et seq.). It continues to be classified as a Schedule 1 Drug, making it unlawful under federal law to cultivate, manufacture, distribute, dispense or transport marijuana.

Because marijuana groves and cultivation can adversely affect the health, safety and welfare of the residents of Ontario, staff is proposing a Development Code Amendment (PDCA14-003), clarifying that cultivation of marijuana is expressly prohibited in all zone classifications within the City of Ontario for the reasons set forth above.

Therefore, in order to protect public health, safety and welfare and to comply with federal law, staff recommends:

1. That Section 9-1.0200 (Definitions) of the Ontario Municipal Code be amended by adding the following new definition:

*"Marijuana Cultivation." The indoor or outdoor planting, growing, harvesting, drying, or processing of the plant Cannabis, or any part thereof.*

2. That the City of Ontario prohibit the cultivation of marijuana within City limits.
3. That Table 13-1 (Permitted, Conditional, and Ancillary Land Uses – All Zoning Districts) of the Ontario Development Code be amended to prohibit marijuana cultivation all zoning districts in the city.

**COMPLIANCE WITH THE ONTARIO PLAN:** The proposed project is consistent with the principles, goals and policies contained within the six components that make up The Ontario Plan (TOP), including: (1) Vision, (2) Governance, (3) Policy Plan (General Plan), (4) City Council Priorities, (5) Implementation and (6) Tracking and Feedback. The policies set forth within the TOP, specifically policies from the Social Resources and Safety elements, are being complied with by this development code amendment as described below:

City Council Priorities

Primary Goal: Regain Local Control of the Ontario International Airport

Supporting Goals: [1] Invest in the Growth and Evolution of the City's Economy; [2] Maintain the Current High Level of Public Safety; [3] Focus Resources in Ontario's Commercial and Residential Neighborhoods; and [4] Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

Policy Plan (General Plan)

Goal S7: Neighborhoods and commercial and industrial districts that are kept safe through a multi-faceted approach of prevention, suppression, community involvement and a system of continuous monitoring.

Policies:

Policy SR3- 5 Community Activities as Crime Deterrents. We promote and participate in community activities as part of our crime prevention efforts.

Policy S7- 2 Community Oriented Problem Solving (C.O.P.S). We support and maintain the mission of COPS to identify and resolve community problems.

Policy S7- 3 Prevention Services. We provide crime prevention programs targeted to youth, parents, seniors, businesses, and neighborhoods.

Policy S7- 5 Interdepartmental Coordination. We utilize all City departments to help reduce crime and promote public safety.

Policy S7- 6 Partnerships. We partner with other local, state and federal law enforcement agencies and private security providers to enhance law enforcement service to Ontario.

Policy S7- 7 Resource Allocation. We analyze crime data to evaluate the effectiveness of crime prevention and reduction strategies and allocate resources accordingly.

**ENVIRONMENTAL REVIEW:** Staff finds that the proposed ordinance is not a project subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(3) and 15061 (b)(3) because the activity will not result in a direct or reasonably foreseeable physical change in the environment.

RESOLUTION NO. PC14-099

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF ONTARIO APPROVAL OF AN ORDINANCE AMENDING THE ONTARIO DEVELOPMENT CODE TO EXPLICITLY PROHIBIT THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF ONTARIO.

WHEREAS, California Government Code section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, in accordance with Ontario Municipal Code ("OMC") Section 9-1.0305, the Planning Commission hereby initiates Development Code Amendment, File No. PDCA14-003, to amend the City of Ontario's Development Code to explicitly prohibit the cultivation of marijuana within the City; and

WHEREAS, City Staff has prepared a draft Ordinance, which would amend certain sections of the Ontario Development Code to add a definition of marijuana cultivation to OMC Section 9-1.0200 and to list marijuana cultivation in Table 13-1 as a use prohibited in all zones of the City; and

WHEREAS, the purpose of this Development Code Amendment (PDEV14-003) is to clarify that cultivation of marijuana is prohibited and to protect the public safety, health, and welfare; and

WHEREAS, on October 28, 2014, the Planning Commission of the City of Ontario conducted a duly noticed public hearing to consider the application and concluded said hearing on that date; and

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

**NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF ONTARIO RESOLVES AS FOLLOWS:**

SECTION 1. Findings. The Ontario Planning Commission hereby specifically finds as follows:

(a) The above recitals are true and correct and are incorporated herein by this reference;

(b) Development Code Amendment (PDEV14-003), as reflected in the attached proposed ordinance, is consistent with the objectives of the City of Ontario Development Code;

(c) Development Code Amendment (PDEV14-003), as reflected in the attached proposed ordinance, is consistent with the City of Ontario's General Plan. The amendment regulates the location, concentration, and operations of potential nuisances; preserves, maintains, improves, and creates distinct neighborhoods and protects property values and provides a desirable place to live; and minimizes potential dangers to residents, businesses, workers, and visitors. Overall, the amendments to the City of Ontario Development Code made by the proposed ordinance remain consistent with the objectives and policies of each element of the General Plan and do not obstruct their attainment and

(d) Development Code Amendment (PDEV14-003), as reflected in the attached proposed Ordinance, promotes the public health, safety and welfare of the community.

SECTION 2. The Planning Department prepared a written report, which it transmitted to the Planning Commission at the Public Hearing on October 28, 2014 ("Report").

SECTION 3. Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings made in the staff report and this Resolution, the Planning Commission of the City of Ontario hereby recommends that the City Council adopt an ordinance entitled: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTIONS 9-1.0200 AND TABLE 13-1 OF TITLE 9 OF THE ONTARIO DEVELOPMENT CODE TO EXPLICITLY PROHIBIT THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF ONTARIO", which is attached hereto as Attachment "A" and incorporated herein by reference.

SECTION 3. The Planning Commission finds that this resolution is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

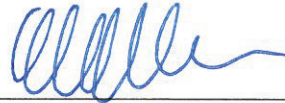
SECTION 4. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 5. The Secretary shall certify to the adoption of the Resolution and shall transmit this Resolution and the Report to the City Council.

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The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

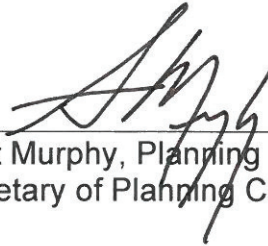
I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28<sup>th</sup> day of October, 2014, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.



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Rick Gage  
Planning Commission Chairman

ATTEST:



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Scott Murphy, Planning Director  
Secretary of Planning Commission

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

I, Jeanina M. Romero, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC14-099 was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on October 28, 2014 by the following roll call vote, to wit:

AYES: Delman, Downs, Gage, Gregorek, Mautz

NOES:

ABSENT: Willoughby

ABSTAIN:

  
Jeanina M. Romero  
Secretary Pro Tempore

**Attachment "A"**

**"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, AMENDING SECTIONS 9-1.0200 AND TABLE 13-1 OF TITLE 9 OF  
THE ONTARIO DEVELOPMENT CODE TO EXPLICITLY PROHIBIT THE  
CULTIVATION OF MARIJUANA WITHIN THE CITY OF ONTARIO."**

**[Attached behind this page]**

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTIONS 9-1.0200 AND TABLE 13-1 OF TITLE 9 OF THE ONTARIO DEVELOPMENT CODE TO EXPLICITLY PROHIBIT THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF ONTARIO

WHEREAS, on March 20, 2007, the Ontario City Council adopted Ordinance No. 2858 whereby prohibiting the establishment and operation of medical marijuana dispensaries and other similar uses within the City of Ontario; and

WHEREAS, in keeping with the City's position in regards to the prohibition of the establishment and operation of medical marijuana dispensaries and other similar uses, the City also currently prohibits the cultivation of marijuana within the City of Ontario; and

WHEREAS, the cultivation of marijuana is not a permitted use in the City of Ontario. Under Ontario Municipal Code ("OMC") Section 9-1.1300, any use not specifically allowed by Table 13-1 shall generally be deemed a prohibited use; and

WHEREAS, like medical marijuana dispensaries, cultivation of marijuana should be expressly prohibited in the City's zoning ordinance. Such a prohibition on the cultivation of marijuana has been upheld by the Courts in *Maral v. City of Live Oak* (2013) 221 Cal. App. 4th 975. There, the Court of Appeal determined that the Compassionate Use Act and the Medical Marijuana Program Act did not preempt an ordinance prohibiting the cultivation of all marijuana; and

WHEREAS, this Ordinance will clarify, by making explicit, the City's prohibition on the cultivation of marijuana; and

WHEREAS, the proliferation of marijuana increases the risk of criminal activity, degradation of the natural environment, and often results in illegal electric and water connections and alterations. Marijuana cultivation also creates increased nuisance impacts to neighboring properties because of the strong, malodorous, and potentially noxious odors which come from the plants; and

WHEREAS, marijuana remains an illegal substance under the Federal Controlled Substances Act (21 USC Sections 801, et seq.). It continues to be classified as a Schedule 1 Drug, making it unlawful under federal law to cultivate, manufacture, distribute, dispense or transport marijuana; and

WHEREAS, for the above reasons, the City finds that the adoption of an explicit ban on the cultivation of marijuana is necessary to both protect the public health, safety and welfare and to comply with federal law; and

WHEREAS, prior to the date of this ordinance, marijuana cultivation is and continues to be prohibited in all zoning districts of the City pursuant to the OMC; and

WHEREAS, on October 28, 2014, the Planning Commission of the City of Ontario initiated Development Code Amendment (PDEV14-003), conducted a duly noticed public hearing to consider the application, concluded said hearing on that date, and passed Resolution PC14-\_\_\_\_, recommending the City Council approve this Ordinance; and

WHEREAS, on [INSERT DATE], the City Council held a public hearing in accordance with OMC Section 9-1.0300.

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

Section 1. Findings. The Ontario City Council hereby specifically finds as follows:

(a) The above recitals are true and correct and are incorporated herein by this reference.

(b) This Ordinance and Development Code Amendment (PDEV14-003):

(i) Are consistent with the objectives of the City of Ontario Development Code.

(ii) Are consistent with the City of Ontario's General Plan because it regulates the location, concentration, and operations of potential nuisances; preserves, maintains, improves, and creates distinct neighborhoods and protects property values and provides a desirable place to live; and minimizes potential dangers to residents, businesses, workers, and visitors. Overall, the amendments to the City of Ontario Development Code made by the Ordinance remain consistent with the objectives and policies of each element of the General Plan and do not obstruct their attainment.

(iii) Promote the public health, safety and welfare of the community.

Section 2. The paragraph defining "Marijuana Cultivation" within Section 9-1.0200 entitled "Definitions" of Article 2 of Part 1 of Chapter 1 of the Ontario Development Code is hereby amended to read as follows:

"Sec. 9-1.0200. Definitions.

\*\*\*

"Marijuana Cultivation." The indoor or outdoor planting, growing, harvesting, drying, or processing of the plant *Cannabis*, or any part thereof.

\*\*\*

"

Section 3. Table 13-1 of the Ontario Municipal Code is hereby amended as set forth in Exhibit A, attached hereto and incorporated by reference herein.

Section 4. 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 5. 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 6. 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 7. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

Section 8. Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary of thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Ontario.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2014.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

(SEAL)

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 \_\_\_\_\_ 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"

### AMENDMENTS TO TABLE 13-1 (Permitted, Conditional, and Ancillary Land Uses – All Zoning Districts)

**KEY: P= Permitted C= Conditionally Permitted (CUP Required) A=Ancillary to a permitted use  
PP= Planning Permit --- = Prohibited**

The following row will be added to Table 13-1:

	AR	RE	R1	R1.5	R2	R3	HDR-45	AP	NC	C1	C2	C3	C4	EA
Marijuana Cultivation*	---	---	---	---	---	---	---	---	---	---	---	---	---	---

	M1	M2	M3	AG	PF	OP	MH
Marijuana Cultivation*	---	---	---	---	---	---	---

.....

*\*Per Ordinance No.\_\_\_\_\_, marijuana cultivation is prohibited*

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTIONS 9-1.0200 AND TABLE 13-1 OF TITLE 9 OF THE ONTARIO DEVELOPMENT CODE TO EXPLICITLY PROHIBIT THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF ONTARIO.

