

**CITY OF ONTARIO**  
**CITY COUNCIL AND HOUSING AUTHORITY**  
**AGENDA**  
**DECEMBER 3, 2013**

**Paul S. Leon**  
Mayor

**Jim W. Bowman**  
Mayor pro Tem

**Alan D. Wapner**  
Council Member

**Debra Dorst-Porada**  
Council Member

**Paul Vincent Avila**  
Council Member



**Chris Hughes**  
City Manager

**John E. Brown**  
City Attorney

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

**James R. Milhiser**  
Treasurer

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

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

**ORDER OF BUSINESS:** The regular City Council 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***

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

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

***CLOSED SESSION***

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

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

***PLEDGE OF ALLEGIANCE***

Council Member Avila

***INVOCATION***

Pastor Reegis Richard, The Joshua Center International

***REPORT ON CLOSED SESSION***

City Attorney

## **PUBLIC COMMENTS**

**6:30 p.m.**

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

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

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

## **CONSENT CALENDAR**

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

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

### **1. APPROVAL OF MINUTES**

Minutes for the regular meeting of the City Council and Housing Authority of November 5, 2013, and approving same as on file in the Records Management Department.

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

**Bills** October 20, 2013 through November 2, 2013 and **Payroll** October 20, 2013 through November 2, 2013, when audited by the Finance Committee.

### **3. UPDATED AND AMENDED INVESTMENT POLICY**

That City Council approve an updated and amended Investment Policy.

**4. MEMORANDA OF UNDERSTANDING BETWEEN THE CITY OF ONTARIO AND THE ONTARIO PROFESSIONAL FIREFIGHTERS ASSOCIATION, LOCAL 1430 IAFF; AND THE CITY OF ONTARIO AND THE ONTARIO FIRE MANAGEMENT GROUP FOR CHANGES IN TERMS AND CONDITIONS OF EMPLOYMENT DURING THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2018**

That the City Council approve and authorize the City Manager to execute four-year Memoranda of Understanding (on file with the Records Management Department) regarding wages, hours, and other terms and conditions of employment between the City of Ontario and the employees represented by the Ontario Professional Firefighters Association (OFFA) and the Ontario Fire Management Group (OFMG); and authorize any non-substantive changes which may be necessary to implement the agreement.

**5. MEMORANDA OF UNDERSTANDING BETWEEN THE CITY OF ONTARIO AND THE ONTARIO POLICE OFFICERS ASSOCIATION; AND THE CITY OF ONTARIO AND THE ONTARIO POLICE MANAGEMENT GROUP FOR CHANGES IN TERMS AND CONDITIONS OF EMPLOYMENT DURING THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2018**

That the City Council approve and authorize the City Manager to execute four-year Memoranda of Understanding (on file with the Records Management Department) regarding wages, hours, and other terms and conditions of employment between the City of Ontario and the employees represented by the Ontario Police Officers Association (OPOA) and the Ontario Police Management Group (OPMG); and authorize any non-substantive changes which may be necessary to implement the agreement.

**6. EASEMENT AGREEMENT AND BUSINESS OPERATING COVENANT RELATED TO AN ELECTRONIC LED SIGN LOCATED AT MERCEDES BENZ OF ONTARIO**

That the City Council adopt a resolution approving a sign easement agreement (on file in the Records Management) and business operating covenant with Jones Ontario Acquisition, LLC, DBA Mercedes Benz of Ontario and authorize the City Manager to execute said agreement granting the City an easement for the purposes of display of certain messages on the dealership sign located at 3787 East Guasti Road.

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A DECLARATION OF BUSINESS OPERATION COVENANTS AND SIGN EASEMENT WITH JONES ONTARIO ACQUISITION, LLC, DBA MERCEDES-BENZ OF ONTARIO.

**7. CONSTRUCTION CONTRACT FOR THE INSTALLATION OF STREET LIGHTS AT VARIOUS LOCATIONS/CALIFORNIA PROFESSIONAL ENGINEERING, INC.**

That the City Council approve the plans and specifications, and award a construction contract (on file with the Records Management Department) to California Professional Engineering, Inc. of La Puente, California, for the installation of street lights, for the bid amount of \$240,110 plus a ten percent (10%) contingency of \$24,011 for a total authorized amount of \$264,121; authorize the City Manager to execute said contract and related documents, and file a notice of completion at the conclusion of all construction activities related to the project.

**8. ADVANCED METER ATTACHMENT AGREEMENT WITH SOUTHERN CALIFORNIA GAS COMPANY**

That the City Council approve the Advanced Meter Attachment Agreement (on file in the Records Management Department) with Southern California Gas Company and authorize the City Manager to execute said agreement and future amendments to the agreement.

**9. CONSTRUCTION CONTRACT FOR THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT/GRIFFITH COMPANY**

That the City Council approve the plans and specifications, and award a construction contract (on file with the Records Management Department) to Griffith Company for the South Milliken Avenue Grade Separation Project (ST0308) for the bid amount of \$45,396,631 plus a ten percent (10%) contingency in the amount of \$4,539,663 for a total authorized amount of \$49,936,294; authorize the City Manager to execute said contract and related documents and file a Notice of Completion at the conclusion of construction activities.

**10. AWARD OF BIDS FOR THE PURCHASE OF REPLACEMENT FLEET VEHICLES AND EQUIPMENT**

That the City Council take the following actions with regard to the purchase of replacement fleet vehicles:

(A) Bid No. 394

1. Award Bid to Fritts Ford of Riverside, California, in the amount of \$244,767 for the purchase and delivery of four (4) ½ ton crew cab trucks, four (4) ½ ton extended cab trucks, two (2) ½ ton regular cab trucks, and one (1) 12 passenger van;
2. Award Bid to Wondries Fleet Group of Alhambra, California, in the amount of \$44,706 for the purchase and delivery of one (1) Chevrolet Tahoe; and

- (B) Authorize the purchase and delivery of one (1) TORO Groundmaster 5900 mower to Turf Star of Brea, California, in the amount of \$86,373 consistent with the terms and conditions of the National-Intergovernmental Purchasing Alliance (IPA) Contract No. 120535, a cooperative purchase agreement.

**11. AMENDMENT NO. 1 TO THE MUTUAL AID AGREEMENTS BETWEEN THE CITY OF ONTARIO, THE CUCAMONGA VALLEY WATER DISTRICT, THE CITIES OF FONTANA, CHINO, CHINO HILLS, MONTCLAIR, UPLAND, INLAND EMPIRE UTILITIES AGENCY AND JURUPA COMMUNITY SERVICES DISTRICT, TO PROVIDE MUTUAL AID FOR MAN-MADE OR NATURAL DISASTERS**

That the City Council approve and authorize the City Manager to execute Amendment No. 1 to the Mutual Aid Agreements with the Cucamonga Valley Water District (CVWD), the Cities of Fontana, Chino, Chino Hills, Montclair, Upland, the Inland Empire Utilities Agency (IEUA) and Jurupa Community Services District (JCSD) to provide mutual aid for man-made and natural disasters.

**12. A POLICY OF THE CITY COUNCIL OF THE CITY OF ONTARIO ESTABLISHING DISTANCE REQUIREMENTS AND CERTAIN OPERATIONAL STANDARDS FOR COMPOSTING FACILITIES WITHIN THE NEW MODEL COLONY**

That the City Council adopt a resolution establishing a policy regarding required buffer zones and operating standards for new composting facilities within the New Model Colony.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A POLICY REGARDING REQUIRED BUFFER ZONES FOR NEW COMPOSTING FACILITIES WITHIN THE NEW MODEL COLONY AREA.

**13. AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN WARM SPRINGS NMC, LLC, AND THE CITY OF ONTARIO TO PROVIDE FOR THE CONSTRUCTION OF UP TO 190 RESIDENTIAL UNITS AND REQUIRED INFRASTRUCTURE ON 40 ACRES OF LAND WITHIN PLANNING AREA 3 OF THE SUBAREA 29 SPECIFIC PLAN, LOCATED AT THE SOUTHEAST CORNER OF ARCHIBALD AND EUCALYPTUS AVENUES**

That the City Council consider and adopt an ordinance approving the Development Agreement (File No. PDA13-001) between Warm Springs NMC, LLC, and the City of Ontario to provide for the construction of up to 190 residential units on 40 acres within the Subarea 29 Specific Plan, located at the southwest corner of Archibald and Eucalyptus Avenues (APNs: 0218-281-15 and 16).

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND WARM SPRINGS NMC, LLC., FILE NO. PDA13-001, TO PROVIDE FOR THE CONSTRUCTION OF UP TO 190 RESIDENTIAL UNITS ON 40 ACRES WITHIN PLANNING AREA 3 OF THE SUBAREA 29 SPECIFIC PLAN, LOCATED AT THE SOUTHWEST CORNER OF ARCHIBALD AND EUCALYPTUS AVENUES (APNS: 0218-281-15 AND 16).

**14. AN ACQUISITION, DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND MISSION GROVE PARTNERS, L.P.**

That the City Council:

- (A) Adopt a resolution approving the Acquisition, Disposition and Development Agreement (on file in the Records Management Department) between the City of Ontario and Mission Grove Partners, L.P.;
- (B) Authorize the City Manager to execute any and all documents necessary or desirable to implement the Agreement; and
- (C) Direct staff to file a Notice of Determination under CEQA.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ACQUISITION, DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND MISSION GROVE PARTNERS, L.P.

**PUBLIC HEARINGS**

**15. AN ORDINANCE AMENDING THE ONTARIO DEVELOPMENT CODE, ARTICLE 13 (FILE NO. PDCA13-005) TO CONDITIONALLY PERMIT HOOKAH ESTABLISHMENTS WITHIN THE C2 (CENTRAL BUSINESS DISTRICT COMMERCIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS**

That the City Council introduce and waive further reading of an ordinance approving Development Code Amendment File No. PDCA13-005 to conditionally permit hookah establishments within the C2 and C3 zoning districts.

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, APPROVING FILE NO. PDCA13-005, A DEVELOPMENT CODE AMENDMENT REVISING TITLE 9 (DEVELOPMENT CODE), ARTICLE 13, TABLE 13-1 (PERMITTED, CONDITIONAL AND ANCILLARY LAND USES–ALL ZONING DISTRICTS) TO CONDITIONALLY PERMIT HOOKAH ESTABLISHMENTS WITHIN THE C2 (CENTRAL BUSINESS DISTRICT COMMERCIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS, AND MAKING FINDINGS IN SUPPORT THEREOF.

## **COUNCIL MATTERS**

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

## **STAFF MATTERS**

City Manager Hughes

## **ADJOURNMENT**

**CITY OF ONTARIO**  
**CLOSED SESSION REPORT**  
City Council // Housing Authority //  
Other // (GC 54957.1)  
**December 3, 2013**

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

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

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

- GC 54956.9 (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 3, 2013

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

**SUBJECT:** UPDATED AND AMENDED INVESTMENT POLICY

**RECOMMENDATION:** That City Council approve an updated and amended Investment Policy.

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

**FISCAL IMPACT:** None.

**BACKGROUND:** City of Ontario Investment Policy states that the City Council is to regularly consider the Investment Policy as well as any changes to said policy at a public meeting. There are three changes to the Policy recommended at this time.

Throughout the policy, language referring to the Ontario Redevelopment Agency has been removed to reflect the RDA's elimination. Additionally, the limit on credit exposure has been reduced from 5% of the portfolio to 3% of the portfolio. This will serve to reduce the overall credit risk of the portfolio and further improve the safety component.

The allowable investments section has been amended to enable the City to invest in municipal debt of the State of California as well as municipal debt of other entities within the state. This will provide more flexibility in the investment process as well as add a number of high quality issuers for investment consideration.

These issuers would also be subject to the 3% limitation on credit exposure concurrently recommended as well as the existing credit rating requirements applicable to corporate investments.

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

Prepared by: Guy A. Boccasile  
Department: AS/Management Services

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/03/2013

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

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

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

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# *Investment Policy*

*December 3, 2013*



City of Ontario  
303 E. B Street  
Ontario, Ca 91764  
Phone: 909-395-2000  
Web: [www.ci.ontario.ca.us](http://www.ci.ontario.ca.us)



CITY OF ONTARIO  
STATEMENT OF INVESTMENT POLICY

**I. PURPOSE**

This statement is intended to: (a) describe the policies and procedures utilized in the City's investment management system; (b) put in place guidelines for the prudent investment of the City's funds, and (c) list and describe suitable investments.

The goals of the City's investment policy and investment management function are enhancement of the economic status of the City and protection of the City's funds.

The investment policies and practices of the City of Ontario are based upon federal and state law and prudent money management principles. The primary goals of these policies are:

- A. To assure compliance with all laws governing the investments under the control of the City Treasurer.
- B. To protect the principal monies entrusted to this office.
- C. To generate the maximum amount of investment income consistent with the parameters established in this Statement of Investment Policy.

**II. SCOPE**

This investment policy applies to all monies belonging to the City of Ontario and proceeds from bonds or notes issued by the City of Ontario, and any authorized special districts. Bond proceeds and any funds associated with bond issues and other monies arising from bond indebtedness are further restricted by the pertinent bond indenture. Funds described above are accounted for in the City's Comprehensive Annual Financial Report.

The City will comply with all applicable sections of the Internal Revenue Code of 1986, Arbitrage Rebate Regulations and bond covenants with regard to the investment of bond proceeds.

All monies entrusted to the City Treasurer will be pooled in an actively managed portfolio and will be referred to as the "fund" or the "portfolio" throughout the remainder of this document.

In accordance with State law and under the authority granted by the City Council in its resolution dated February 17, 2004, the City Treasurer and Deputy City Treasurer(s) are authorized to invest the unexpended cash in the City treasury. The responsibility for the day-to-day investment of the City's funds is delegated to the Investment Officer. In the absence of the Investment Officer, the Deputy City Treasurers will be responsible for the investment function.

**III. PRUDENCE**

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. The standard of prudence to be used by investment officials shall be the "prudent investor" standard (California Government Code Section 53600.3) and shall be applied in the context of managing an overall portfolio. Investment officers, acting in

accordance with written procedures and the investment policy and exercising due diligence, shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

#### **IV. OBJECTIVES**

##### **A. Safety of Principal**

Safety of principal is the foremost objective of the investment policies and practices of the City of Ontario. Investment decisions shall seek to minimize net capital losses on a portfolio basis. This policy recognizes that market conditions may warrant the sale of individual securities incurring losses in order to protect against further and more substantial capital losses. The intent of this policy is to ensure that capital losses are minimized on a portfolio level rather than on each transaction. The City shall seek to preserve principal by mitigating credit risk and market risk.

- 1) Credit Risk – Defined as the risk of loss due to failure or insolvency of an issuer; shall be mitigated by diversifying the fund so that the failure of any one issuer would not unduly harm the City's cash flow. No more than 3% of the portfolio may be invested (at time of purchase) in the securities of any one single issuer except the U.S. Government, its agencies, or the State of California Local Agency Investment Fund.
- 2) Market Risk – Defined as the risk of market value fluctuations due to changes in the general level of interest rates. Because longer maturity fixed-income securities have greater market risk than shorter maturity securities, market risk will be mitigated by limiting the weighted average maturity of the fund to 2 ½ years. It is explicitly recognized that in an active portfolio occasional losses are inevitable and must be considered within the context of the overall investment return.

##### **B. Liquidity**

The City's fund will be structured to ensure that the projected expenditure requirements of the City for the next six months can be met with a combination of anticipated revenues, maturing securities, principal and interest payments and liquid instruments as required by California Government Code Section 53646.

##### **C. Performance Measurement**

The performance of the City's investment portfolio will be measured on a total return basis. The portfolio's performance will be measured against a benchmark of the Merrill-Lynch 1-3 year Treasury Index. The index's returns are reported monthly on the City's current portfolio report.

#### **V. SAFEKEEPING OF SECURITIES**

With the exception of insured Certificates of Deposit and the Local Agency Investment Fund of the State of California, all securities owned by the City, including collateral for repurchase agreements, shall be held in safekeeping by the City's custodial bank or a third party bank trust department acting as agent for the city under terms of a custody or trustee agreement executed

by the bank and the City. All securities will be received and delivered using standard delivery versus payment (DVP) procedures and in accordance with State Code.

## **VI. REPORTING**

The City Treasurer is required to submit an investment report on a quarterly basis to the City Manager, the Internal Auditor, and the City Council, in accordance with California Government Code Section 53646. The report is required to be submitted within 30 days of the end of the quarter. The City Treasurer has elected to provide this report monthly. This report will include the following information:

- Type of investment instrument (i.e. Treasury Bill, CD)
- Issuer name (i.e. US Treasury Note)
- Purchase date (trade and settlement date)
- Maturity date
- Par value
- Purchase price
- Current market value and source of valuation
- Overall portfolio yield based on cost
- Statement of compliance of the portfolio to the investment policy or an explanation of the manner in which the portfolio is not in compliance
- Description of any of the City's funds that are under the management of contracted parties.
- Statement denoting the ability of the City to meet its expenditure requirements for the next six months, or an explanation as to why sufficient money may not be available.

## **VII. QUALIFIED DEALERS**

The Investment Officer shall maintain a list of financial institutions qualified to do business with the City. Banks and broker/dealers will be selected on the basis of creditworthiness, experience, and capitalization. Prior to approval, they must read and sign the City's Broker/Dealer Questionnaire and Certification. In accordance with California Government Code Section 53601, a bank or broker/dealer must be qualified as a dealer regularly reporting to the New York Federal Reserve Bank (a "primary dealer") to conduct repurchase agreements with the City.

## **VIII. COMPETITIVE BIDDING**

It will be the policy of the City to transact all U. S. Treasury securities purchases and sales through a formal and competitive process requiring the solicitation and evaluation of at least three bids/offers. The City will accept the offer, which provides (a) the highest rate of return; and (b) optimizes the investment objectives of the overall portfolio. The purchase of securities other than U.S. Treasuries (corporate notes, Agencies, mortgage-backed securities, etc.) will be executed differently. This is due to the lack of homogeneity among these products and their availability (or unavailability) in dealer inventories. Because of the individualized nature of these securities, it is usually not possible to get more than one offer on the same instrument. Therefore, when purchasing non-Treasury securities, the Investment Officer shall make a subjective evaluation regarding the relative attractiveness of various offers, taking into account maturity, credit ratings, structure and other factors which influence pricing. When selling a security, the City will select the bid, which generates the highest sale price. It will be the responsibility of the personnel involved in each transaction to produce and retain written records, including the name of the financial

institutions solicited, price/rate quoted, description of the security, bid/offer selected, and any special considerations that had an impact on the decision.

**IX. PURCHASE AND SALE OF SECURITIES**

Purchases and sales of securities will be executed only by the Investment Officer and in his absence the Deputy City Treasurer. All transactions will be reviewed and approved by the City Treasurer.

**X. POLICY REVIEW**

The City Treasurer shall annually render to the City Council a statement of investment policy, which shall be considered at a public meeting. Any changes in the policy shall also be considered by the City Council at a public meeting.

**XI. AUTHORIZED INVESTMENTS**

A. The City's Investment Portfolio is governed by California Government Code, Section 53600 et seq. Within the context of these limitations, the following investments are authorized, as further limited herein:

- 1) United States Treasury Bills, Notes, and Bonds, or those securities for which the full faith and credit of the United States are pledged for payment of principal and interest. There is no limitation as to the percentage of the fund, which can be invested in this category.
- 2) Obligations issued by various agencies of the Federal Government including, but not limited to, the Federal Farm Credit Bank System, the Federal Home Loan Bank System, the Federal Home Loan Bank, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Student Loan Marketing Association as well as such agencies or enterprises which may be created. There is no percentage limitation on the dollar amount which can be invested in Agency issues in total, no more than 20% of the cost value of the portfolio may be invested in the securities of any one issuer.
- 3) Bills of exchange or time drafts drawn on and accepted by a commercial bank, commonly known as banker's acceptances. Banker's acceptances may not exceed 180 days to maturity. To be eligible for purchase, banker's acceptances must be rated B/C or higher by Thomson Bankwatch. No more than 40% of the cost value of the portfolio may be invested in banker's acceptances and no more than 5% of the cost value of the portfolio may be invested in banker's acceptances of any single bank.
- 4) Commercial paper rated "A1" by Standard and Poor's and "P1" by Moody's Investor Services, and issued by a domestic corporation having assets in excess of \$500 million and having an "A" or better rating on its long-term debentures as provided by Moody's or Standard and Poor's. Purchases of eligible commercial paper may not exceed 270 days maturity nor represent more than 10% of the outstanding paper on an issuing corporation. Purchases of commercial paper may not exceed 15% of the portfolio, which may be invested pursuant to this section. An additional 15% or a total of 30% of the agency's money may be invested pursuant to this subdivision. The additional 15% may be so

invested only if the dollar weighted average maturity of the entire amount does not exceed 31 days.

- 5) Negotiable certificates of deposit issued by a nationally or State chartered bank or a State or Federal savings institution, or a State licensed branch of a foreign bank ("Yankee"). Purchases of negotiable certificates of deposit may not exceed 30% of the cost value of the portfolio. To be eligible for purchase by the City, the certificate of deposit must be rated A-1 by Standard and Poor's and P-1 by Moody's.
- 6) Repurchase Agreements – The City may invest in repurchase agreements with primary dealers of the Federal Reserve Bank of New York with which the City has entered into a master repurchase agreement. The Public Securities Association master repurchase agreement is the "master repurchase agreement". The maturity of repurchase agreements shall not exceed one year. The market value of securities used as collateral for repurchase agreements shall be valued at no less than 102% of the value of the repurchase agreement. Collateral pricing will be monitored no less than monthly by the investment staff and not be allowed to fall below 102% of the value of the repurchase agreement. In order to conform to provisions of the Federal Bankruptcy Code which provide for the liquidation of securities held as collateral for repurchase agreements, the only securities acceptable to the city as collateral shall be securities that are direct obligations of, or that are fully guaranteed as to principal and interest, by the United States or any agency thereof. Investments in repurchase agreements may not exceed 20% of the cost value of the fund.
- 7) Local Agency Investment Fund - The City may invest in the Local Agency Investment Fund ("LAIF") established by the State Treasurer for the benefit of local agencies up to the maximum permitted under Section 16429.1 of the Government Code.
- 8) Time Deposits – The City may invest in non-negotiable time deposits collateralized in accordance with the California Government Code, which meet the requirements for investment in negotiable certificates of deposit. The City may invest in insured certificates of deposit with individual depository institutions up to the insured limit. No more than 25% of the fund may be invested in this category.
- 9) Medium-term notes of a maximum of five years maturity issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any State, and operating within the United States. The issuing corporation must have a minimum rating of "A" by both Standard and Poor's and Moody's and have in excess of \$500 million in shareholder equity. Purchase of medium-term notes may not exceed 30% of the cost value of the fund with no more than 15% of the cost value of the fund rated below "AA" by both Standard and Poor's and Moody's. No more than 3% of the fund (at time of purchase) may be invested in any one corporate name, including the parent corporation or subsidiaries.
- 10) Any U. S. Government Agency's Mortgage pass-through security, collateralized mortgage obligations, mortgage-backed or other pay-through bond, equipment lease-backed certificate, or consumer receivable-backed bond of a maximum five years maturity.