WHEREAS, on March 20, 2007, the Ontario City Council adopted Ordinance No. 2858 whereby prohibiting the establishment and operation of medical marijuana dispensaries and other similar uses within the City of Ontario; and

WHEREAS, in keeping with the City's position in regards to the prohibition of the establishment and operation of medical marijuana dispensaries and other similar uses, the City also currently prohibits the cultivation of marijuana within the City of Ontario; and

WHEREAS, the cultivation of marijuana is not a permitted use in the City of Ontario. Under Ontario Municipal Code ("OMC") Section 9-1.1300, any use not specifically allowed by Table 13-1 shall generally be deemed a prohibited use; and

WHEREAS, similar medical marijuana dispensaries, cultivation of marijuana should be expressly prohibited in the City's zoning ordinance. Such a prohibition on the cultivation of marijuana has been upheld by the Courts in *Maral v. City of Live Oak* (2013) 221 Cal. App. 4th 975. There, the Court of Appeal determined that the Compassionate Use Act and the Medical Marijuana Program Act did not preempt an ordinance prohibiting the cultivation of all marijuana; and

WHEREAS, this Ordinance will clarify, by making explicit, the City's prohibition on the cultivation of marijuana; and

WHEREAS, the proliferation of marijuana increases the risk of criminal activity, degradation of the natural environment, and often results in illegal electric and water connections and alterations. Marijuana cultivation also creates increased nuisance impacts to neighboring properties because of the strong, malodorous, and potentially noxious odors which come from the plants; and

WHEREAS, marijuana remains an illegal substance under the Federal Controlled Substances Act (21 USC Sections 801, et seq.). It continues to be classified as a Schedule 1 Drug, making it unlawful under federal law to cultivate, manufacture, distribute, dispense or transport marijuana; and

WHEREAS, for the above reasons, the City finds that the adoption of an explicit ban on the cultivation of marijuana is necessary to both protect the public health, safety and welfare and to comply with federal law; and

WHEREAS, prior to the date of this ordinance, marijuana cultivation is and continues to be prohibited in all zoning districts of the City pursuant to the OMC; and

WHEREAS, on October 28, 2014, the Planning Commission of the City of Ontario initiated Development Code Amendment (PDEV14-003), conducted a duly noticed public hearing to consider the application, concluded said hearing on that date, and passed Resolution PC14-009, recommending the City Council approve this Ordinance; and

WHEREAS, on November 18, 2014, the City Council held a public hearing in accordance with OMC Section 9-1.0300 and concluded said hearing on that date.

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

SECTION 1. Findings. The Ontario City Council hereby specifically finds as follows:

(a) The above recitals are true and correct and are incorporated herein by this reference.

(b) This Ordinance and Development Code Amendment (PDEV14-003):

(i) Are consistent with the objectives of the City of Ontario Development Code.

(ii) Are consistent with the City of Ontario's General Plan because it regulates the location, concentration, and operations of potential nuisances; preserves, maintains, improves, and creates distinct neighborhoods and protects property values and provides a desirable place to live; and minimizes potential dangers to residents, businesses, workers, and visitors. Overall, the amendments to the City of Ontario Development Code made by the Ordinance remain consistent with the objectives and policies of each element of the General Plan and do not obstruct their attainment.

(iii) Promote the public health, safety and welfare of the community.

SECTION 2. The paragraph defining "Marijuana Cultivation" within Section 9-1.0200 entitled "Definitions" of Article 2 of Part 1 of Chapter 1 of the Ontario Development Code is hereby amended to read as follows:

"Sec. 9-1.0200. Definitions.

"Marijuana Cultivation." The indoor or outdoor planting, growing, harvesting, drying, or processing of the plant *Cannabis*, or any part thereof.

SECTION 3. Table 13-1 of the Ontario Municipal Code is hereby amended as set forth in Exhibit A, attached hereto and incorporated by reference herein.

SECTION 4. 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 5. 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 6. 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 7. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

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

PASSED, APPROVED, AND ADOPTED this 2<sup>nd</sup> day of December 2014.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3004 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 18, 2014 and adopted at the regular meeting held December 2, 2014 by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3004 duly passed and adopted by the Ontario City Council at their regular meeting held December 2, 2014 and that Summaries of the Ordinance were published on November 25, 2014 and December 9, 2014, in the Inland Valley Daily Bulletin newspaper.

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MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

## EXHIBIT “A”

### AMENDMENTS TO TABLE 13-1 (Permitted, Conditional, and Ancillary Land Uses – All Zoning Districts)

**KEY: P= Permitted C= Conditionally Permitted (CUP Required) A=Ancillary to a permitted use  
PP= Planning Permit --- = Prohibited**

The following row will be added to Table 13-1:

	AR	RE	R1	R1.5	R2	R3	HDR-45	AP	NC	C1	C2	C3	C4	EA
Marijuana Cultivation*	---	---	---	---	---	---	---	---	---	---	---	---	---	---

	M1	M2	M3	AG	PF	OP	MH
Marijuana Cultivation*	---	---	---	---	---	---	---

.....

*\*Per Ordinance No.\_\_\_\_\_, marijuana cultivation is prohibited*

# CITY OF ONTARIO

*Agenda Report*  
December 2, 2014

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN ORDINANCE APPROVING A ZONE CHANGE REQUEST FROM C3 (COMMERCIAL SERVICE DISTRICT) TO R1.5 (LOW-MEDIUM DENSITY RESIDENTIAL - 5.1-11 DU/AC) FOR 6.11 ACRES OF LAND LOCATED AT 2041 EAST 4TH STREET**

**RECOMMENDATION:** That the City Council consider and adopt an ordinance approving a Zone Change (File No. PZC14-003) from C3 (Commercial Service District) to R1.5 (Low-Medium Density Residential) for property located at 2041 East 4<sup>th</sup> Street (APN: 0110-441-10).

**COUNCIL GOALS:** Regain Local Control of the Ontario International Airport  
Invest in the Growth and Evolution of the City's Economy  
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:** The adoption of the General Plan Amendment and Zone Change would result in long term fiscal impacts to the City that include ongoing operations and maintenance services (police, fire, maintenance, etc.) that are necessary to serve the future residential development. The proposed amendment would result in a minimal increase of to the City's annual expenditure for services, however Development Impact Fees and property tax revenues from future residential development will help to offset the anticipated expenditures. The elimination of 6.11 acres of commercial land would result in the loss of 79,845 square feet of potential commercial space (based on a 0.30 FAR), which would result in the potential loss of sales tax revenues. However, the TOP identifies that approximately 7.8 million square feet will be generated from General Commercial land use designations and the elimination of 79,845 commercial square feet represents a 0.01% decrease in commercial square footage, which is not significant.

**BACKGROUND:** On November 18, 2014, the City Council adopted a resolution approving a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program; a resolution approving General Plan Amendment (File No. PGPA14-002) revising the Land Use Element of the Policy Plan (General Plan), Exhibits LU-01 Official Land Use Plan and LU-03 Future Buildout

**STAFF MEMBER PRESENTING:** Scott Murphy, Planning Director

Prepared by: Lorena Mejia  
Department: Planning

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/02/2014

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

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

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

13

table and introduced an ordinance approving a zone change from C3 to R1.5. From the mid-1980s until May 2013, the Daily Bulletin published and printed periodicals and related inserts within the 76,000 square foot building. The production processes included imaging, maintenance, photo processing, printing, folding/assembly, silver recovery units (SRUs), and wastewater treatment. Since then, the building has been used as office space and storage for the Daily Bulletin. With the consolidation of their operations in San Bernardino, the Daily Bulletin determined that the site is surplus and began actively marketing the site.

In late 2013, Warmington Residential (“Warmington”) approached the City about converting the site to a residential use. The existing land use designation of commercial was provided in recognition of the Daily Bulletin’s operations. With multi-family residential uses to the north and west and a mobile home park (Lamplighter), a residential land use seemed more appropriate to fit in with the area.

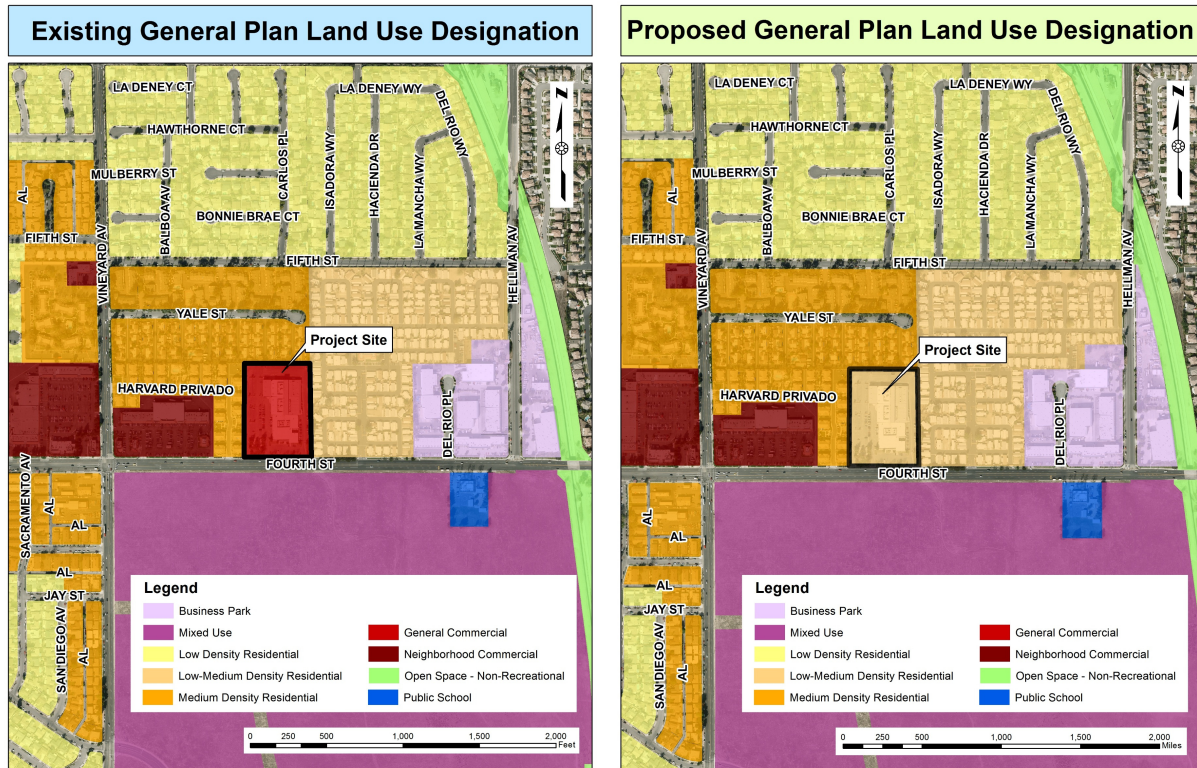
Warmington submitted a General Plan Amendment and Zone Change in May 2014 to change the existing General Plan land use designation from General Commercial (GC) to Low Medium Density Residential (LMDR - 5.1 -11 du/ac) and zoning from C3 (Commercial Service District) to R1.5 (Low-Medium Density Residential- 5.1-11 du/ac) will provide consistency between the zoning and the proposed General Plan land use designation. The proposed General Plan Amendment and Zone Change will provide a transitional between the Mobile Home Park and multi-family residential units, creating greater land use compatibility with adjoining sites than currently exists. The existing land use contributes towards generating greater levels of noise, truck traffic and other associated nuisances that can be disruptive to surrounding residential uses.

On September 4, 2014, a neighborhood meeting was held and notifications were mailed to property owners within a 300 foot radius of the project site. Three property owners attended the meeting and were in support of the project and no additional inquiries were received.

On October 28, 2014, the Planning Commission voted unanimously (6-0) to recommend City Council approval of the Mitigated Negative Declaration, General Plan Amendment, and the Zone Change.

**ENVIRONMENTAL REVIEW:** The initial study was prepared in compliance with the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines. The initial study identified potential impacts resulting from the project in the area of utilities (water and sewer), noise, air quality, and traffic. With the proposed mitigation measures, the potential impacts identified in the initial study will be reduced to a level of less than significant. To ensure that the all mitigation measures are implemented, a Mitigation Monitoring and Reporting Program has been prepared for the Project pursuant to CEQA Guidelines § 15097, which specifies responsible agencies/departments, monitoring frequency, timing and method of verification and possible sanctions for non-compliance with mitigation measures.