Securities eligible for investment under this section shall be issued by an issuer having an "A" or higher rating for the issuer's unsecured debt, as provided by a nationally recognized rating service. The securities must be rated "AAA" by both Moody's and Standard and Poor's. Purchase of securities authorized by this subdivision may not exceed 20% of the cost value of the fund.

- 11) Bonds, notes, warrants or other evidences of indebtedness of any local agency of this state, including bonds payable solely out of the revenues from a revenue producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.
- 12) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owed, controlled or operated by the state or by a department, board, agency or authority of the state.
- 13) Bonds, notes, warrants, or other evidence of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency, or by a department, board, agency, or authority of the local agency.

- B. In the event of a rating downgrade of security in the City's portfolio by any of the applicable rating agencies (Standard and Poor's or Moody's) to a rating category below the minimum required for purchase, the Investment Officer will document such downgrade in writing. The Investment Officer will also communicate to the City Treasurer a recommended course of action for said security.

The maximum allowable maturity for all securities purchased shall be no greater than 5 years from the settlement date if the maturity has not been further limited in subsections (1) through (12).D. The 5-year maturity limitation may be exceeded only when investing in securities referred to in section 11 above and only with prior City Council approval. Ineligible investments – investments not described herein-, are prohibited for purchase in the City's portfolio. Specifically prohibited as of January 1, 1996 are: Inverse floaters, range notes, interest-only strips derived from a pool of mortgages, or any security that could result in zero interest accrual if held to maturity.

# CITY OF ONTARIO

*Agenda Report*  
December 3, 2013

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

**SUBJECT: MEMORANDA OF UNDERSTANDING BETWEEN THE CITY OF ONTARIO AND THE ONTARIO PROFESSIONAL FIREFIGHTERS ASSOCIATION, LOCAL 1430 IAFF; AND THE CITY OF ONTARIO AND THE ONTARIO FIRE MANAGEMENT GROUP FOR CHANGES IN TERMS AND CONDITIONS OF EMPLOYMENT DURING THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2018**

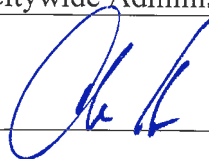
**RECOMMENDATION:** That the City Council approve and authorize the City Manager to execute four-year Memoranda of Understanding (on file with the Records Management Department) regarding wages, hours, and other terms and conditions of employment between the City of Ontario and the employees represented by the Ontario Professional Firefighters Association (OFFA) and the Ontario Fire Management Group (OFMG); and authorize any non-substantive changes which may be necessary to implement the agreement.

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

**FISCAL IMPACT:** The estimated annual general fund cost of the compensation changes each fiscal year of the agreement is \$1,025,000 for FY 2014-15, \$1,120,000 for FY 2015-16, \$1,350,000 for FY 2016-17 and \$1,320,000 for FY 2017-18. Appropriations for the first year of the agreement will be included in the Proposed Fiscal Year 2014-15 Operating Budget.

**BACKGROUND:** The current Memoranda of Understanding (MOU) between the City and the OFFA and OFMG expire on June 30, 2014. The City recently completed negotiations with the OFFA and OFMG for proposed successor MOUs, the terms of which are July 1, 2014 through June 30, 2018.

**STAFF MEMBER PRESENTING:** Chris Hughes, City Manager

Prepared by: Chris Hughes  
Department: Citywide Administration  
City Manager Approval: 

Submitted to Council/O.H.A. 12/03/2013  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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The willingness of the two units, in conjunction with other employee groups, to forgo increases in compensation in recent years greatly assisted in the City's efforts to maintain service levels provided to the community in spite of the significant economic downturn. Through prior agreements, employees in these units have not received general salary increases since 2008.

Containing future retirement costs while maintaining a competitive employee benefit package was a focal point in the negotiations with the OFFA and OFMG. In 2012, the State of California passed the Public Employees Pension Reform Act of 2013 to address pension reform on a statewide basis. In a collaborative effort to implement pension reform, the City and the OFFA and OFMG agreed to begin sharing the cost of retirement contributions. Specifically, employees will contribute toward the cost of retirement a percentage of pay on a pre-tax basis as follows: 2% as of July 2014, 4% as of July 2015, and 6% as of July 2016. In addition, to help ensure the City is able to recruit and retain a highly qualified workforce, employees will receive general salary increases of 5% in July 2014, 5% in July 2015, 5.5% in July 2016, and 4% in July 2017.

Other key terms of the proposed agreements include establishing a minimum staffing of two paramedics per Advanced Life Support (ALS) unit for OFFA; establishing a 401(a) plan for current employer deferred compensation contributions for OFMG; and a reopener related to salary only in January 2018. Finally, the parties agreed to language modifications, including bereavement, paternity and catastrophic leave provisions, to improve consistency and/or reflect current practices. The specific terms of the agreements are contained in the draft MOUs for reference.

# CITY OF ONTARIO

*Agenda Report*  
December 3, 2013

SECTION:  
CONSENT CALENDAR

**SUBJECT: MEMORANDA OF UNDERSTANDING BETWEEN THE CITY OF ONTARIO AND THE ONTARIO POLICE OFFICERS ASSOCIATION; AND THE CITY OF ONTARIO AND THE ONTARIO POLICE MANAGEMENT GROUP FOR CHANGES IN TERMS AND CONDITIONS OF EMPLOYMENT DURING THE PERIOD OF JULY 1, 2014 THROUGH JUNE 30, 2018**

**RECOMMENDATION:** That the City Council approve and authorize the City Manager to execute four-year Memoranda of Understanding (on file with the Records Management Department) regarding wages, hours, and other terms and conditions of employment between the City of Ontario and the employees represented by the Ontario Police Officers Association (OPOA) and the Ontario Police Management Group (OPMG); and authorize any non-substantive changes which may be necessary to implement the agreement.

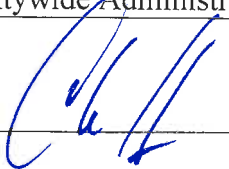
**COUNCIL GOALS:** Develop Strategies to Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health  
Maintain the Current High Level of Public Safety  
Operate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

**FISCAL IMPACT:** The estimated annual general fund cost of the compensation changes each fiscal year of the agreement is \$1,433,000 for FY 2014-15, \$1,690,000 for FY 2015-16, \$1,870,000 for FY 2016-17 and \$1,820,000 for FY 2017-18. Appropriations for the first year of the agreement will be included in the Proposed Fiscal Year 2014-15 Operating Budget.

**BACKGROUND:** The current Memoranda of Understanding (MOU) between the City and the OPOA and OPMG expire on June 30, 2014. The City recently completed negotiations with the OPOA and OPMG for proposed successor MOUs, the terms of which are July 1, 2014 through June 30, 2018.

The willingness of the two units, in conjunction with other employee groups, to forgo increases in compensation in recent years greatly assisted in the City's efforts to maintain service levels provided to

**STAFF MEMBER PRESENTING:** Chris Hughes, City Manager

Prepared by: Chris Hughes  
Department: Citywide Administration  
City Manager Approval: 

Submitted to Council/O.H.A. 12/03/2013  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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the community in spite of the significant economic downturn. Through prior agreements, employees in these units have not received general salary increases since 2008.

Containing future retirement costs while maintaining a competitive employee benefit package was a focal point in the negotiations with the OPOA and OPMG. In 2012, the State of California passed the Public Employees Pension Reform Act of 2013 to address pension reform on a statewide basis. In a collaborative effort to implement pension reform, the City and the OPOA and OPMG agreed to begin sharing the cost of retirement contributions. Specifically, employees will contribute toward the cost of retirement a percentage of pay on a pre-tax basis as follows: 2% as of July 2014, 4% as of July 2015, and 6% as of July 2016. In addition, to help ensure the City is able to recruit and retain a highly qualified workforce, employees will receive general salary increases of 5% in July 2014, 5% in July 2015, 5.5% in July 2016, and 4% in July 2017.

Other key terms of the proposed agreements include increasing the City's contribution toward deferred compensation by \$50 per month in July 2015 and aligning pilot pay for OPMG to be the same as OPOA. The parties also agreed to language modifications, including court appearance and standby provisions, to improve consistency and/or reflect current practices, and a reopener related to salary only in January 2018. The specific terms of the agreements are contained in the draft MOUs for reference.

# CITY OF ONTARIO

*Agenda Report*  
December 3, 2013

SECTION:  
CONSENT CALENDAR

**SUBJECT: EASEMENT AGREEMENT AND BUSINESS OPERATING COVENANT  
RELATED TO AN ELECTRONIC LED SIGN LOCATED AT MERCEDES BENZ  
OF ONTARIO**

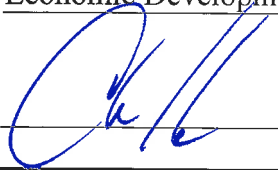
**RECOMMENDATION:** That the City Council adopt a resolution approving a sign easement agreement (on file in the Records Management) and business operating covenant with Jones Ontario Acquisition, LLC, DBA Mercedes Benz of Ontario and authorize the City Manager to execute said agreement granting the City an easement for the purposes of display of certain messages on the dealership sign located at 3787 East Guasti Road.

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

**FISCAL IMPACT:** Under the terms of the subject agreement, the City will pay the owner the lesser of one-half the actual costs to acquire an easement for messaging purposes on the LED sign panels or a not-to-exceed amount of \$219,392 to be paid on a reimbursement-basis over the first 5 years of the covenant period. In return, the City will be entitled to 33% of the sign's operating time for the display of City messages for operating years 1 through 5 and 15% of sign operating time for years 6 through 10.

**BACKGROUND:** Jones Ontario Acquisition, LLC, DBA Mercedes Benz of Ontario owns and operates an electronic LED sign at 3787 East Guasti Road, generally located at the intersection of the Interstate 10 Freeway and Haven Avenue. If approved, the City will be entitled to use a portion of the LED sign's operating time each hour for the purpose of displaying City messages such as promotion of citywide events, recreation programs, and public service announcements including State of California Emergency Digital Information Service messages. The owner will be responsible for the on-going maintenance and repair of the sign. The subject agreement will facilitate an important and timely use enhancement to the subject sign and allow for improved City messaging at a highly visible location in the City. The agreement further includes a 5-year continuous operating covenant and a requirement to maintain a minimum of 75 full-time jobs on the business site during this period.

**STAFF MEMBER PRESENTING:** John Andrews, Economic Development Director

Prepared by: John Andrews  
Department: Economic Development  
City Manager  
Approval: 

Submitted to Council/O.H.A.