## Attachment 1: General Plan Amendment

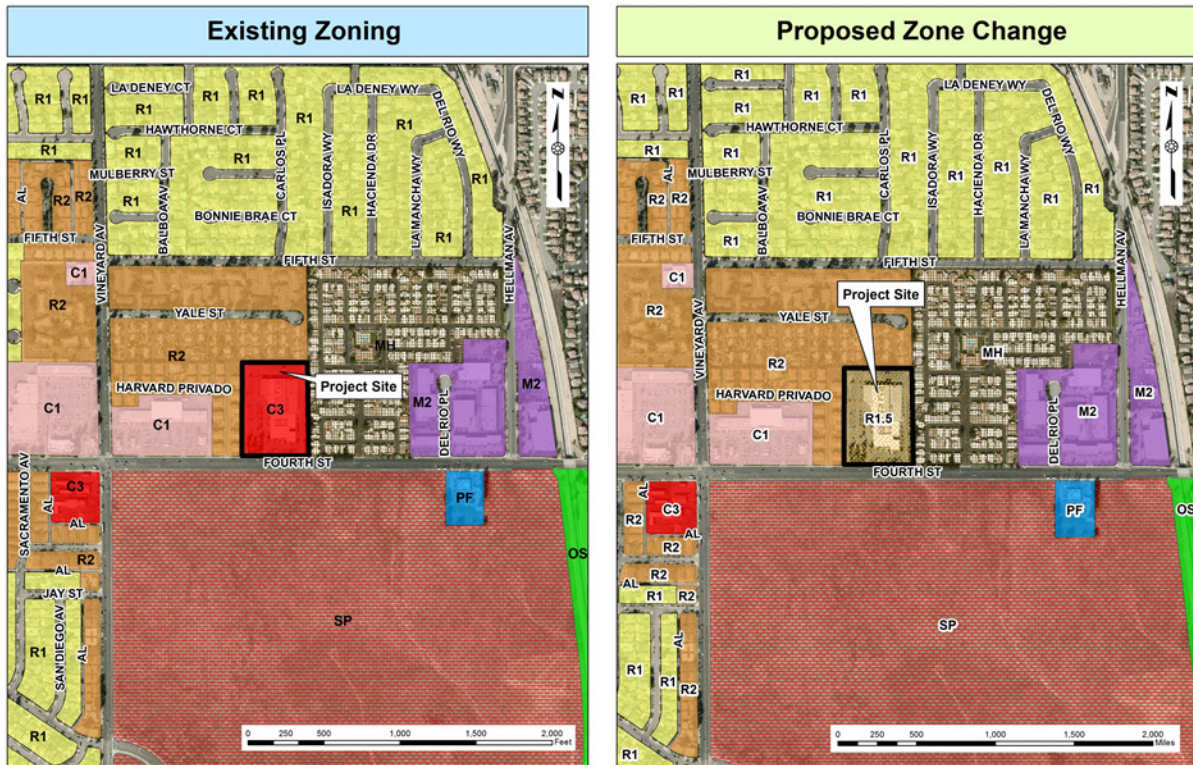


## Attachment 2: Amended LU-03 Future Buildout Table

Note: Deletions to the table are shown in ~~striketrough text~~, and additions are shown in **red text**

Land Use	Acres <sup>2</sup>	Assumed Density/Intensity <sup>3</sup>	Units	Population <sup>4</sup>	Non-Residential Square Feet	Jobs <sup>5</sup>
<b>Residential</b>						
Rural	458	2.0 du/ac	916	3,660		
Low Density <sup>6</sup>	7,454	4.0 du/ac (OMC) 4.5 du/ac (NMC)	31,400	125,506		
Low-Medium <sup>6</sup> Density	<del>843</del> <b>849</b>	8.5 du/ac	<del>7,166</del> <b>7,218</b>	<del>28,644</del> <b>28,851</b>		
Medium Density	1,941	18.0 du/ac (OMC) 22.0 du/ac (NMC)	39,182	136,957		
High Density	236	35.0 du/ac	8,259	27,643		
<i>Subtotal</i>	<del>10,932</del> <b>10,938</b>		<del>86,923</del> <b>86,975</b>	<del>322,410</del> <b>322,617</b>		
<b>Retail/ Service</b>						
Neighborhood <sup>6</sup> General	265	0.30 <a href="#">FAR</a>			3,466,679	8,388
General Commercial	<del>604</del> <b>598</b>	0.30 <a href="#">FAR</a>			<del>7,889,152</del> <b>7,809,306</b>	<del>7,329</del> <b>7,255</b>
Office/ Commercial	414	0.75 <a href="#">FAR</a>			13,534,854	30,015
Hospitality	145	1.00 <a href="#">FAR</a>			6,316,200	7,241
<i>Subtotal</i>	<del>1,424</del> <b>1,418</b>				<del>31,154,613</del> <b>31,074,767</b>	<del>52,847</del> <b>52,773</b>
<b>Total</b>	31,924		<del>104,197</del> <b>104,249</b>	<del>356,958</del> <b>357,166</b>	<del>255,554,789</del> <b>255,474,944</b>	<del>324,302</del> <b>324,228</b>

### Attachment 3: Zone Change



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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC14-003, A CHANGE IN THE ZONING DESIGNATION ON 6.11 GROSS ACRES OF LAND FROM C3 (COMMERCIAL SERVICE) TO R1.5 (LOW-MEDIUM DENSITY RESIDENTIAL – 5.1-11.0 DU/AC) FOR PROPERTY LOCATED AT 2041 EAST FOURTH STREET, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 0110-441-10.

WHEREAS, Warmington Residential ("Applicant") has filed an Application for the approval of a Zone Change, File No. PZC14-003, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to property located at 2041 East Fourth Street with a street frontage of 428.64 feet and a lot depth of 612.87 feet and is presently improved with a 76,000 square foot building; and

WHEREAS, the property to the north of the Project site is within the R2: Medium Density Residential zoning district and is developed with a multi-family residential two-unit attached product. The property to the south has a zoning of Specific Plan named Meredith International Center Specific Plan and is vacant. The property to the east is within the MH: Mobile Home Park zoning district and is developed with The Lamplighter Mobile Home Park and contains 246 spaces. The property to the west is within the R2: Medium Density Residential zoning district and is developed with a multi-family residential three-unit attached product; and

WHEREAS, the applicant is requesting a zone change for the project site from C3 (Commercial Service District) to R1.5 (Low-Medium Density Residential- 5.1-11 du/ac) to provide consistency with the proposed General Plan land use designation amendment of General Commercial (GC) to Low Medium Density Residential (LMDR - 5.1 -11 du/ac); and

WHEREAS, the proposed zone change would contribute towards achieving the City's overall vision and create greater level of land use compatibility within the immediate neighborhood; and

WHEREAS, the City of Ontario held a community meeting on September 4, 2014, to review the subject application with neighboring residents, receive comments and answer questions; 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, 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 MND was made available to the public and to all interested agencies for review and comment pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

WHEREAS, on October 28, 2014, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and issued Resolution No. PC14-097, recommending the City Council approve the application; and

WHEREAS, as the first action on the Project, on November 18, 2014, the City Council approved a resolution adopting a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program, prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of less than significant; and

WHEREAS, on November 18, 2014, the City Council of the City of Ontario conducted a hearing to consider the MND, the initial study and the Project, and concluded said hearing on that date; 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 MND, the initial study and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the MND, the initial study and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

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

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

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

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 MND, the Mitigation Monitoring and Reporting Program and the initial study.

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

a. The proposed zone change is consistent with the goals and policies of The Ontario Plan.

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.

f. The proposed project is consistent with the adopted Housing Element. The site is not one of the properties listed in the Available Land Inventory in the Housing Element. Changing the zoning designation of the subject property from C3 (Commercial Service) to R1.5 (Low-Medium Density Residential- 5.1-11 du/ac) will not impact the City's Regional Housing Needs Allocation obligations or the City's ability to satisfy its share of the region's future housing need.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves the Project as shown in Exhibit "A", attached hereto and incorporated herein by this reference.

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

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

PASSED, APPROVED, AND ADOPTED this 18<sup>th</sup> day of November 2014.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3005 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 18, 2014, and adopted at the regular meeting held December 2, 2014 by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

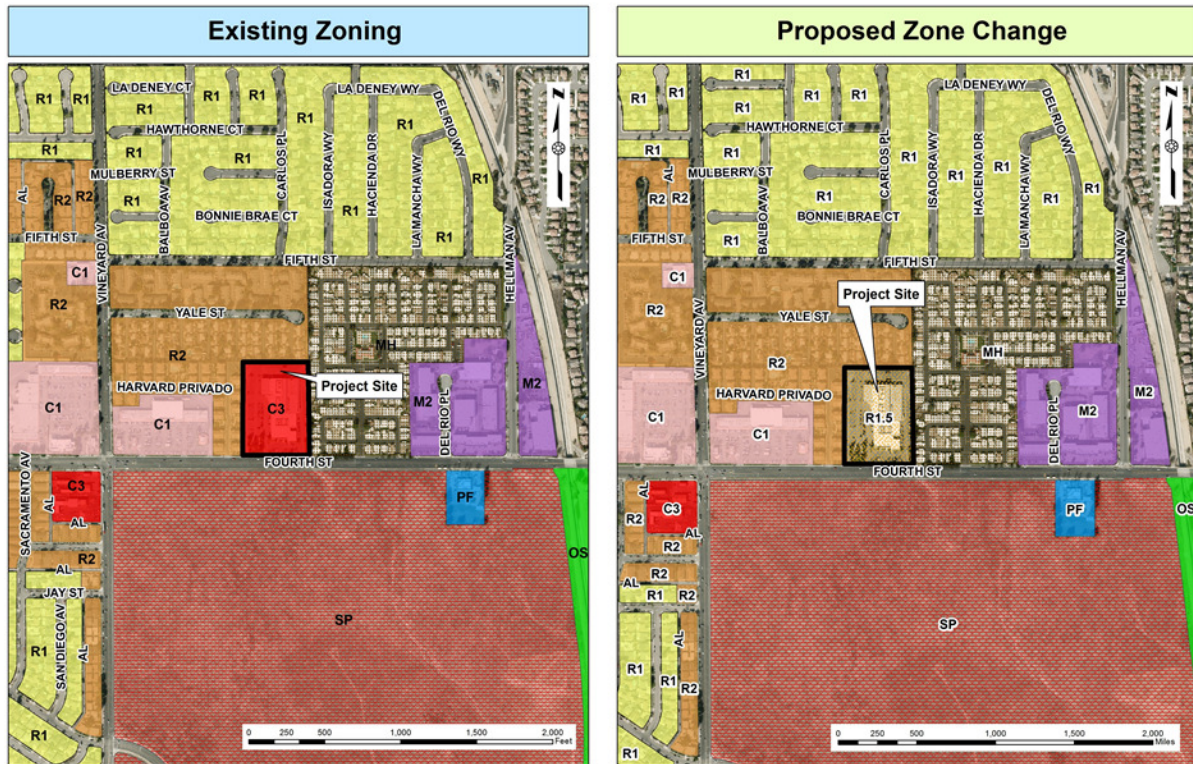
(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3005 duly passed and adopted by the Ontario City Council at their regular meeting held December 2, 2014 and that Summaries of the Ordinance were published on November 25, 2014 and December 9, 2014, in the Inland Valley Daily Bulletin newspaper.

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

(SEAL)

## Exhibit A – Proposed Zone Change



Existing Zoning	Assessor's Parcel Number	Proposed Zoning
C3 (Commercial Service)	0110-441-10	R1.5 (Low-Medium Density Residential- 5.1-11 du/ac)

# CITY OF ONTARIO

*Agenda Report*  
December 2, 2014

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN ORDINANCE APPROVING A ZONE CHANGE FROM AR (AGRICULTURAL RESIDENTIAL) TO R1 (SINGLE-FAMILY RESIDENTIAL) FOR FORTY-FOUR SINGLE-FAMILY RESIDENTIAL PROPERTIES, GENERALLY LOCATED AT THE SOUTHWEST CORNER OF FRANCIS STREET AND SAN ANTONIO AVENUE**

**RECOMMENDATION:** That the City Council consider and adopt an ordinance approving a Zone Change (File No. PZC14-004) from AR (Agricultural Residential) to R1 (Single-Family Residential) for forty-four properties in order to provide consistency with the Policy Plan (General Plan) of The Ontario Plan land use designations, for properties generally located at the southwest corner of Francis Street and San Antonio Avenue, bound by Francis Street to the north, Spruce Street to the south, San Antonio Avenue to the east, and Redwood Avenue to the west (APNs: 1050-341-01, 1050-341-04 thru 05, 1050-341-09 thru 35, 1050-342-01 thru 07, 1050-624-15, 1050-631-09 thru 12, 1050-631-14, and 1050-631-38).

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

**FISCAL IMPACT:** The applicant's site is developed with two single-family residential homes. The zone change from AR (Agricultural Residential) to R1 (Single-Family Residential) would allow for the construction of up to five additional single-family homes, consistent with the surrounding area. Other properties included of the Zone Change request will be unaffected as they are already developed with single family homes.