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

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

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

12/03/2013

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, APPROVING A DECLARATION OF BUSINESS  
OPERATION COVENANTS AND SIGN EASEMENT WITH JONES  
ONTARIO ACQUISITION, LLC, DBA MERCEDES-BENZ OF ONTARIO.

WHEREAS, Jones Ontario Acquisition, LLC, DBA Mercedes-Benz of Ontario ("Mercedes-Benz") owns that certain real property located at 3787 E Guasti Road, in the City of Ontario, California ("Property"), on which it owns and operates a Mercedes Benz automobile dealership and service business; and

WHEREAS, Owner intends to install on the Property a new electronic reader board sign ("Sign"); and

WHEREAS, the City of Ontario ("City") desires to utilize the Sign for displaying public messages which may include, but are not limited to, advertising or public service announcements; and

WHEREAS, Mercedes-Benz has requested for the City to pay fifty percent of the cost of construction and installation of the Sign, not to exceed \$219,392, in five (5) annual installments and, upon completion and in consideration for City's payment of fifty percent of the cost of the Sign, for a period of ten years for the City to obtain an easement to display public messages on the Sign for thirty-three percent (33%) of each hour that the Sign is in use for the first five years, and fifteen percent (15%) of each hour that the Sign is in use for years six through ten; and

WHEREAS, the City and Mercedes-Benz have negotiated the terms of a Declaration of Business Operation Covenants and Sign Easement ("Easement"), a copy of which is attached to this Resolution as Exhibit A, in order to set forth the terms and conditions in which the City will provide funding for fifty percent of the cost of the Sign, not to exceed \$219,392, in exchange for thirty-three percent of each operating hour of the Sign for five years and fifteen percent of each operating hour of the Sign for another five years, and for Mercedes-Benz to be solely responsible for the installment and maintenance of the Sign for the term of the Easement; and

WHEREAS, City staff has determined that the City's approval of the Easement is exempt from the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Section 15311(a) because the installation of the Sign constitutes the construction and placement of a minor structure accessory to an existing commercial facility.

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

SECTION 1. RECITALS. The above recitals are true and correct, and are incorporated into this Resolution by reference as though fully set forth herein.

SECTION 2. Approval of Easement. The City Council hereby approves the Easement substantially in the form attached to this Resolution as Exhibit A. The City Council hereby authorizes the City Manager, with the concurrence of the City Attorney, to execute and deliver on behalf of the City the Easement and such other documents and instruments as may be necessary or convenient in furtherance of the actions authorized in this Resolution.

SECTION 3. Authorization. The City Council hereby authorizes and directs City staff to do all that is necessary to effectuate the intent of the Easement and this Resolution.

SECTION 4. CEQA Compliance. The City Council hereby authorizes and directs City staff to file a Notice of Exemption under CEQA with the Clerk of San Bernardino County within five (5) calendar days following approval of this Resolution.

SECTION 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 3<sup>rd</sup> day of December 2013.

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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. 2013-     was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 3, 2013 by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2013-     duly passed and adopted by the Ontario City Council at their regular meeting held December 3, 2013.

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

(SEAL)

# CITY OF ONTARIO

*Agenda Report*  
December 3, 2013

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

**SUBJECT: CONSTRUCTION CONTRACT FOR THE INSTALLATION OF STREET LIGHTS AT VARIOUS LOCATIONS**

**RECOMMENDATION:** That the City Council approve the plans and specifications, and award a construction contract (on file with the Records Management Department) to California Professional Engineering, Inc. of La Puente, California, for the installation of street lights, for the bid amount of \$240,110 plus a ten percent (10%) contingency of \$24,011 for a total authorized amount of \$264,121; authorize the City Manager to execute said contract and related documents, and file a notice of completion at the conclusion of all construction activities related to the project.

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

**FISCAL IMPACT:** The current FY 2013-14 budget includes appropriations of \$240,000 from previously collected non-refundable, in-lieu fee deposits for the installation of street lighting. An additional amount of \$24,121 was added at the last quarterly budget adjustment from general fund project savings for a total recommended expenditure authorization of \$264,121 which includes a ten percent (10%) project contingency.

**BACKGROUND:** The City has collected non-refundable fees in lieu of requiring small development projects to install street lights. This project provides for the installation of forty-one (41) LED style street lights, consistent with the City's current standard for new and retro-fit installations, in the general areas where the in-lieu fees have been collected. A location map is provided as Exhibit "A".

Bids were received from thirteen contractors on October 24, 2013. The low bid was submitted by California Professional Engineering Inc. in the amount of \$240,110. A ten percent (10%) contingency of \$24,011 is included for a total amount of \$264,121. California Professional Engineering Inc. has

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

Prepared by: Johnson Hua  
Department: Engineering

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/03/2013

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

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

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

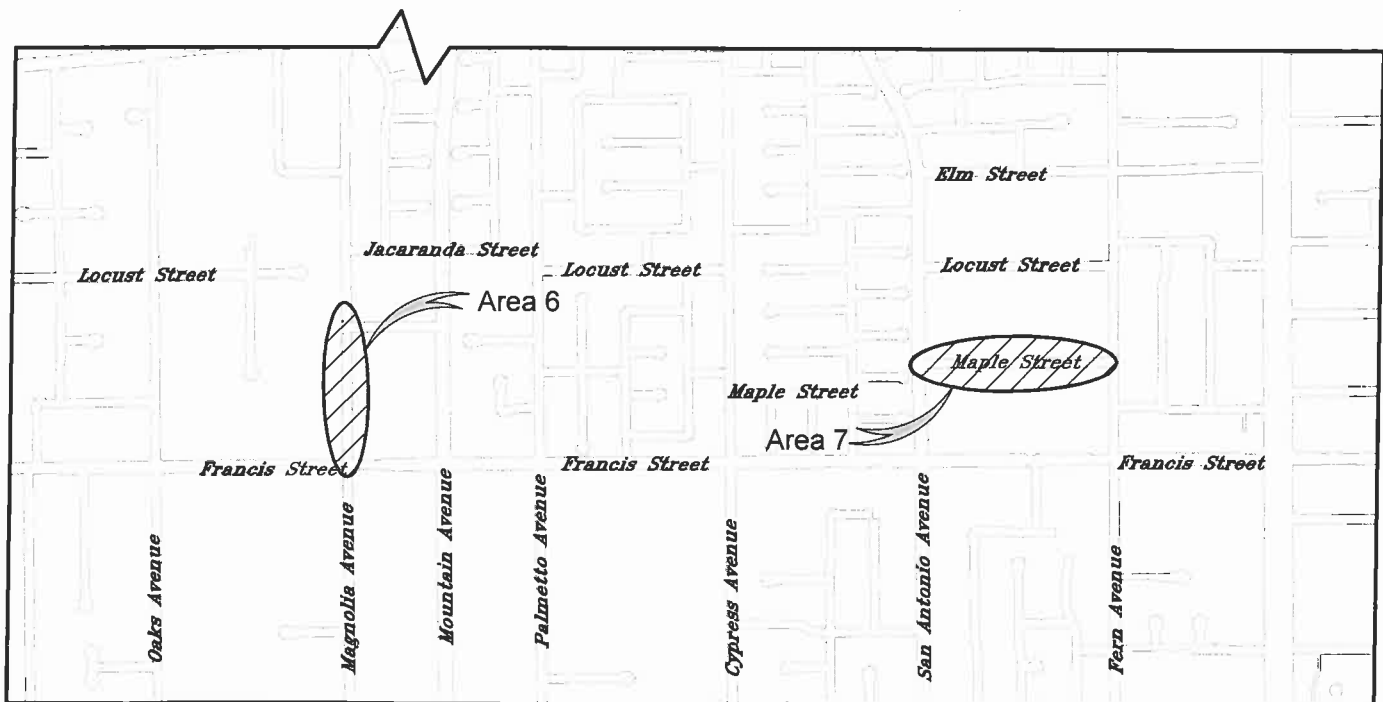
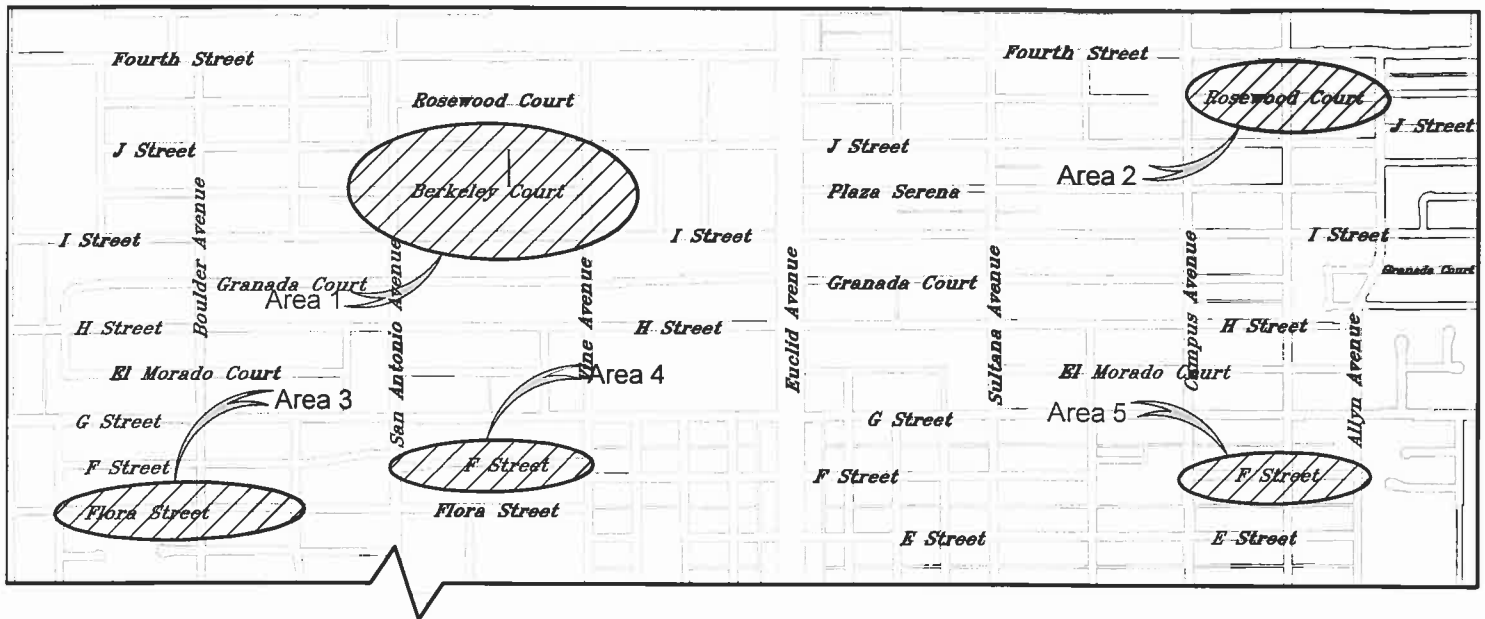
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previously performed work for the City of Ontario in a satisfactory manner. It is anticipated that this project will be completed by February 2014. The bid results are summarized below:

<b>COMPANY</b>	<b>LOCATION</b>	<b>AMOUNT</b>
California Professional Engineering Inc.	La Puente, CA	\$240,110
Pro Tech Engineering Corp	Corona Del Mar, CA	\$276,560
VT Electric, Inc.	Upland, CA	\$294,438
JFL Electric, Inc.	Los Angeles, CA	\$333,417
Sully-Miller Contracting Company	Brea, CA	\$341,314
Macadee Electrical Construction, Inc.	Chino, CA	\$344,369
Steiny and Company, Inc.	Baldwin Park, CA	\$361,350
New West Signal, Inc.	Fontana, CA	\$369,615
Unique Performance Construction, Inc.	Anaheim, CA	\$375,080
Select Electric, Inc.	Poway, CA	\$427,603
PTM General Engineering Service, Inc.	Riverside, CA	\$447,774
Siemens Industry. Inc.	Anaheim, CA	\$466,790
DBX, Inc.	Temecula, CA	\$482,819

*Exhibit "A"*  
*Street Light Installation*  
*December 3, 2013*

*PROJECT LOCATION*



# CITY OF ONTARIO

*Agenda Report*  
December 3, 2013

SECTION:  
CONSENT CALENDAR

**SUBJECT: ADVANCED METER ATTACHMENT AGREEMENT WITH SOUTHERN CALIFORNIA GAS COMPANY**

**RECOMMENDATION:** That the City Council approve the Advanced Meter Attachment Agreement (on file in the Records Management Department) with Southern California Gas Company and authorize the City Manager to execute said agreement and future amendments to the agreement.

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

**FISCAL IMPACT:** The Gas Company will pay to the City a one-time fee of \$780 for each City street light pole used by the Gas Company for its advanced meter equipment. Approval of this agreement will allow the City to collect a total fee of \$14,820 for 19 existing street light poles.

**BACKGROUND:** The California Public Utilities Commission (CPUC) has authorized the Gas Company to upgrade its infrastructure system by adding advanced meter equipment to existing gas meters. In order to remotely communicate with the advanced meters, the Gas Company must install antenna and other devices on existing or new support structures, such as street light poles, in City's rights-of-way. In an effort to reduce the number of new support structures in Ontario, the City coordinated with the Gas Company to allow installation of its advanced meter equipment on existing City's street light poles. The location of new Gas Company support structures was also coordinated to mitigate City concerns about neighborhood aesthetics and impacts.

The proposed agreement has been reviewed by the City Attorney and is consistent with agreements the Gas Company has reached with other California cities.

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

Prepared by: Raymond Lee  
Department: Engineering

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/03/2013

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

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

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

# CITY OF ONTARIO

*Agenda Report*  
December 3, 2013

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

**SUBJECT: CONSTRUCTION CONTRACT FOR THE SOUTH MILLIKEN AVENUE  
GRADE SEPARATION PROJECT**

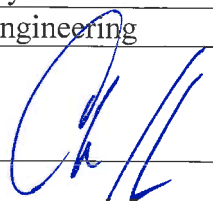
**RECOMMENDATION:** That the City Council approve the plans and specifications, and award a construction contract (on file with the Records Management Department) to Griffith Company for the South Milliken Avenue Grade Separation Project (ST0308) for the bid amount of \$45,396,631 plus a ten percent (10%) contingency in the amount of \$4,539,663 for a total authorized amount of \$49,936,294; authorize the City Manager to execute said contract and related documents and file a Notice of Completion at the conclusion of construction activities.

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

**FISCAL IMPACT:** The FY 2013-14 Budget includes appropriations for the construction of the South Milliken Avenue Grade Separation Project. Per the Cooperative Funding Agreement with San Bernardino Associated Governments (SANBAG), the City's share is 20% of the actual expenses and is split in accordance with the City's adopted DIF Program and SANBAG's approved Measure I Nexus Study. The authorized amount for this agreement is \$49,936,294 with the City's share of \$9,987,259 comprised of \$7,390,572 from Old Model Colony Development Impact Fees and \$2,596,687 from New Model Colony Development Impact Fees.

**BACKGROUND:** The South Milliken Avenue Grade Separation Project will be a roadway overpass over the existing Union Pacific Railroad Los Angeles Line and include earth filled retaining walls for ramps. The railroad tracks will remain at grade and Milliken Avenue will be elevated approximately 30 feet. A location map is attached for reference as Exhibit "A".

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

Prepared by: Jay Bautista  
Department: Engineering  
City Manager Approval: 

Submitted to Council/O.H.A. 12/03/2013  
Approved: \_\_\_\_\_  
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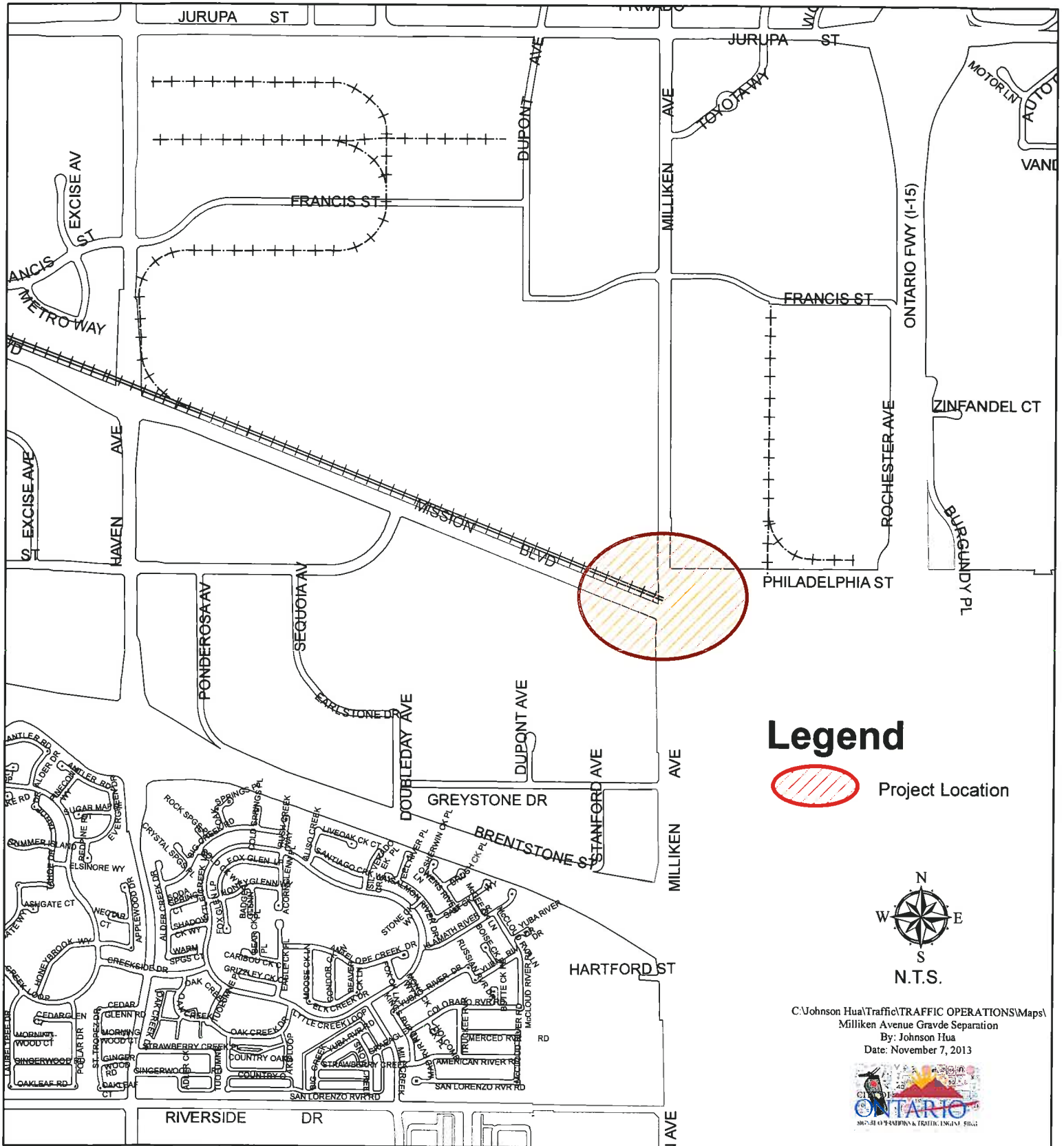
On September 24, 2013, the City solicited bids for this project; and five (5) bids were received as summarized below:

<b>COMPANY</b>	<b>LOCATION</b>	<b>AMOUNT</b>
Griffith Company	Santa Fe Springs, CA	\$45,396,631
Ames Construction, Inc.	Corona, CA	\$45,718,431
Skanska USA Civil West California District Inc.	Riverside, CA	\$47,405,310
Steve P. Rados	Santa Ana, CA	\$48,336,693
Riverside Construction Company, Inc.	Riverside, CA	\$48,631,621

Griffith Company submitted the lowest responsive bid and has completed similar work for Caltrans in a satisfactory manner. The submitted bid of \$45,396,631 is \$11 million below the advertised engineer's estimate.

EXHIBIT A  
**CITY OF ONTARIO**  
LOCATION MAP

**MILLIKEN AVENUE / UPRR GRADE SEPARATION  
(NORTH OF MISSION BOULEVARD)**



# CITY OF ONTARIO

*Agenda Report*  
December 3, 2013

**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 with regard to the purchase of replacement fleet vehicles:

(A) Bid No. 394

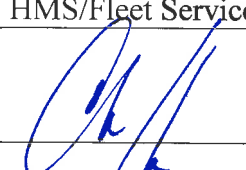
1. Award Bid to Fritts Ford of Riverside, California, in the amount of \$244,767 for the purchase and delivery of four (4) ½ ton crew cab trucks, four (4) ½ ton extended cab trucks, two (2) ½ ton regular cab trucks, and one (1) 12 passenger van;
2. Award Bid to Wondries Fleet Group of Alhambra, California, in the amount of \$44,706 for the purchase and delivery of one (1) Chevrolet Tahoe; and

(B) Authorize the purchase and delivery of one (1) TORO Groundmaster 5900 mower to Turf Star of Brea, California, in the amount of \$86,373 consistent with the terms and conditions of the National-Intergovernmental Purchasing Alliance (IPA) Contract No. 120535, a cooperative purchase agreement.

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

**FISCAL IMPACT:** The Fiscal Year 2013-14 Adopted Budget includes appropriations in the amount of \$423,000 for the purchase of the replacement vehicles and equipment listed above. The total cost of the vehicles and equipment recommended for purchase is \$375,846.

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

Prepared by: Michael Johnson  
Department: HMS/Fleet Services  
City Manager  
Approval: 

Submitted to Council/O.H.A. 12/03/2013  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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**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. 394: Four (4) ½ Ton Crew Cab Trucks, Four (4) ½ Ton Extended Cab Trucks, Two (2) ½ Ton Regular Cab Trucks, One (1) 12 Passenger Van, and One (1) Chevrolet Tahoe for the Police, Fire, Utilities and Parks/Maintenance Departments

In October 2013, the City solicited bids for these replacement fleet vehicles, and the results are as follows:

1. Four (4) ½ Ton Crew Cab Trucks for the Police Department

Four (4) ½ Ton Crew Cab Trucks		
<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
Mc Peek's Dodge *	Anaheim, CA	\$98,387
<b>Fritts Ford</b>	<b>Riverside, CA</b>	<b>\$98,782</b>
Frontier Ford	Santa Clara, CA	\$99,806
Fairview Ford	San Bernardino, CA	\$100,022
Crown Dodge *	Ventura, CA	\$100,454
Raceway Ford	Riverside, CA	\$100,575
Wondries Fleet Group	Alhambra, CA	\$103,395
Snap LP *	Santa Maria, CA	\$103,827
Empire Nissan *	Ontario, CA	\$107,965

\* A Ford or General Motors product was specified to continue the City's efforts in standardization of fleet vehicles for operational and maintenance efficiencies. Mc Peek's Dodge, Crown Dodge, Snap LP, and Empire Nissan responded with vehicles other than Ford or General Motors and therefore was deemed unresponsive.