**BACKGROUND:** On November 18, 2014, the City Council introduced an ordinance approving a Zone Change (File No. PZC14-004) from AR (Agricultural Residential) to R1 (Single-Family Residential) for forty-four properties in order to provide consistency with the Policy Plan (General Plan). On January 22, 2013, the Planning Commission adopted Resolution No. PC13-010 recommending that the City Council approve File No. PZC12-003, a change in the zoning designations for 604 properties throughout the City

**STAFF MEMBER PRESENTING:** Scott Murphy, Planning Director

Prepared by: Diane Ayala

Department: Planning

City Manager

Approval: 

Submitted to Council/O.H.A. 12/02/2014

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

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

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

14

including the properties located within this application. However, the properties included in this project have not received City Council approval.

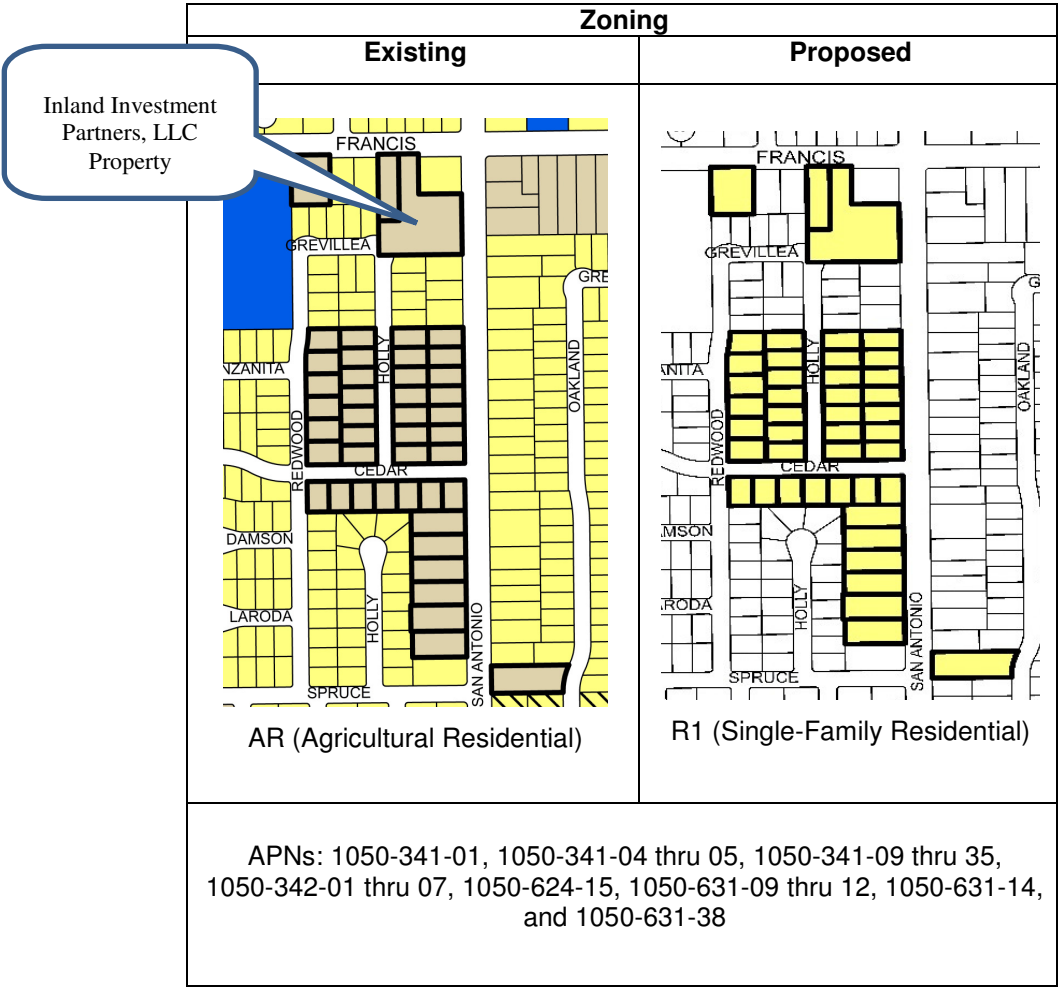
In May 2014, the property owner of 1816 and 1834 South San Antonio Avenue, Inland Investment Partners, LLC, filed applications for a zone change and tentative tract map. The zone change requested a change from AR (Agricultural Residential) to R1 (Single-Family Residential – 2.1-5 du/ac). The change would help facilitate the tentative tract map, proposing to maintain two existing structures and subdivide the remaining, underutilized areas into four additional lots.

Rather than limiting this action to only the two lots requested by the applicant, staff reviewed the previous zone change request. Based on the size, proximity, and developed state of nearby lots, the application was expanded by staff to incorporate other properties in the area. In all, forty-four properties were included in the request to provide consistency between the Policy Plan of The Ontario Plan and the zoning. All 44 properties were part of the zone change request previously considered by the Planning Commission.

Because of the lapse in time since the original approval in January 2013, staff decided to go back to the Planning Commission and conduct a public hearing on the zone change request. On October 28, 2014, the Planning Commission voted unanimously (6-0) to reaffirm their previous decision and recommended the City Council approve the proposed Zone Change.

**ENVIRONMENTAL REVIEW:** The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"). The environmental impacts of this project were previously analyzed in conjunction with an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on July 2, 2013. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by reference.

Exhibit A: Zoning



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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC14-004, A ZONE CHANGE FROM AR (AGRICULTURAL RESIDENTIAL) TO R1 (SINGLE-FAMILY RESIDENTIAL) FOR FORTY-FOUR (44) SINGLE-FAMILY RESIDENTIAL PROPERTIES, GENERALLY LOCATED AT THE SOUTHWEST CORNER OF FRANCIS STREET AND SOUTH SAN ANTONIO AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1050-341-01, 1050-341-04 THRU 05, 1050-341-09 THRU 35, 1050-342-01 THRU 07, 1050-624-15, 1050-631-09 THRU 12, 1050-631-14, AND 1050-631-38.

WHEREAS, City of Ontario and Inland Investment Partners, LLC ("Applicant") has filed an Application for the approval of a Zone Change, File No. PZC14-004, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to forty-four (44) single-family residential properties generally located at the southwest corner of Francis Street and San Antonio Avenue and is presently improved with single family homes; and

WHEREAS, the zoning of the properties is currently inconsistent with The Ontario Plan ("TOP") land use designations of the properties and the proposed zone change will make the zoning consistent with TOP land use designations; and

WHEREAS, the owners of affected properties were invited to a Community Open House on November 27, 2012; and

WHEREAS, On January 22, 2013, the Planning Commission previously adopted Resolution No. PC13-010, recommending approval of said zone changes to the City Council; and

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

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with an Addendum to TOP Environmental Impact Report (State Clearinghouse No. 2008101141) adopted by City Council on July 2, 2013, under File No. PZC12-003, and this Application introduces no new significant environmental impacts; and

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

WHEREAS, on October 28, 2014, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and issued Resolution No. PC14-098, reaffirming their previous decision, recommending the City Council approve the application; and

WHEREAS, on November 18, 2014, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND 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 previously adopted Addendum to TOP Environmental Impact Report (State Clearinghouse No. 2008101141) adopted by City Council on July 2, 2013, under File No. PZC12-003 and supporting documentation. Based upon the facts and information contained in the Addendum to TOP Environmental Impact Report (State Clearinghouse No. 2008101141) and supporting documentation, the City Council finds as follows:

a. The previous Addendum to TOP Environmental Impact Report contains a complete and accurate reporting of the environmental impacts associated with the Project; and

b. The previous Addendum to TOP Environmental Impact Report was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

c. The previous Addendum to TOP Environmental Impact Report reflects the independent judgement of the City Council; and

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

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

a. The proposed zone changes are consistent with the goals and policies of the General Plan. The proposed zone changes will make the zoning designations consistent with The Ontario Plan ("TOP") land use designation.

b. The proposed zone change is reasonable and beneficial, and in the interest of good zoning practice. The proposed zone changes encompass an area which is primarily developed with single family residential properties.

c. The project site is physically suitable, including, but not limited to parcel size, shape, access, availability of utilities and compatibility with adjoining land uses, for the requested zoning designation and anticipated development. The properties subject to the zone change request meet Development Code requirements of the R1 (Single-Family Residential) Zoning District.

d. The proposed zone change will not adversely affect the harmonious relationship with adjacent parcels and land uses. The proposed zone changes encompass an area which is primarily developed with single family residential properties. No adverse impacts of the project are anticipated.

e. The proposed zone change will not have a significant adverse impact on the environment. The proposed zone changes encompass an area which is primarily developed with single family residential properties. No adverse impacts of the project are anticipated.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves the Project as shown in Exhibit "A" attached hereto and incorporated herein by this reference.

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

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

PASSED, APPROVED AND ADOPTED this 2<sup>nd</sup> day of December 2014.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3006 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 18, 2014 and adopted at the regular meeting held December 2, 2014 by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

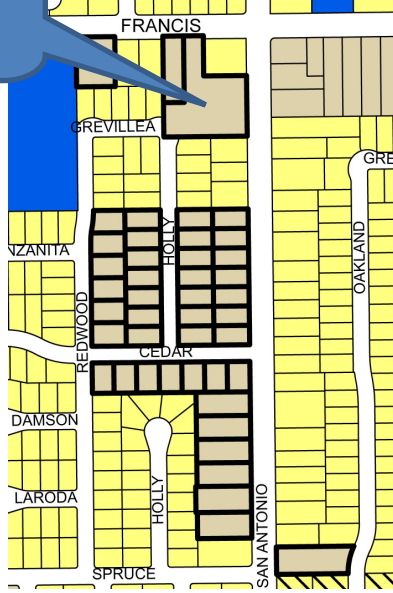
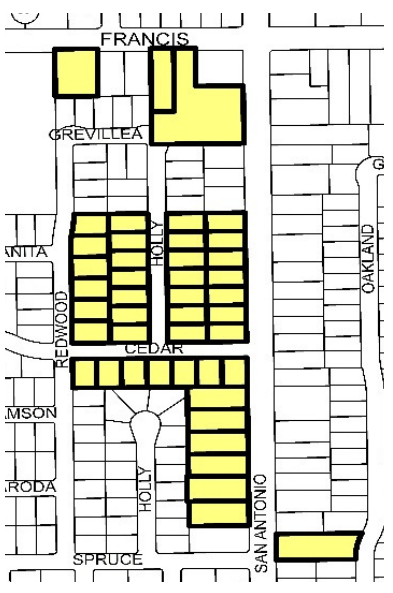
(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3006 duly passed and adopted by the Ontario City Council at their regular meeting held December 2, 2014 and that Summaries of the Ordinance were published on November 25, 2014 and December 9, 2014, in the Inland Valley Daily Bulletin newspaper.

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

(SEAL)

## Exhibit A: Zoning

Zoning	
Existing	Proposed
 <p>AR (Agricultural Residential)</p>	 <p>R1 (Single-Family Residential)</p>
<p>APNs: 1050-341-01, 1050-341-04 thru 05, 1050-341-09 thru 35, 1050-342-01 thru 07, 1050-624-15, 1050-631-09 thru 12, 1050-631-14, and 1050-631-38</p>	

# CITY OF ONTARIO

*Agenda Report*  
December 2, 2014

**SECTION:  
PUBLIC HEARINGS**

**SUBJECT: RESOLUTIONS REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 19 (COUNTRYSIDE PHASE 1 – SERVICES) AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 19 (COUNTRYSIDE PHASE 1 – SERVICES)**

**RECOMMENDATION:** That the City Council:

- (A) Adopt a resolution establishing City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services), authorizing the levy of a special tax within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services);
- (C) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien; and
- (D) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services).

**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:** In accordance with the City Council's long standing direction that development of the New Model Colony generate sufficient revenues to fund its required City Services without reliance on the existing financial resources of the Old Model Colony, the use of Mello-Roos financing in connection with the Countryside development is projected to generate approximately \$640,000 per year,

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

Prepared by: Bob L. Chandler  
Department: Management Services

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/02/2014

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

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

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

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at build-out, to fund City services. As proposed, the maximum annual tax rate on the project's 461 single-family detached units is \$1,387. The use of Mello-Roos financing is critical in achieving the City Council's goal of **"Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony."** The use of Mello-Roos financing for the Countryside Development will not generate funds for facilities, and bonds will not be issued as part of this formation. The CFD is being formed pursuant to the provisions of the Forestar Countryside, LLC First Amendment to the Development Agreement, and the First Amended and Restated Construction Agreement between the City and NMC Builders.

**BACKGROUND:** The Mello-Roos Community Facilities Act of 1982 provides 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 finance various kinds of public infrastructure facilities and government services. Government services that may be included in a community facilities district include police protection services, fire protection and suppression services, ambulance and paramedic services, maintenance and lighting of parks, parkways, streets, roads, open space and flood and storm drain protection services, and maintenance and operation of any real property or tangible property with an estimated useful life of five or more years that is owned by the governmental entity.

On October 21, 2014, the City Council approved Resolution No. 2014-103, a Resolution of the City of Ontario, California, of Intention to establish City of Ontario Community Facilities District No. 19 (Countryside Phase 1 – Services) and to authorize the levy of special taxes within the district. The Countryside Phase 1 – Services project addresses the residential development of approximately 85 acres located north of Deer Creek Channel, south of Riverside Drive, east of Cucamonga Creek Channel and west of Archibald Avenue. At build-out, the development is projected to include 461 detached residential units. Included, as part of the Resolution of Intention, is the proposed Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 19 (Countryside Phase 1 – Services). The terms of the Rate and Method of Apportionment of Special Tax are consistent with the City Council's adopted Mello-Roos local goals and policies, and City staff have discussed the proposed Rate and Method of Apportionment of Special Tax with the landowners.

The Resolution of Intention set the public hearing on the establishment of the CFD for December 2, 2014. In accordance with requirements of the resolution, the City Clerk has published a notice of the time and place of this hearing pursuant to Section 53322 of the California Government Code at least seven days before the hearing. Additionally, the City gave notice of the time and place of the meeting to each registered voter and to each landowner within the CFD's boundaries at least fifteen days before the hearing, and the district boundary map was recorded on October 29, 2014. The election will be held immediately after the close of the public hearing in order for the City Council to be presented with the results of the election during the meeting. The City Council may then adopt a resolution declaring the results of the election after receiving a statement from the City Clerk as to the canvass of ballots.

Attached are three resolutions and an ordinance. The first resolution establishes the CFD, with the rate and method of apportionment of special taxes, and introduces the levy of special taxes within the Community Facilities District. The second resolution calls for a special landowner election to be held on December 2, 2014. The third resolution declares the results of the election and includes a statement from the City Clerk as to the canvass of ballots. The ordinance authorizes the levying of special taxes. As noted, the issuance of bonds is not being contemplated for this project, so there is no resolution to issue bonds as part of this formation.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 19 (COUNTRYSIDE PHASE 1 - SERVICES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

WHEREAS, on October 21, 2014, 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"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes" (the "Resolution of Intention"), stating its intention to establish a community facilities district (the "Community Facilities District") proposed to be named City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services), to authorize the levy of special taxes within the Community Facilities District to finance certain services and setting the date for a public hearing to be held on the establishment of the Community Facilities District; and

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

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

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

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

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

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

WHEREAS, there has been filed with the City Clerk of the City a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of November 11, 2014, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the proposed Community Facilities District for each of the 90 days preceding the close of said public hearing.

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

SECTION 1. The foregoing recitals are true and correct.

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

SECTION 3. The Community Facilities District is hereby named "City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services)."

SECTION 4. The services (the "Services") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Services" on Exhibit A hereto. The incidental expenses proposed to be incurred are described under the caption "Incidental Expenses" on Exhibit A hereto. No facilities are proposed to be financed by the Community Facilities District.

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

SECTION 6. Except where funds are otherwise available, a special tax sufficient to pay for all Services, secured by recordation of a continuing lien against all nonexempt real property in the Community Facilities District, will be annually levied within the Community Facilities District. The rate and method of apportionment of the special tax (the "Rate and Method"), in sufficient detail to allow each landowner within the proposed Community Facilities District to estimate the maximum amount that he or she will have to pay, is described in Exhibit B attached hereto, which is by this reference incorporated herein. The obligation to pay the special tax may not be prepaid and permanently satisfied. 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.

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 name, address and telephone number of the office that will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and that will be responsible for estimating further special tax levies pursuant to Section 53340.2 of the Act are as follows: Management Analyst, Management Services, City of Ontario, 303 East B Street, Ontario, California 91764, (909) 395-2341.

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

SECTION 9. The boundary map of the Community Facilities District has been recorded in San Bernardino County in Book 86 at Page 39 of Maps of Assessments and Community Facilities Districts in the San Bernardino County Recorder's Office (Document No. 2014-0404624).

SECTION 10. The annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the Community Facilities District is hereby established at \$32,000,000.

SECTION 11. Pursuant to the provisions of the Act, the levy of the special tax and a proposition to establish the appropriations limit specified above shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The City Council hereby finds and determines that that no persons were registered to vote within the territory of the proposed Community Facilities District as of November 11, 2014, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax. The voting procedure shall be by mailed or hand-delivered ballot.

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

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

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

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

PASSED, APPROVED, AND ADOPTED this 2<sup>nd</sup> day of December 2014.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2014-     was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 2, 2014 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. 2014-     duly passed and adopted by the Ontario City Council at their regular meeting held December 2, 2014.

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

(SEAL)

## EXHIBIT A

### SERVICES AND INCIDENTAL EXPENSES

#### 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 costs associated with the creation of the Community Facilities District, 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.

EXHIBIT B

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

**CITY OF ONTARIO**  
**COMMUNITY FACILITIES DISTRICT No. 19**  
**(COUNTRYSIDE PHASE 1 – SERVICES)**

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

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A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 19 (Countryside Phase 1 – Services) ("CFD No. 19") and collected each Fiscal Year commencing in Fiscal Year 2014-15, 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. 19, 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 as may hereinafter be set forth have the following meanings:

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

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of CFD No. 19: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 19 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 19 related to an appeal of the Special Tax; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead related to CFD No. 19; and amounts estimated or advanced by the City or CFD No. 19 for any other administrative purposes of CFD No. 19, 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 on 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.

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

**“CFD No. 19”** means City of Ontario Community Facilities District No. 19 (Countryside Phase 1 – Services).

**“City”** means the City of Ontario, California.

**“City Council”** means the City Council of the City, acting as the legislative body of CFD No. 19.

**“County”** means the County of San Bernardino.

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

**“Gated Apartment Community Dwelling Unit”** means a Multiple Family Dwelling Unit within a gated community that, within such community, is primarily served by private interior streets.

**“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 below that can be levied in any Fiscal Year on such Assessor’s Parcel of Taxable Property.

**“Multiple Family Dwelling Unit”** means a Unit within any residential building containing two or more dwelling units, including attached condominiums, townhomes, duplexes, triplexes, and apartments, but excluding Gated Apartment Community Dwelling Units.

**“Non-Residential”** means any buildings that are for commercial lodging use, commercial retail use, institutional use (e.g., churches, private schools), commercial restaurant use, office use, or industrial use.

**“Non-Residential Property”** means, for each Fiscal Year, an Assessor’s Parcel for which a building permit for new construction was issued after January 1, 2014, and before May 1 of the prior Fiscal Year, for a Non-Residential use.

**“Property Owner Association Property”** means, for each Fiscal Year, property within the boundaries of CFD No. 19 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 that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Taxable Property.

**“Public Property”** means, for each Fiscal Year, property within the boundaries of CFD No. 19 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 Property”** means, for each Fiscal Year, an Assessor’s Parcel for which a building permit for new construction of one or more Units was issued after January 1, 2014, and before May 1 of the prior Fiscal Year.

**“Services”** means the services authorized to be financed, in whole or in part, by CFD No. 19: 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.

**“Special Tax”** means the special tax authorized by the qualified electors of CFD No. 19 to be levied within the boundaries of CFD No. 19.

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

**“Single Family Detached Dwelling Unit”** means any residential building containing only one Unit on one legal lot, including single family residences and single family detached residential condominium units.

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

**“State”** means the State of California.

**“Taxable Property”** means, for each Fiscal Year, all Assessor’s Parcels of Residential Property and Non-Residential Property within the boundaries of CFD No. 19 which are not exempt from the Special Tax pursuant to law or Section E below.

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

**B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, beginning with Fiscal Year 2014-15, all Taxable Property within CFD No. 19 shall be classified as Residential Property (Single Family Detached Dwelling Unit, Multiple Family Dwelling Unit, or Gated Apartment Community Dwelling Unit) or Non-Residential 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.

**C. MAXIMUM SPECIAL TAX**

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

**TABLE 1  
MAXIMUM SPECIAL TAX**

<b>Land Use Class</b>	<b>Maximum Special Tax Fiscal Year 2014-15</b>
<b>Residential Property:</b>	
Single Family Detached Dwelling Unit	\$1,387 per Unit
Multiple Family Dwelling Unit	\$1,202 per Unit
Gated Apartment Community Dwelling Unit	\$1,008 per Unit
<b>Non-Residential Property</b>	\$0.26 per Sq. Ft.

On January 1 of each Fiscal Year, commencing January 1, 2015, the Maximum Special Tax to be applied in the next Fiscal Year shall be subject to an automatic increase at a rate equal to 4.0% of the amount in effect for the prior Fiscal Year.

In some instances an Assessor's Parcel of Taxable Property may contain more than one Land Use Class. The Maximum Special Tax levied on an Assessor's Parcel shall be the sum of the Maximum Special Tax for all Units of Residential Property and Square Footage of Non-Residential Property (based on the applicable 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 2014-15, the CFD Administrator shall determine the Special Tax Requirement. The Special Tax shall then be levied Proportionately on each Assessor's Parcel of Taxable Property up to 100% of the applicable Maximum Special Tax for such Assessor's Parcel, until the Special Tax Requirement is satisfied. However, the Special Tax levied in any Fiscal Year shall not increase by more than 4.0% of the amount of the Special Tax levied in the prior Fiscal Year.

**E. EXEMPTIONS**

Notwithstanding anything in this Rate and Method of Apportionment to the contrary, no Special Tax shall be levied on Public Property or Property Owner Association Property.

**F. APPEALS**

Any property owner may file a written appeal of the Special Tax with CFD No. 19 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 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 Taxes 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. TERM OF SPECIAL TAX**

The Special Tax shall continue to be levied indefinitely on an annual basis on all Taxable Property in CFD No. 19.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 19 (COUNTRYSIDE PHASE 1 - SERVICES).

WHEREAS, on this date, 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"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation"), establishing City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services) (the "Community Facilities District"), authorizing the levy of a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District; and

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

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

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of November 11, 2014, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings on the establishment of the Community Facilities District; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on December 2, 2014 and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on December 2, 2014.

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

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

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

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

SECTION 4. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of November 11, 2014, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings heretofore held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 5. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, (b) to the holding of said election on December 2, 2014, and (c) to the waiver of any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on December 2, 2014.

SECTION 6. The City Council hereby calls a special election to submit to the qualified electors of the Community Facilities District the combined proposition to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District, which election shall be held at 303 East B Street, Ontario, California, California, on December 2, 2014. The City Council has caused to be provided to the City Clerk, as the official to conduct said election, the Resolution of Formation, a certified map of sufficient scale and clarity to show the boundaries of the Community Facilities District, and a sufficient description to allow the City Clerk to determine the boundaries of the Community Facilities District.

The voted ballots shall be returned to the City Clerk not later than 7:30 p.m. on December 2, 2014; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 7. Pursuant to Section 53326 of the Act, the election shall be conducted by mail or hand-delivered ballot pursuant to Section 4000 *et. seq.* of the California Elections Code. Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election.

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

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

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

SECTION 9. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk at 303 East B Street, Ontario, California, California, to and including 7:30 p.m. on December 2, 2014, whether said ballots be personally delivered or received by mail. The City Clerk shall have available ballots which may be marked at said location on the election day by said qualified electors.

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

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

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

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

PASSED, APPROVED, AND ADOPTED this 2<sup>nd</sup> day of December 2014.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2014-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 2, 2014 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. 2014-       duly passed and adopted by the Ontario City Council at their regular meeting held December 2, 2014.

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

(SEAL)

EXHIBIT A

OFFICIAL BALLOT

CITY OF ONTARIO  
DECEMBER 2, 2014

SPECIAL ELECTION

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

INSTRUCTIONS TO VOTERS:

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

CITY OF ONTARIO  
COMMUNITY FACILITIES DISTRICT NO. 19  
(COUNTRYSIDE PHASE 1 - SERVICES)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services) (the "Community Facilities District") be authorized to levy a special tax in order to finance certain services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$32,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District," adopted by the City Council of the City of Ontario on December 2, 2014?