Staff recommends award to Fritts Ford, located in Riverside, California, in the amount of \$98,782 as the lowest responsive bidder to meet specifications to replace equipment that is 10 years old.

2. Four (4) ½ Ton Extended Cab Trucks for the Police and Utilities Departments

Four (4) Ford ½ Ton Crew Cab Trucks		
<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
<b>Fritts Ford</b>	<b>Riverside, CA</b>	<b>\$84,391</b>
Frontier Ford	Santa Clara, CA	\$84,750
Fairview Ford	San Bernardino, CA	\$85,113
Raceway Ford	Riverside, CA	\$85,847
Wondries Fleet Group	Alhambra, CA	\$88,275
Mc Peek's Dodge *	Anaheim, CA	\$91,813
Crown Dodge *	Ventura, CA	\$95,053
Snap LP *	Santa Maria, CA	\$98,884
Empire Nissan *	Ontario, CA	\$103,205

\* A Ford or General Motors product was specified to continue the City's efforts in standardization of fleet vehicles for operational and maintenance efficiencies. Mc Peek's Dodge, Crown Dodge, Snap LP, and Empire Nissan responded with vehicles other than Ford or General Motors and therefore was deemed unresponsive.

Staff recommends award to Fritts Ford, located in Riverside, California, in the amount of \$84,391 as the lowest responsive bidder to meet specifications to replace equipment that is twelve (12) years old.

3. Two (2) ½ Ton Regular Cab Trucks for the Parks/Maintenance Department

Two (2) Ford ½ Ton Regular Cab Trucks		
<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
<b>Fritts Ford</b>	<b>Riverside, CA</b>	<b>\$35,701</b>
Frontier Ford	Santa Clara, CA	\$35,809
Raceway Ford	Riverside, CA	\$35,997
Fairview Ford	San Bernardino, CA	\$37,161
Wondries Fleet Group	Alhambra, CA	\$37,658
Snap LP *	Santa Maria, CA	\$47,111
Crown Dodge *	Ventura, CA	\$47,468

\* A Ford or General Motors product was specified to continue the City's efforts in standardization of fleet vehicles for operational and maintenance efficiencies. Snap LP and Crown Dodge responded with vehicles other than Ford or General Motors and therefore was deemed unresponsive.

Staff recommends award to Fritts Ford, located in Riverside, California, in the amount of \$35,701 as the lowest responsive bidder to meet specifications to replace equipment that is 12 years old.

4. One (1) 12 Passenger Van for the Fire Department

One (1) 12 Passenger Van		
<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
<b>Fritts Ford</b>	<b>Riverside, CA</b>	<b>\$25,893</b>
Raceway Ford	Riverside, CA	\$26,064
Fairview Ford	San Bernardino, CA	\$26,250
Rotolo Chevrolet	Fontana, CA	\$26,829
Wondries Fleet Group	Alhambra, CA	\$26,997
Empire Nissan	Ontario, CA	\$33,550

Staff recommends award to Fritts Ford, located in Riverside, California, in the amount of \$25,893 to replace a piece of equipment that is 9 years old.

5. One (1) Chevrolet Tahoe for the Police Department

One (1) Chevrolet Tahoe		
<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
<b>Wondries Fleet Group</b>	<b>Alhambra, CA</b>	<b>\$44,706</b>

Staff recommends award to Wondries Fleet Group, located in Alhambra, California, in the amount of \$44,706 to replace a piece of equipment that is 7 years old.

(B) One (1) TORO Groundmaster 5900 Mower for the Parks and Maintenance Department

One (1) TORO Groundmaster 5900 Mower		
<u>Supplier</u>	<u>Location</u>	<u>Amount</u>
<b>Turf Star, Inc.</b>	<b>Brea, CA</b>	<b>\$86,373</b>

The cooperative purchase and delivery of this replacement equipment is recommended from Turf-Star Inc. located in Brea, California, for the amount of \$86,373 consistent with the terms and conditions of the National-Intergovernmental Purchasing Alliance (IPA) Contract No. 120535. City of Ontario Municipal Code Section 2-6.11(b) (3) allows for the purchase of supplies and equipment through cooperative purchasing when another governmental agency generally follows the provisions of Government Code Section 54201 through 54204. Cooperative purchasing allows the City to pool its procurement power with other public agencies to obtain prices lower than would otherwise be possible.

# CITY OF ONTARIO

*Agenda Report*  
December 3, 2013

**SECTION:  
CONSENT CALENDAR**

**SUBJECT: AMENDMENT NO. 1 TO THE MUTUAL AID AGREEMENTS BETWEEN THE CITY OF ONTARIO, THE CUCAMONGA VALLEY WATER DISTRICT, THE CITIES OF FONTANA, CHINO, CHINO HILLS, MONTCLAIR, UPLAND, INLAND EMPIRE UTILITIES AGENCY AND JURUPA COMMUNITY SERVICES DISTRICT, TO PROVIDE MUTUAL AID FOR MAN-MADE OR NATURAL DISASTERS**

**RECOMMENDATION:** That the City Council approve and authorize the City Manager to execute Amendment No. 1 to the Mutual Aid Agreements with the Cucamonga Valley Water District (CVWD), the Cities of Fontana, Chino, Chino Hills, Montclair, Upland, the Inland Empire Utilities Agency (IEUA) and Jurupa Community Services District (JCSD) to provide mutual aid for man-made and natural disasters.

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

**FISCAL IMPACT:** In instances of mutual aid, and as allowed by applicable law, the requesting party will pay all direct, indirect, administrative and contracted costs incurred by the responding party as a result of providing assistance, based upon responding party's internal rates or charges for material, equipment and personnel. There is no impact to the General Fund.

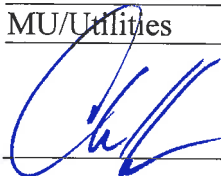
**BACKGROUND:** In 2004, the City adopted a Mutual Aid Agreement with CVWD, the Cities of Fontana, Chino, Chino Hills, Montclair, Upland and IEUA. The Mutual Aid Agreement provides equipment and personnel from local governmental agencies to assist with man-made and natural disasters. Ontario has called for assistance on a several occasions which ultimately helped to reduce the impact of the emergencies.

**STAFF MEMBER PRESENTING:** Scott Burton, Utilities General Manager

Prepared by: Tom O'Neill

Department: MU/Utilities

City Manager  
Approval:



Submitted to Council/O.H.A. 12/03/2013

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

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

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

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Amendment No. 1 to the Mutual Aid Agreement would add JCSD to the pool of governmental agencies. JCSD's service area borders the City to the southeast, which is beneficial as it provides additional resources and improved response time to help protect the public health of City residents.

# CITY OF ONTARIO

*Agenda Report*  
December 3, 2013

SECTION:  
CONSENT CALENDAR

**SUBJECT: A POLICY OF THE CITY COUNCIL OF THE CITY OF ONTARIO ESTABLISHING DISTANCE REQUIREMENTS AND CERTAIN OPERATIONAL STANDARDS FOR COMPOSTING FACILITIES WITHIN THE NEW MODEL COLONY**

**RECOMMENDATION:** That the City Council adopt a resolution establishing a policy regarding required buffer zones and operating standards for new composting facilities within the New Model Colony.

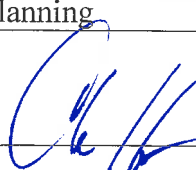
**COUNCIL GOALS:** Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health  
Invest in the Growth and Evolution of the City's Economy

**FISCAL IMPACT:** None.

**BACKGROUND:** There have been several applications submitted for Conditional Use Permits to establish composting facilities in the NMC. At neighborhood meetings held to discuss the applications with local residents, there has been a large and fairly unanimous outpouring of testimony against the location of these composting facilities in close proximity to existing neighborhoods in the NMC. The reasons stated for the opposition include odors, dust, pathogens, and increased truck traffic along existing streets.

Planning staff researched the issue of possible distance requirements between composting facilities and sensitive land uses such as homes, hospitals, schools, day care, and senior citizen facilities. After thoroughly researching the matter and taking into account local issues and conditions, staff presented its findings to the Planning Commission.

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

Prepared by: Jerry L. Blum  
Department: Planning  
City Manager  
Approval: 

Submitted to Council/O.H.A. 12/03/2013  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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On November 18, 2013, the Planning Commission received and reviewed the report from the Planning Department on the issue of requiring distance separation or buffer requirements for new composting facilities in the NMC and requiring operational standards for those facilities. At the meeting, the Planning Commission did discussed the matter and voted to recommend to the City Council adoption of a resolution, which sets forth the following criteria for composting facilities (in addition to the requirement for filing a CUP):

- Composting of manure only facilities must be a minimum distance of ¼ mile from sensitive land uses (outside the NMC area)
- Greenwaste composting facilities must be a minimum distance of ½ mile from a sensitive land use
- A traffic study is required as part of a greenwaste composting facility's CUP application and appropriate truck routes must be established from the facility to the freeway
- The movement of composting material is restricted to times of day and week that residents are more likely to be away from their homes (i.e., not on weekends or in the late afternoon)
- Criteria are established for the construction and maintenance of the perimeter berms around the site
- Criteria are established for the placement and maintenance of compost material rows

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A POLICY REGARDING REQUIRED BUFFER ZONES FOR NEW COMPOSTING FACILITIES WITHIN THE NEW MODEL COLONY AREA.

WHEREAS, the City of Ontario annexed the San Bernardino Agricultural Preserve to the City in 1999; and

WHEREAS, the City adopted a Right To Farm Ordinance in 1999 that allowed property owners in the area (now known as the New Model Colony, or NMC) the right to continue to farm their land, including dairies; and

WHEREAS, the City further recognizes that the transition of the area will be a gradual process and that there will be a need for regulations to guide agricultural-related development activities for the interim period; and

WHEREAS, the Development Code defines Agricultural Support Services as those uses that are supportive to the farm community. It further defines waste management facilities and fertilizer operations as uses that directly support or which are accessory or incidental to established agricultural uses. It also states that these uses are fully compatible with agricultural uses in the area. Therefore, the Development Code recognizes waste management facilities, such as manure waste facilities, as legitimate uses in the NMC and requires them to process a Conditional Use Permit (CUP). The Development Code does not provide for any distance requirements or buffers, from a waste management facility to other land uses, except for the case of new residential uses moving next to an existing dairy farm; and

WHEREAS, there has been several applications submitted for Conditional Use Permits to establish composting facilities in the NMC. At neighborhood meetings held to discuss the applications with local residents, there has been a large and fairly unanimous outpouring of testimony against the location of these composting facilities. The reasons stated for the opposition includes odors, dust, pathogens, and increased truck traffic along existing streets; and

WHEREAS, the Planning Commission at their meeting of November 18, 2013, received and reviewed a report from the Planning Department on the issue of requiring distance separation or buffer requirements for new composting facilities in the NMC; and

WHEREAS, on November 18, 2013 the Planning Commission did discuss the issue of distance requirements between new composting facilities and sensitive land uses, and did vote to recommend to the City Council adoption of distance requirements and certain operational requirements that should be considered with any new CUP application for such uses.