Yes: ☐

No: ☐

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

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

WHEREAS, on December 2, 2014, 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"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services)" (the "Resolution Calling Election"), calling for a special election of the qualified electors within City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services) (the "Community Facilities District"); and

WHEREAS, pursuant to the terms of the Resolution Calling Election and the provisions of the Act, the special election was held on December 2, 2014; and

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

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

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

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

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

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

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

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

PASSED, APPROVED, AND ADOPTED this 2<sup>nd</sup> day of December 2014.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2014-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 2, 2014 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. 2014-       duly passed and adopted by the Ontario City Council at their regular meeting held December 2, 2014.

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

(SEAL)

EXHIBIT A

CITY OF ONTARIO  
COMMUNITY FACILITIES DISTRICT NO. 19  
(COUNTRYSIDE PHASE 1 - SERVICES)

CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on December 2, 2014, I canvassed the returns of the special election held on December 2, 2014, for the City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services), that the total number of ballots cast in said Community Facilities District and the total number of votes cast for and against the proposition are as follows and that the totals as shown for and against the proposition are true and correct:

	Qualified Landowner Votes	Votes Cast	YES	NO
City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services) Special Election, December 2, 2014	86			

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services) (the "Community Facilities District") be authorized to levy a special tax in order to finance certain services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$32,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District," adopted by the City Council of the City of Ontario on December 2, 2014?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 2nd day of December, 2014.

By: \_\_\_\_\_  
Mary E. Wirtes, City Clerk

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 19 (COUNTRYSIDE PHASE 1 - SERVICES).

WHEREAS, on October 21, 2014, 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"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services) (the "Community Facilities District") and to finance certain services (the "Services"); and

WHEREAS, on December 2, 2014, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation") and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 19 (Countryside Phase 1 - Services)", which resolutions established the Community Facilities District, authorized the levy of a special tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of levying a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District, respectively; and

WHEREAS, on December 2, 2014, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act;

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

SECTION 1. The City Council hereby authorizes and levies special taxes within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method of Apportionment"). The special taxes are hereby levied commencing in Fiscal Year 2014-15 and in each fiscal year thereafter until the last fiscal year in which such special taxes are authorized to be levied pursuant to the Rate and Method of Apportionment.

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

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

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

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

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

SECTION 7. This Ordinance shall take effect and shall be in force 30 days after the date of its adoption.

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

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. \_\_\_\_\_ was duly introduced at a regular meeting of the City Council of the City of Ontario held December 2, 2014 and adopted at the regular meeting held \_\_\_\_\_, 2014 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*  
December 2, 2014

**SECTION:**  
**PUBLIC HEARINGS**

**SUBJECT: CONSIDERATION OF A SPENDING PLAN FOR CITIZEN'S OPTION FOR PUBLIC SAFETY / ENHANCING LAW ENFORCEMENT ACTIVITIES SUBACCOUNT GRANT PROGRAM**

**RECOMMENDATION:** That the City Council receive public comment for the Fiscal Year 2014-15 Citizen's Option for Public Safety (COPS) / Enhancing Law Enforcement Activities Subaccount (ELEAS) grant; and approve the proposed spending plan.

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

**FISCAL IMPACT:** On September 11, 2014, the County of San Bernardino announced the estimated funding allocation amounts to be awarded to each participating agency under the COPS/ELEAS grant program. The City of Ontario is eligible to receive a maximum grant award of \$264,331. Since this amount is based on an estimation of the FY 2014-15 State of California's Vehicle License Fee (VLF) revenues, the allocation may be re-calculated and adjusted by the State Controller's Office. The grant funds will be distributed to the City in four installments: September and December 2014; and March and June 2015. The City is not required to provide matching funds for this grant. If approved, the associated revenue and expenditure adjustments will be presented in the next quarterly budget report to the City Council.

**BACKGROUND:** Beginning in FY 2002-03, the State of California allocated grant monies (COPS/ELEAS), formerly known as Supplemental Law Enforcement Services Fund/Citizen's Option for Public Safety (SLESF/COPS), to counties, who in turn, granted those monies to cities for the purpose of supporting front-line law enforcement needs. A public hearing is required for public input before the grant funds can be utilized.

**STAFF MEMBER PRESENTING:** Eric V. Hopley, Chief of Police

Prepared by: Donna Bailey  
Department: Police

Submitted to Council/O.H.A. 12/02/2014

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

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

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

City Manager  
Approval: \_\_\_\_\_



16

Based on current front-line operational needs, the Police Department proposes the following grant spending plan:

- |   |           |
|---|-----------|
| • Real-Time Intelligence, Data Analysis, and Information<br>Dissemination improvements to frontline personnel | \$264,331 |
|---|-----------|

<b>TOTAL</b>	<b><u>\$264,331</u></b>
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# CITY OF ONTARIO

*Agenda Report*

December 2, 2014

SECTION:  
PUBLIC HEARINGS

**SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 19 TO TITLE 4 OF THE ONTARIO MUNICIPAL CODE RELATING TO ROTATIONAL TOWING SERVICES**

**RECOMMENDATION:** That the City Council introduce and waive further reading of an ordinance amending Chapter 19 to Title 4 of the Ontario Municipal Code, regarding the regulation of rotational towing services.

**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:** None.

**BACKGROUND:** The regulation of towing services ensures that the best possible towing carriers are selected fairly and objectively from among qualified firms through a public procurement process, and that the delivery of these services is provided to the City, the Police Department and the public in a prompt and safe manner.

In September 2004, Ordinance No. 2803 was approved by the City Council, which related to rotational towing services. Since this implementation, Police Department staff have identified amendments to Chapter 19 to Title 4 of the Ontario Municipal Code that will reflect the current needs and operations of towing services.

On November 18, 2014, City Council granted a 90 day extension period to existing towing services agreements to allow staff to perform a comprehensive review of the Ontario Municipal Code and tow operations requirements before considering any new towing services agreements.

Current and projected future usage of the towing carrier's facility requirements do not necessitate the operational needs of a two hundred fifty car lot. It is recommended that the lot be reduced to one

**STAFF MEMBER PRESENTING:** Eric V. Hopley, Chief of Police

Prepared by: Darryl Polk  
Department: Police

Submitted to Council/O.H.A. 12/02/2014

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

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

City Manager  
Approval: 

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

17

hundred fifty. It is also recommended that the original transitional language codified in the Ontario Municipal Code be removed as its relevance and applicability are no longer required.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, AMENDING SECTION 4-19 OF THE ONTARIO  
MUNICIPAL CODE, RELATING TO ROTATIONAL TOWING SERVICES.

WHEREAS, in September 2004, the City Council of the City of Ontario adopted Ordinance No. 2803 adding Chapter 19 to Title 4 of the City of Ontario Municipal Code pertaining to rotational towing services; and

WHEREAS, Section 4-19.04 of the Municipal Code provided for towing services agreements to incumbent services providers as of 2004: Certified Towing, Inc., Dietz Towing, LLC, James Foglesong Towing and Storage, Inc., and United Road Service, DBA Bill and Wags, Inc.; and

WHEREAS, Section 4-19.07(b)(2) of the Municipal Code currently states that a storage facility shall hold a minimum of two hundred fifty (250) vehicles; and

WHEREAS, on November 18, 2014, the Ontario City Council granted an extension of existing towing services agreements for ninety (90) days from the expiration date of November 23, 2014, to allow staff to perform a comprehensive review of the Ontario Municipal Code and tow operations requirements before considering any new towing services agreements; and

WHEREAS, the City now wishes to amend Chapter 19 to Title 4 of the Ontario Municipal Code to reflect current and anticipated operational requirements; and

WHEREAS, on December 2, 2014, the City Council conducted a public hearing to introduce and waive further reading of an ordinance relating to rotational towing services.

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

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

SECTION 2. Chapter 19 of Title 4 of the Ontario Municipal Code is hereby amended, in its entirety, to read as follows:

CHAPTER 19: ROTATIONAL TOWING SERVICES

- 4-19.01 Definitions
- 4-19.02 Purpose
- 4-19.03 Towing carrier permit
- 4-19.04 Permit terms and conditions
- 4-19.05 Selection of towing carriers
- 4-19.06 Towing carrier's obligations; minimum requirements for facilities

- 4-19.07 Towing carrier's obligations; minimum requirements for equipment
- 4-19.08 Towing carrier's obligations; minimum requirements for personnel
- 4-19.09 Towing carrier's miscellaneous obligations
- 4-19.10 Towing rotation list
- 4-19.11 License requirements
- 4-19.12 Executions of agreements
- 4-19.13 Tow rates
- 4-19.14 Payment of administrative fees to the City
- 4-19.15 Revocation and suspension of towing carrier permits
- 4-19.16 Transfer or assignment of permit
- 4-19.17 Penalties
- 4-19.18 Authority for City to maintain own towing operations and towing facilities

Sec. 4-19.01 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "Automobile dismantler's vehicle" shall mean a tow vehicle that is registered by an automobile dismantler licensed pursuant to California Vehicle Code, § 11500 et seq., and which is used exclusively to tow vehicles owned by the automobile dismantler in the course of the automobile dismantling business.
- (b) "Business license" shall mean a license issued by the City's License Official.
- (c) "City" shall mean the City of Ontario.
- (d) "City Manager" shall mean the City Manager of the City of Ontario or his or her designee.
- (e) "Non-consensual towing service" shall mean towing services provided to the City's Police Department in situations where vehicle owners are unable to consent to having their vehicle towed, such as in cases of severe accident, where a vehicle is being towed for being illegally parked on public property or towed as a result of a police order.
- (f) "Chief of Police" shall mean the Chief of Police of the City of Ontario or his or her designee.
- (g) "Police Department" shall mean the Ontario Police Department.
- (h) "Rotation list" shall mean the City's list of eligible towing carriers to be used by the Police Department when assistance is needed to remove abandoned, disabled or impounded vehicles.
- (i) "Tow vehicle" shall mean a motor vehicle which has been altered or designed or equipped for and exclusively used in the business of towing vehicles by means of a crane, tow bar, tow line, dolly or a roll-back carrier or is otherwise used to render emergency assistance to disabled and other vehicles.

(j) "Towing carrier" or "towing provider" shall mean a towing company and the owner(s) and/or managing employee(s) of a towing company.

(k) "Tow vehicle driver" shall mean the driver of an authorized tow vehicle used for towing another motor vehicle.

#### Sec. 4-19.02 Purpose.

(a) The purpose of this chapter is to establish towing regulations to govern the provision of non-consensual towing services to the City's Police Department, consistent with state and federal laws, as well as the public health, safety and welfare. A further purpose is to ensure that the best possible towing services are selected to participate in the City's rotational tow program to assist the Police Department in conducting efficient police investigations and provide the citizens of Ontario with prompt, safe and comprehensive towing services.

(b) These regulations are not intended to govern situations where towing has been requested by vehicle owners or private property owners, except as may be permitted by law. Instead, these regulations, and the towing services agreements entered into in conjunction with this chapter, are intended to provide a fair and objective method of selecting towing carriers from among qualified firms to ensure that towing carriers and drivers selected provide the Police Department and the public with prompt, safe and comprehensive towing services using the latest in towing technology and vehicle towing and storage safety.

#### Sec. 4-19.03 Towing carrier permit.

The City Council may at its discretion, by adoption of a resolution or ordinance, grant a non-exclusive permit to a towing carrier to provide towing services to the City under and pursuant to the provisions of this chapter.

#### Sec. 4-19.04 Permit terms and conditions.

(a) All permits granted to towing carriers pursuant to this chapter shall be non-exclusive and shall be for a term to be specified by the City Council in the resolution granting a permit hereunder and in the towing services agreement between the City and the towing carrier.

(b) No provisions of this chapter shall be deemed to require restricting the number of permits to one or any particular number, and no provision of this chapter shall be deemed to require the City Council to grant any permit if the City Council determines that the grant of any such permit is not in the best interest of the City or the public.

(c) All towing carrier permits shall be subject to the terms and conditions specified in this chapter, as well as any terms or conditions specified in the towing services agreement.

(d) In granting any towing carrier permit, the City Council may prescribe such other terms and conditions, not in conflict with this chapter, as are determined by the City Council to be in the best interest of the City or the public.

#### Sec. 4-19.05 Selection of towing carriers.

(a) Within ninety (90) calendar days of the date an existing towing carrier permit is due to expire, or whenever the Chief of Police determines that a new towing carrier is needed to provide tow services to the City, the Chief of Police shall request that the Purchasing Division prepare and distribute a notice inviting requests for qualifications for a towing carrier permit. The Purchasing Division shall identify the most qualified towing carrier, provided that the City receives at least one qualified applicant, in accordance with the objective performance criteria set forth in this chapter and as may be promulgated in writing by the Chief of Police. In determining the required number of towing carriers, the Chief of Police may consider, but is not limited to, the following factors:

- (1) The operational needs of the City or its Police Department;
- (2) The population growth in the City;
- (3) The additional land area annexed into the City;
- (4) The number of currently authorized towing carriers and their average response times;
- (5) The administrative burdens imposed by the number of towing carriers to be included on the rotation list; and
- (6) Any other relevant factors to be determined by the Chief of Police.

(b) The name of any qualified applicant(s), if there is one, shall be forwarded to the Chief of Police who shall conduct a background investigation of the operator and his or her employees. In addition, the Chief of Police will verify all information included in the proposal submitted to the City. Upon successful completion of the background investigation, the Chief of Police shall recommend in writing to the City Manager that the City issue, or refuse to issue, a towing carrier permit to the applicant(s) identified by the Purchasing Division. The City Council shall then determine whether it is in the City's best interests to issue a towing carrier permit to the identified applicant(s). If the City Council determines that it is in the City's best interests to issue a towing carrier permit, it may do so by resolution in accordance with this chapter.

#### Sec. 4-19.06 Towing carrier's obligations; minimum requirements for facilities.

To be eligible to provide towing services to the City and its Police Department, the towing carrier must meet the following minimum requirements with respect to its facilities:

(a) Location of storage facility. The proposed towing storage lot shall be located within the City of Ontario city limits to ensure adequate response times and limit the City's costs and administrative burdens of having Police Department personnel conduct investigations at distant storage lots.

(b) Storage facility requirements. Adequate security measures for the protection of vehicles and property shall be provided for all storage facilities. The Chief of Police or his or her designee shall be the sole judge of what constitutes "adequate" security measures and may grant additional consideration for state of the art security measures, including, but not limited to, security cameras and motion sensors. At a minimum, all storage facilities shall comply with the following requirements:

(1) All storage facilities shall be enclosed by a wall or fence at least six (6) feet in height. Alternatively, storage facilities may consist of enclosed buildings.

(2) Storage lot that can hold a minimum of one hundred fifty (150) vehicles.

(3) The storage facility and lot shall be configured in such a way that no vehicles shall be left parked or stored on the public streets at any time. The business must provide off-street parking for its equipment and be able to accommodate at least two (2) additional vehicles for customer parking. In addition to the two (2) customer parking spaces, at least one (1) additional customer parking space shall be provided for handicapped parking purposes. Said handicapped parking space shall be van accessible. Storage vehicles should be secured away from customer parking and the office area. The towing carrier's office located in the City must have a sign posted including the company name, address, phone number and hours of operation, to be clearly visible from the roadway.

(4) The proposed storage facility shall contain an enclosed building or enclosed storage facility that holds a minimum of two (2) vehicles, to be used exclusively in situations where the Police Department orders an impound because probable cause exists to believe that the vehicle was involved in the commission of a crime or for other reasons that require evidentiary analysis of the vehicle (the "designated impound space").

(i) The designated impound space shall be completely protected from the elements, including wind, heat, adverse weather and other forms of contamination (i.e., dust).

(ii) The designated impound space must be able to be secured and unauthorized entry must be prevented. At a minimum, there should be a door or gate that can be locked and secured from employees and visitors.

(iii) The designated impound space must be at least thirty (30) feet by forty (40) feet.

(iv) The designated impound space must be lit with a minimum of two 50-watt, overhead lamps, or similar lamps that provide equal or greater light.

(v) The designated impound space area must be accessible to Police Department personnel twenty-four (24) hours a day, seven (7) days a week.

(vi) The designated impound space must be reasonably clean and clear of dirt, animal waste, oil, and the like.

(vii) The designated impound space must be protected by an alarm system to prevent unauthorized entry. The alarm system shall be monitored by an off-site monitoring company. The alarm code for the alarm system shall be provided to Police Department personnel at all times and shall be changed by the towing carrier only upon receiving authorization from the Chief of Police or at his or her direction. The towing carrier shall not provide the alarm code to any person unless authorized to do so by the Chief of Police.

(c) All proposed storage facilities must be approved for security by the Traffic Division Sergeant or designated representative, and available for inspection upon request. Any breach of security in a building or fence must be repaired within twenty-four (24) hours.

(d) All necessary vehicle storage facilities needed to meet the minimum requirements of this section shall be constructed prior to the submittal of a response to the request for qualifications issued by the Purchasing Division. Proposed facilities shall not be awarded credit. All necessary approvals for such storage facilities shall comply with the applicable provisions of the Ontario Municipal Code, or appropriate county and/or City codes. Compliance with this subsection shall not be deemed to create any duty for the City to award a permit to the towing carrier.

#### Sec. 4-19.07 Towing carrier's obligations; minimum requirements for equipment.

(a) The towing carrier shall have operative and available at all times tow trucks and/or tow vehicles that meet the following requirements:

- (1) One (1) - Class "A" (or equivalent) tow vehicle;
- (2) Five (5) - Class "B" tow vehicles;
- (3) Three (3) - (or have available) Class "C" tow vehicles; and
- (4) One (1) - (or have available) Class "D" tow vehicle.

(b) Tow vehicles must be equipped as tow trucks in compliance with the provisions of the California Vehicle Code, including, but not limited to, §§ 615, 21711, 24605, 25100, 25253, 27700, and 27907. Tow vehicles must also pass the annual CHP inspection, or its equivalent.

(c) All tow vehicles must have adequate equipment for the towing of vehicles. Basic equipment shall include but not be limited to: fire extinguisher(s); broom; shovel; reflective triangles; flares; two (2) trash can(s).

(d) All tow vehicles must have a cable winch of sufficient size and a cable capacity of not less than fifty (50) feet to retrieve vehicles which have gone over embankments or off traveled portions of roadways into inaccessible locations.

(e) The towing carrier shall have at least one (1) vehicle designed to carry motorcycles, by a flatbed truck, trailer or other means, which will not cause additional damage to the motorcycle.

(f) The towing carrier must have equipment for and have personnel proficient in unlocking locked vehicles when requested to do so by the Police Department.

(g) Throughout the term of the towing services agreement with the City, the towing carrier shall maintain in good condition the real property and improvements thereon, and all vehicles, facilities, equipment and material used in the performance of the services required by this chapter or the towing services.

#### Sec. 4-19.08 Towing carrier's obligations; minimum requirements for personnel.

(a) Towing carriers shall provide the name, date of birth, and valid California Driver License number of all drivers employed by the towing carrier to the Police Department's Traffic Division. The Traffic Division Sergeant or his or her designated representative shall also be notified of any new drivers within five (5) days of their date of hire.

(b) Tow driver qualifications/requirements:

(1) Drivers employed by towing carriers shall be at least eighteen (18) years old, possess the required class driver license in to operate any or all tow vehicles specified under § 4-19.07, and sufficiently capable and trained to ensure safe and proper discharge of their towing service responsibilities. All drivers shall meet all requirements specified in §§ 2430.5 and 12520 of the California Vehicle Code.

(2) Drivers and/or towing carriers shall provide the Traffic Division Sergeant with information of any driving citations received by the tow driver(s) in the immediate prior three (3) years and all information regarding any criminal convictions.

(3) Drivers shall be presentable and shall wear uniform-type pants and shirts.

(4) The Chief of Police is also hereby empowered to require that a towing carrier's drivers:

(i) Be fingerprinted; and

(ii) Undergo background checks by the California Department of Motor Vehicles and any other agency deemed appropriate to determine the safety practices of the drivers.

(5) Towing carriers shall not utilize any driver:

(i) Who is subject to epilepsy, fainting or loss of consciousness by reason of chronic medical condition;

(ii) Whose driving record indicates five (5) violations of traffic laws involving moving vehicles within two (2) years preceding the date of application;

(iii) Who has furnished false information on this application or omitted to furnish all information requested on said application forms;

(iv) Who has been convicted of driving while under the influence of intoxicating liquor or narcotic drugs, or both, within three (3) years of the date of application; or

(v) Who has been convicted of a felony, any crime involving moral turpitude, or any crime(s) specified in the towing services agreement within two (2) years preceding the date of application.

(6) Notwithstanding compliance with the foregoing provisions, the City may prohibit certain drivers from providing towing services to the City or its Police Department in its sole discretion. Such directives shall be in writing to the towing carrier.

#### Sec. 4-19.09 Towing carrier's miscellaneous obligations.

As a condition to issuance of a permit by the City, the towing carrier must also agree to:

(a) Ownership of equipment and facilities. Towing carriers shall demonstrate and furnish proof of possession of the towing equipment and storage yard facilities necessary to perform the obligations set forth in this chapter and the towing services agreement, as well as title to, or lease agreements for, the right to use the land and improvements necessary to perform the obligations set forth therein. The proposed storage facility and improvements thereon shall meet the zoning and building requirements of the city or county in which it is located, as well as all requirements of this chapter and the towing services agreement;

(b) Maintain in full force and effect the insurance requirements as specified in its towing services agreement;

(c) Charge towing fees in compliance with § 4-19.13. Each towing carrier shall maintain a sign listing the rates and charges of all towing and storage services offered. Such sign has to be conspicuously placed in the office or other places where customer financial transactions take place;

(d) Furnish each owner of an automobile impounded by towing carrier with a fully itemized billing;

(e) Submit at any reasonable time to a Police Department inspection all drivers, vehicles, equipment and yards. For those towing carriers that cannot produce an annual California Highway Patrol certification, the Police Department also reserves the right to require that all towing vehicles be inspected by an automotive professional certified by the State of California Bureau of Automotive Repair, and selected by the Police Department. All vehicle inspection fees shall be borne solely by the towing carrier and shall be due and payable upon presentation of the vehicle for inspection. A yearly inspection of all vehicles is required and the towing carrier shall not interfere in any way with any such inspections. The Towing Carrier is responsible for arranging the annual vehicle inspection with the Police Department. Any towing vehicle that fails an inspection shall not be used to provide towing service in the City until it is repaired and passes re-inspection. All towing vehicles shall be operated and maintained in compliance with applicable state and federal laws and regulations;

(f) Any and all equipment used and maintained by the towing carrier must be available for inspection by the Police Department upon request. All equipment, vehicles, and facilities to be used under the towing services agreement shall be subject to inspection by the Police Department or other designated inspection entities authorized by the Police Department;

(g) Towing carriers shall install and maintain during the period of providing towing services to the City and the Police Department, radio transmission and reception contact with each tow vehicle and driver;

(h) Comply with California Vehicle Code, § 10652 concerning the reporting of the storage of vehicles in excess of thirty (30) days and California Vehicle Code, § 10652.5 concerning vehicle storage fees;

(i) Tow and store vehicles that will be used as, or contain, evidence of crimes for the Ontario Police Department without charge;

(j) The towing carrier may not perform said function as described in § 4-19.09(i) if criminal charges are pending against the towing carrier or one of its owners or principals. The towing carrier's inability to perform this function constitutes a material breach of its towing services agreement and shall provide the basis for either suspension or revocation of its towing services agreement;

(k) Indemnify and defend the City, its elected and appointed officers, employees, agents and volunteers against, and will hold and save them, and each of them, harmless from any and all actions, claims, damages to persons or property, penalties, obligations or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of or in connection with any of the towing service operations or activities by the towing carrier, its officers, agents, or employees, whether or not there is concurrent passive or active negligence on the part of the City, its officers, agents or employees, but excluding such actions, claims, damages to persons or property, penalties, obligations, or liabilities arising from the sole negligence or willful misconduct of the City, its elected or appointed officers, employees, agents or volunteers who are directly responsible to the City and in connection therewith:

(1) Will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations or liabilities and will pay all costs and expenses, including attorney's fees, incurred in connection therewith;

(2) Will promptly pay any judgment rendered against the towing carrier or the City, its elected and appointed officers, employees, agents and volunteers covering such claims, damages, penalties, obligations and liabilities arising out of or in connection with such towing service operations, or activities of the towing carrier hereunder; and the towing carrier agrees to save and hold the City harmless therefrom;

(3) In the event the City, its elected and appointed officers, employees, agents and volunteers is made a party to any action or proceeding filed or prosecuted against the towing carrier for such damages or other claims arising out of or in connection with the towing service operations or activities of the towing carrier hereunder, the towing carrier agrees to pay to the City any and all costs and expenses incurred by City, its elected and appointed officers, employees, agents and volunteers in such actions or proceedings, together with reasonable attorneys' fees of the attorneys selected by the City to defend the City, its elected and appointed officers, employees, agents and volunteers in such actions; and

(4) Disputes between the towing carrier and the City arising from the provision of towing services to the City pursuant to the towing services agreement are excluded from the duty to indemnify, defend and hold harmless.