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

SECTION 1. As the decision-making / policy setting body for the City, the City Council has reviewed and considered the information contained in the Planning Commission's administrative record for this issue and hereby adopts the following as policy of the City:

#### CITY OF ONTARIO DISTANCE SEPARATION AND OPERATIONAL REQUIREMENTS FOR COMPOSTING FACILITIES IN THE NMC POLICY

In order to minimize the physical and environmental impacts of different types of composting facilities in the NMC, the following regulations shall supplement any and all development and operational regulations contained in the Ontario Development Code relative to composting facilities and shall be considered by the Hearing Body during their deliberations on a Conditional Use Permit or other permit required to operate a composting facility in the NMC.

- a. Continue to allow the composting and removal of manure from individual dairies as a right of use. For new dairies, which require a CUP to establish their use, establish a 100 foot buffer between any existing sensitive land use (i.e.: residential, school, day care, senior citizen care facility, hospital) property line and a dry feed lot, dairy pond, manure storage, etc.
- b. Require a buffer distance of  $\frac{1}{4}$  mile for manure only composting facilities to a residential property or a property used for sensitive land uses (school, day care, hospital, elderly care facility, etc.). The distance should be measured from the closest property line of the sensitive land use to the nearest composting material on the facility site and not to the site's property line.
- c. Require a buffer distance of  $\frac{1}{2}$  mile for green waste or a combination green waste and manure composting facility to a residential use or a sensitive land use (as described above).
- d. Require a 100 foot setback buffer between material stacks or rows and the site's property line.
- e. As a part of any CUP application for a green waste facility, require a traffic study for the project and condition the use of appropriate routes from the facility to the freeways to minimize impacts to existing residential neighborhoods.
- f. As a part of any CUP application for a composting facility, consider adding the following items to the conditions of approval, as appropriate:
  - (1) Maintain good air flow through the compost material

- (2) Turn compost based on temperature, not a schedule
- (3) Restrict material movement to times when the potential for winds are low and general population is least (i.e.: when people are indoors or away from their homes, and not on weekends)
- (4) Minimize disturbance of dusty areas by equipment
- (5) Minimize dust by adding moisture to material when moving or turning, and regularly water dirt roadways, dry material and unused areas.
- (6) Berms (defined as earthen mounds constructed along the perimeter of a composting site to minimize sight into the property and reduce debris from blowing off-site) shall be a maximum height of fifteen (15) feet, but in no case higher than the allowed material rows.
- (7) Berms shall be set back at least ten (10) feet from public right of ways boundaries and five (5) feet from any other property lines or one half the height of the berm, whichever is greater.
- (8) Berms should be comprised primarily of soil and no steeper than a 2:1 horizontal to vertical (h:v) slope ratio. Berms can be as steep as a 1.5:1 (h:v) slope ratio if properly evaluated, with appropriate calculations, by the City Engineer.
- (9) The surface of the outside portions of the slopes (facing a public street) should have properly installed and maintained landscaping or hydro seeding with jute matting to prevent erosion or sloughing.

SECTION 2.     Effective Date. The Mayor shall sign this Resolution and the City Clerk shall attest hereto, and this Resolution shall take effect and be in force on the date of its adoption.

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

PASSED, APPROVED, AND ADOPTED this 3<sup>rd</sup> day of December 2013.

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PAUL S. LEON, MAYOR

ATTEST:

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MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 3, 2013 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2013-       duly passed and adopted by the Ontario City Council at their regular meeting held December 3, 2013.

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

(SEAL)

# CITY OF ONTARIO

*Agenda Report*  
December 3, 2013

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN WARM SPRINGS NMC, LLC, AND THE CITY OF ONTARIO TO PROVIDE FOR THE CONSTRUCTION OF UP TO 190 RESIDENTIAL UNITS AND REQUIRED INFRASTRUCTURE ON 40 ACRES OF LAND WITHIN PLANNING AREA 3 OF THE SUBAREA 29 SPECIFIC PLAN, LOCATED AT THE SOUTHEAST CORNER OF ARCHIBALD AND EUCALYPTUS AVENUES**

**RECOMMENDATION:** That the City Council consider and adopt an ordinance approving the Development Agreement (File No. PDA13-001) between Warm Springs NMC, LLC, and the City of Ontario to provide for the construction of up to 190 residential units on 40 acres within the Subarea 29 Specific Plan, located at the southwest corner of Archibald and Eucalyptus Avenues (APNs: 0218-281-15 and 16).

**COUNCIL GOALS:** Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health  
Invest in the Growth and Evolution of the City's Economy  
Operate in a Businesslike Manner  
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:** The proposed Development Agreement will provide funding from a community facilities district (CFD) for additional City services required to support the Subarea 29 Specific Plan development, thereby mitigating the increased cost associated with such services. In addition, the City will receive Public Service Funding fees plus development impact, compliance processing, licensing, and permitting fees. No Original Model Colony revenue will be used to support the New Model Colony development.

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

Prepared by: Scott Murphy  
Department: Planning

City Manager  
Approval: 

Submitted to Council/O.H.A. 12/03/2013

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

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

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

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**BACKGROUND:** On November 19, 2013, the City Council introduced and waived further reading of an ordinance approving a Development Agreement between Warm Springs NMC, LLC (“Warm Springs”) and the City which recognized that the financial commitment required for construction in the New Model Colony (“NMC”) is substantial. To adequately forecast these costs and gain assurance that the project may proceed under the existing policies, rules and regulations, Warm Springs is entering into a Development Agreement with the City providing for the development of up to 190 dwelling units. The Development Agreement provides funding for new City expenses created by the project, including operational costs related to the review, approval and administration of the Warm Springs project, additional project related services, infrastructure and affordable housing requirements.

The Development Agreement proposes to include 40 acres of residential development as shown in Exhibit A (Specific Plan Map). The Agreement grants to the Warm Springs a vested right to develop their project as long as the Warm Springs complies with the terms and conditions of the Subarea 29 Specific Plan and EIR.

The main points of the Development Agreement are as follows:

Term: Ten (10) years with a five (5) year option.

Assignment: Assignable with all terms and conditions applying to the assignee. The City has conditional approval and City will assess a processing fee.

Fees:

Development Impact: Varies by category (i.e.; Streets and Bridges, Police, Fire, Open Space/Parks etc.). This is a separate fee from existing City licensing fees and permits.

Public Services Funding: \$1,800/unit fee due in two (2) installments:

- 1) \$900 within 30 days following the City’s start of construction of Fire Station No. 9.
- 2) \$900 upon issuance of remaining building permits, the cost of which shall increase each January 1, beginning January 1, 2014.

Community Facilities:

District (CFD): City will cooperate with Warm Springs to form a CFD to reimburse costs of eligible infrastructure construction and maintenance of public facilities.

Parks/Open Space:

As required by the General Plan, Warm Springs will supply five (5) acres per 1,000 projected population through park dedication and/or the payment of in-lieu fees.

Housing:

Provide affordable housing as required by the General Plan through construction, rehabilitation, or by paying an In-Lieu Fee.

Compliance:

Warm Springs will submit an annual monitoring report which the City will review for compliance. The City will assess a review/approval

processing fee. If Warm Springs is found to be in compliance, the City will issue a Certificate of Compliance. If noncompliance is identified, a letter of correction will be issued.

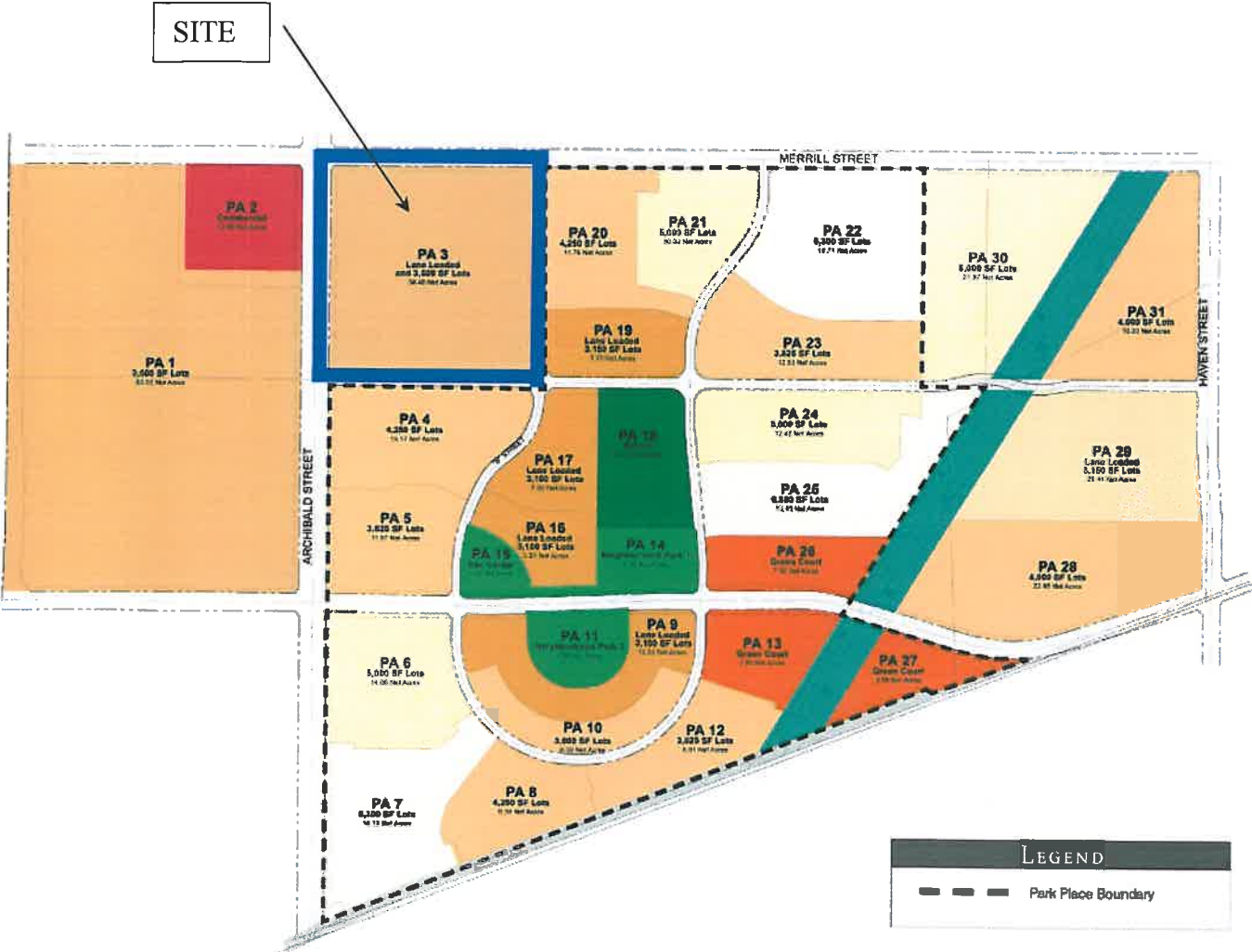
Schools: Must satisfy Mountain View Elementary School District and Chaffey High School District school facilities requirements.