(l) Develop and maintain written policies and procedures to restrict access and to preclude evidence contamination by employees and other individuals in the designated impound space. Such policies shall be submitted with the permit application, within thirty (30) days after award of the contract for existing towing carriers, and any time the written policies are modified. "Evidence contamination" is defined as the removal or touching of any items, papers, vehicle parts, and the like, of a stored vehicle that is impounded by the Police Department for investigation purposes;

(m) Vehicles that have been impounded by order of the Police Department shall not be released, lien sold, or sold without authorization from the Police Department;

(n) No employee of a towing carrier or the provider's storage facility shall perform any work upon any Police Department impounded or stored vehicle without first obtaining written permission from the owner of the vehicle and no work or repair may be commenced without an official written release by the Police Department;

(o) The Ontario Police Department shall have the right to designate when a vehicle is to be placed into the designated impound space and may place a seal on each door of the vehicle or door(s) of the designated impound space;

(p) Vehicles placed into the designated impound space shall not be removed from such protection until approved by the Police Department;

(q) Post a tag on the windshield of all cars ordered impounded by the Police Department. As an alternative to posting a tag on the windshield of the car, a towing carrier may affix temporary markings on the car windshield;

(r) Not release any vehicle in its possession until all state and City requirements are satisfied, the written authorization for release is provided by the Ontario Police Department and all appropriate release charges are collected; and

(s) Not release personal property contained within towed vehicles unless written authorization of the Ontario Police Department is first obtained. When personal property is released the written authorization shall be kept with the vehicle storage paperwork. There shall be no charge for the release of personal property during normal business hours. Towing carriers may charge an after-hours release fee for property released after normal business hours. Minimum normal business hours shall be from 8:00 a.m. to 5:00 p.m., five (5) days a week (Monday through Friday), excluding holidays.

#### Sec. 4-19.10 Towing rotation list.

(a) Towing carriers selected to provide towing services to the City, if more than one is selected, shall abide by the towing rotation system established by the Chief of Police. The Chief of Police shall develop a list of towing carriers selected to provide towing services to the City. The towing carrier at the top of the list shall be on call to provide towing service to the City in accordance with the rotation system established by the Chief of Police. Once a towing carrier completes its designated on-call service, the towing carrier's name shall be moved to the bottom of the list and the towing carrier then at the top of the list shall begin its designated on-call service. The towing carrier further must agree to be available and timely respond to any inquiries made by the Police Department concerning the impacts of any proposed towing rotation system changes. Should a towing

carrier refuse or be unable to respond to a call for service, the City may request services from any other available towing carrier selected to provide towing services to the City.

(b) The City may request services from a towing carrier who is not on-call in situations wherein the City Manager, Chief of Police or the Police Department Watch Commander deems a situation to exist such that additional towing services are necessary to adequately meet the needs of the City or its Police Department. The towing rotation list may be amended from time to time by the Chief of Police.

#### Sec. 4-19.11 License requirements.

No person shall engage in the business of providing towing services to the City or its Police Department without first obtaining a City business license, complying with the provisions of this chapter and entering into a towing services agreement with the City.

#### Sec. 4-19.12 Execution of agreements.

All permits granted by the City Council pursuant to this chapter shall be contingent upon entering into a written agreement between the towing carrier and the City. The towing services agreement shall be entered into between the towing carrier and City within thirty (30) days of the effective date of any City Council action awarding a permit. The towing services agreement shall be in a form approved by the City Attorney. Each towing services agreement shall provide that the terms and conditions of each permit as set forth in this chapter shall be incorporated by reference into the agreement. The term of the written agreement shall be for a period five (5). A towing services agreement may be extended, at the sole and absolute discretion of City Council, for a period, or periods, not to exceed ninety (90) days. All terms and conditions contained in any towing services agreement entered into between the towing carrier and the City prior to adoption of this chapter shall continue in full force and effect according to their terms.

#### Sec. 4-19.13 Tow rates.

The tow rates shall be set by City Council annually. The Chief of Police shall make recommendations to the City Council on rates permitted to be charged by towing providers. Such recommendation will follow an annual tow rate survey conducted by the Police Department.

#### Sec. 4-19.14 Payment of administrative fees to the City.

(a) The towing carrier shall pay an administrative fee per vehicle towed to the City in connection with the award of this permit, and according to the terms of the towing services agreement, in an amount determined on an annual basis by resolution of the City Council. These administrative fees shall be paid on a

monthly basis to the City's Administrative Services Agency on or before the 15th day following the end of each month. The towing carrier shall not be responsible for payment of an administrative fee to the City for the towing of vehicles in certain specified circumstances as more fully set forth in its towing services agreement.

(b) The administrative fee shall be adjusted annually by resolution of the City Council to reflect the City and the Police Department's current costs for operating the towing program and such adjustment shall be applicable to the towing carrier upon ten (10) days' written notice of the adoption of such resolution.

(c) Late charges on delinquent accounts shall be subject to penalties outlined in § 1-2.07, or as it may hereinafter be amended.

(d) The City shall retain the right to impose alternative forms of taxes and/or fees, to the extent permitted by law, in the event that the fees provided for in the towing services agreements are no longer assessable due to a subsequent change in federal, state or local law.

(e) The towing carrier must make available to the Police Department, the City or their designated representative(s), upon three (3) days' written notice, its accounting records and books for inspection and audit. The Police Department, the City or their designated representative(s) agree to maintain the confidentiality of such accounting records and books. The towing carrier shall submit monthly documentation detailing its operations on behalf of the City in a format that is acceptable to the Traffic Division of the Department. Such documentation shall include the following information: the date, time, location, case number (if any), vehicle description (including make, model and vehicle license number) and a brief description of the circumstances surrounding the tow (traffic collision, Department impound, and the like). Towing carriers shall maintain these records for a period of three (3) years. If the results of the audit show an administrative fee underpayment of greater than two percent (2%), the towing carrier will pay the cost of the audit plus fifty percent (50%) of the total error as a penalty in addition to any amount owed as shown by the audit. If the results of the audit show an underpayment of less than two percent (2%) or an overpayment, the City shall pay its own costs associated with the audit. Any underpayment and resulting penalty shall accrue interest at the rate of ten percent (10%) per annum, compounded daily from the date the underpayment should have been paid pursuant to subsection (a) above.

(f) In the event the results of the audit are disputed, the City may, at its sole discretion, elect to arbitrate the dispute. In the event the City elects to arbitrate, the City and the towing carrier shall each select an independent auditor at their own cost. The two (2) auditors shall agree upon the results of the audit. If the two (2) independent auditors cannot agree upon the results of the audit, a third auditor will be selected by the two (2) independent auditors to make a final determination. The determination of the third independent auditor shall be final.

(g) By accepting any towing carrier permit granted pursuant to this chapter, the towing carrier irrevocably waives the defenses of any statute of limitation, laches, waiver or other equitable doctrine of similar import or effect in any action brought by the City to recover any fees, interest or penalties due under this section.

#### Sec. 4-19.15 Revocation and suspension of towing carrier permits.

(a) The Chief of Police may suspend temporarily, and the City Council or City Manager may suspend or revoke any towing carrier permit granted pursuant to this chapter, or any towing services agreement entered into pursuant to this chapter, and to rescind all rights and privileges associated with them at any time if:

(1) The towing carrier defaults in the performance of its obligations under this chapter or its towing services agreement and fails to cure such default after receipt of written notice of the default from the City or its Police Department and a reasonable opportunity to cure the default in accordance with subsection (c)(1) below;

(2) If the towing carrier fails to provide or maintain in full force and effect the insurance coverage as required in this chapter and as set forth in its towing services agreement;

(3) If the towing carrier violates any order or ruling of any regulatory body having jurisdiction over the towing carrier relative to the towing carrier's tow truck business, unless such order or ruling is being contested by the towing carrier by appropriate proceedings conducted in good faith;

(4) If the towing carrier practices any fraud or deceit upon the City or upon persons to whom it provides tow truck service as determined by a court of law; or

(5) If the towing carrier becomes insolvent, unable or unwilling to pay its debts and obligations, or is adjudged to be bankrupt. The City's revocation of the towing carrier's permit shall in no way affect any right of the City to pursue any remedy under the towing services agreement or any other provision of law.

(b) (1) Notwithstanding the City Manager or City Council's right to suspend or revoke a permit and related towing services agreement, the Chief of Police shall have the right to suspend, for a period not to exceed thirty (30) days, any towing carrier permit granted pursuant to this chapter, and any towing services agreement entered into pursuant to this chapter, and to rescind all rights and privileges associated with them during the suspension period, if the towing carrier violates any provision of this chapter, any material provision of the towing services agreement or any state or federal law. The Chief of Police may exercise this authority up to

three (3) times per calendar year. Thereafter, the Chief of Police may recommend suspension or revocation of the towing carrier's permit and towing services agreement to the City Manager or City Council.

(2) Any appeal of the Chief of Police's decision to suspend a towing carrier's permit and towing services agreement shall be made to the City Manager. The appeal shall be conducted in accord and pursuant to the procedures set forth in § 1-4.01 et seq., with the exception that the hearing officer shall be the City Manager or his or her designee. Any subsequent appeal shall be to the City Council as noted in subsection (c)(3) below.

(c) Prior to suspending or revoking a permit granted under this chapter, and towing services agreement entered into pursuant to this chapter, the City shall give the towing carrier notice and an opportunity to be heard on the matter, in accordance with the following administrative procedures:

(1) City staff shall first notify the towing carrier of the violation in writing by personal delivery or registered or certified mail, and demand that the towing carrier cure the default within a reasonable time, which shall not be less than ten (10) days in the case of the towing carrier's failure to pay any sum or other amount due the City under this chapter or the towing carrier's towing services agreement with the City and thirty (30) days in all other cases. If the towing carrier fails to correct the violation within the time prescribed or if the towing carrier fails to commence correction of the violation within the time prescribed, the City shall give the towing carrier fourteen (14) calendar days written notice of public hearing to be held before the City Manager. The written notice shall specify the alleged violations supporting the recommendation for suspension or revocation of the permit and towing services agreement.

(2) The City Manager shall hear and consider all relevant evidence submitted by staff and the towing carrier or its agent or representative. If the City Manager finds by a preponderance of the evidence that the towing carrier has committed a material breach of the towing services agreement or this chapter, the City Manager may suspend or revoke the towing carrier's permit and towing services agreement.

(3) The towing carrier may appeal the City Manager's decision to the City Council. The appeal shall be conducted in accord and pursuant to the procedures set forth in § 1-4.01 et seq.

#### Sec. 4-19.16 Transfer or assignment of permit.

A towing carrier shall not sell, transfer, lease, assign, sublet, mortgage or dispose of in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, the permit or any rights or privileges therein granted, without the prior written consent of the City Council. The City Council's approval of a transfer or assignment of a permit granted pursuant to this chapter shall be conditioned upon the towing carrier's sale or disposal of all

ownership rights to its tow truck business. A towing carrier that desires to transfer or assign its permit, because he or she intends to sell or dispose of all interests in the tow truck business that has a permit with the City, shall make a written request for transfer or assignment of the permit. The written request, a deposit of One Thousand Dollars (\$1,000.00) and the proposed sale agreement or other document evidencing disposal of the tow truck business shall be submitted to the Administrative Services Agency at least one hundred-twenty (120) days before the requested transfer or assignment date. The Administrative Services Agency and the Police Department shall investigate the proposed transferee or assignee and determine whether the transferee or assignee is qualified to serve as a permitted towing carrier pursuant to the criteria and requirements set forth in this chapter and make a recommendation to the City Council. Upon completion of the City Council's approval or denial, the Administrative Services Agency shall provide the towing carrier that requested the transfer or assignment with an accounting of the administrative and legal costs associated with the City's review of the towing carrier's request for a transfer or assignment of the permit, and shall also provide any refund due. Any attempt to sell, transfer, lease, assign or otherwise dispose of the permit without the prior consent of the City Council shall be null and void.

#### Sec. 4-19.17 Penalties.

Any towing carrier, driver or other employee thereof violating the provisions of this chapter shall be guilty of a misdemeanor or an infraction, in the City Attorney's discretion. In addition, any towing carrier or towing company violating the provisions of its towing services agreement or this chapter shall be subject to revocation or suspension of its privileges to provide towing services to the City.

#### Sec. 4-19.18 Authority for City to maintain own towing operations and towing facilities.

Nothing in this chapter shall be construed to restrict or prohibit the City from conducting its own towing operations or maintaining its own towing storage yard, either in lieu of, or in addition to any towing carrier permit that is awarded pursuant to this chapter.

**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 \_\_\_\_\_ 2014.

\_\_\_\_\_  
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 \_\_\_\_\_, 2014 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)