Termination: The City may terminate the Agreement if substantial evidence is found of noncompliance.

In considering the application at their meeting of October 22, 2013, the Planning Commission found that the Development Agreement was consistent with State law, The Ontario Plan, the City's Development Agreement policies, and other Development Agreements previously approved for NMC development, and unanimously recommended approval of the Development Agreement to the City Council.

**ENVIRONMENTAL REVIEW:** Pursuant to CEQA section 21166 and sections 15162 and 15163 of the CEQA Guidelines, an Addendum to the Certified Environmental Impact Report for the Subarea 29 Specific Plan (SCH# 2004011009) was prepared by the City with regard to the Project ("Addendum"). The Addendum incorporates, by reference, the analysis contained in the Certified Environmental Impact Report for the Subarea 29 Specific Plan, and addresses only those issues specific to the Project. As described in the Addendum and the Initial Study, the Certified Environmental Impact Report for the Subarea 29 Specific Plan adequately describes the activity proposed. The Addendum concludes that the Project will not result in new or substantially more adverse, significant environmental impacts than those disclosed in the Certified Environmental Impact Report for the Subarea 29 Specific Plan.

SUBAREA 29 SPECIFIC PLAN MAP



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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND WARM SPRINGS NMC, LLC., FILE NO. PDA13-001, TO PROVIDE FOR THE CONSTRUCTION OF UP TO 190 RESIDENTIAL UNITS ON 40 ACRES WITHIN PLANNING AREA 3 OF THE SUBAREA 29 SPECIFIC PLAN, LOCATED AT THE SOUTHWEST CORNER OF ARCHIBALD AND EUCALYPTUS AVENUES (APNS: 0218-281-15 AND 16).

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

“The Legislature finds and declares that:

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

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

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

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

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

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

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

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

WHEREAS, attached to this Ordinance, marked Exhibit "A" and incorporated herein by this reference, is the proposed Development Agreement between Warm Springs NMC, LLC, and the City of Ontario, File No. PDA13-001. Hereinafter in this Ordinance, the Development Agreement is referred to as the "Agreement"; and

WHEREAS, on October 22, 2013, the Planning Commission of the City of Ontario conducted a hearing to consider the Agreement and concluded said hearing on that date. After considering the public testimony, the Planning Commission voted unanimously to recommend approval of the Agreement to the City Council; and

WHEREAS, as the first action on the Project, on November 19, 2013, the City Council approved a Resolution adopting an Addendum to the Subarea 29 Specific Plan Environmental Impact Report (SCH #2004011009) certified by City Council on October 19, 2006, for File No. PSPA03-003. The Addendum finds that the proposed project introduces no new, significant environmental impacts, and all previously adopted mitigation measures are incorporated into the Project by reference; and

WHEREAS, on November 19, 2013, the City Council of the City of Ontario conducted a hearing to consider the Agreement and concluded said hearing on that date; and

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

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

SECTION 1. Based upon substantial evidence presented to the City Council during the above-referenced hearing on November 19, 2013, including written and oral staff reports, together with public testimony, the City Council hereby specifically finds as follows:

a. The Agreement applies to 40 acres of residential land within the Subarea 29 Specific Plan, located at the southeast corner of Archibald and Eucalyptus Avenues and is presently utilized for dairy and agriculture uses; and

b. The properties to the north of the Project site are within the proposed Grand Park Specific Plan, are designated for open space uses and are developed with dairy uses. The property to the south of the project site is within planning area 4 of the Subarea 29 Specific Plan, is designated for residential

development, and is vacant. The properties to the east are within planning areas 19 and 20 of the Subarea 29 Specific Plan, are designated for residential uses and are vacant. The properties to the west are within planning areas 1 and 2 of the Subarea 29 Specific Plan, are designated for single family residential and commercial uses, respectively, and are vacant and developed with a dairy; and

c. The Agreement establishes parameters for the development of the Subarea 29 residential projects. The Development Agreement also grants Warm Springs NMC, LLC, the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy plan (General Plan), design guidelines and development standards for the Subarea 29 Specific Plan; and

d. The Agreement will provide for the phasing of various improvements established by the Subarea 29 Specific Plan; and

e. The Agreement has been prepared in conformance with the goals and policies of The Ontario Plan Policy Plan (General Plan); and

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

g. The Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and,

h. The Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties but the benefits of the project outweigh the potential environmental impacts and the mitigation of these impacts were addressed in the Subarea 29 Specific Plan EIR certified by the City Council on October 19, 2006.

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

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

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

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

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

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

PASSED, APPROVED, AND ADOPTED this 3<sup>rd</sup> day of December 2013.

---

PAUL S. LEON, MAYOR

ATTEST:

---

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

---

BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. \_\_\_\_\_ was duly introduced at a regular meeting of the City Council of the City of Ontario held November 19, 2013 and adopted at the regular meeting held December 3, 2013 by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. \_\_\_\_\_ duly passed and adopted by the Ontario City Council at their regular meeting held December 3, 2013 and that Summaries of the Ordinance were published on November 26, 2013 and \_\_\_\_\_, in the Inland Valley Daily Bulletin newspaper.

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

(SEAL)

# CITY OF ONTARIO

*Agenda Report*

December 3, 2013

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN ACQUISITION, DISPOSITION AND DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF ONTARIO AND MISSION GROVE PARTNERS, L.P.**

**RECOMMENDATION:** That the City Council:

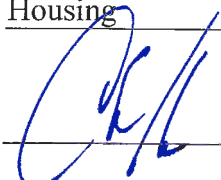
- (A) Adopt a resolution approving the Acquisition, Disposition and Development Agreement (on file in the Records Management Department) between the City of Ontario and Mission Grove Partners, L.P.;
- (B) Authorize the City Manager to execute any and all documents necessary or desirable to implement the Agreement; and
- (C) Direct staff to file a Notice of Determination under CEQA.

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

**FISCAL IMPACT:** FAA and LAWA guidelines require that Part 150 parcels be sold at fair market value and that future development on these parcels be compatible with the airport. The proposed agreement will comply with these requirements. It is estimated that the City will generate \$3 to \$4 million in land sale proceeds when the City-owned property is conveyed to the Developer. There is no impact to the City's General Fund.

**BACKGROUND:** Mission Grove Partners, L.P., is proposing the development of a 238,850 square foot business park on City-acquired Part 150 and developer-owned land just southeast of the corner of Mission Boulevard and Grove Avenue. A location map is provided as Exhibit "A". The Developer estimates the project will cost \$19 million to construct. The Developer is a California limited partnership consisting of a general managing partner and three (3) limited partners with its main office in Costa

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

Prepared by: Sigfrido G. Rivera  
Department: Housing  
City Manager Approval: 

Submitted to Council/O.H.A. 12/03/2013  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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Mesa, CA. The general managing partner is Richard C. Boatman and the limited partners are Lynn Luther, John Ginger, and Allen Boerner. According to the general managing partner, the partnership has a net worth of \$50 million in capital and has built approximately eight (8) million square feet of mostly industrial space.

The proposed agreement establishes the terms and conditions on which the Developer will construct the project. Exhibit "B" provides a summary of those terms, which requires the Developer to fund acquisition of non-City-owned property within the project boundaries, including certain City legal costs; secure entitlements and complete a subdivision map; prepare construction drawings and obtain building permits; and obtain financing for the project.

The project site is approximately 16 acres and is generally bounded by Mission Boulevard to the north, Grove Avenue to the west, Mildred Avenue to the east, and Belmont Street to the south. Within the project boundaries, the City owns 32 parcels totaling 11 acres, the Developer owns 10 parcels totaling four (4) acres and three (3) parcels are privately owned totaling one (1) acre. The proposed development will require the vacation of a portion of Kern Street and a partial vacation of Peach Avenue.

FAA and LAWA guidelines require that Part 150 parcels be sold at fair market value and that future development on these parcels be compatible with the airport. The agreement will comply with these requirements. It is estimated that the City will generate \$3 to \$4 million in land sale proceeds when the City-owned property is conveyed to the Developer. The proposed project is consistent with the intent of the Part 150 Noise Compatibility Program of increasing land use compatibility in the noise impacted neighborhoods near the airport. It is also consistent with the policies and criteria set forth in the LA/Ontario International Airport Land Use Compatibility Plan and with the FAA-accepted Noise Land Reuse Plan for the Quiet Home Program.

**Construction Schedule:** Assuming timely acquisition of the 1216 Kern Street parcel, construction for Phase 1 should commence no later than approximately November 2014. Assuming timely acquisition of any remaining project parcels, construction for Phase 2 should also commence in November 2014. The agreement requires that the Developer complete the entire project one year from the start of construction.

**Environmental Review:** Staff prepared an Initial Study to determine possible environmental impacts of the proposed project. Based on the Initial Study, staff determined that all potential environmental impacts were less than significant or could be mitigated to a level of insignificance. Subsequently, staff prepared a Mitigated Negative Declaration pursuant to CEQA, the State CEQA Guidelines and the City's Local CEQA Guidelines.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ACQUISITION, DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND MISSION GROVE PARTNERS, L.P.

WHEREAS, the City Council of the City of Ontario ("City") has approved and adopted The Ontario Plan to guide growth and development throughout the City and within the environs of Ontario International Airport ("Airport"), which encompass the proposed Mission Grove Business Park ("Project"); and

WHEREAS, the City Council of the City has approved the Ontario International Airport Part 150 Noise Compatibility Program ("Part 150 NCP"), which encompasses the Project; and

WHEREAS, the City desires to increase land use compatibility and employment opportunities within the environs of the Airport by implementing a two-phase industrial/business park development within the Project area; and

WHEREAS, the Project area is located within the Airport Influence Area of Ontario International Airport and has been found to be consistent with the policies and criteria set forth in the LA/Ontario International Airport Land Use Compatibility Plan (ALUCP); and

WHEREAS, the City is the owner of certain real property (collectively, "City/Part 150 Property") within the Project area; and

WHEREAS, Mission Grove Partners, L.P. ("Developer") owns certain real property (collectively, "Developer Property") within the Project area, and other private owners own certain real property (collectively, "Third-Party Properties") within the Project area; and

WHEREAS, the City desires to declare its intent to sell City/Part 150 Property to Developer to implement the Project; and

WHEREAS, the City's sale of City/Part 150 Property is consistent with Federal Aviation Administration (FAA) Grant Assurance 31 (Noise Land Reuse Plan) and Los Angeles World Airports (LAWA) noise mitigation guidelines; and

WHEREAS, as part of the Part 150 NCP implementation, the City desires to cause the development of certain real property ("City/Part 150 Property, Developer Property, and Third Party Properties") by Developer; and

WHEREAS, the City is in the process of attempting to acquire the Part 150 NCP eligible Third-Party Parcels with LAWA and FAA authorized Part 150 funding; and

WHEREAS, the City and the Developer have negotiated the terms of a proposed agreement entitled the "Acquisition, Disposition and Development Agreement for the Mission Grove Business Park"("Agreement"), dated as of December 3, 2013, providing for, among other things, the Developer's acquisition of the City Parcels for the purpose of developing the Project; and

WHEREAS, a copy of the Agreement is on file at the City's Records Management Office; and

WHEREAS, pursuant to Government Code Section 65402, the Planning Commission of the City shall determine prior to the time of conveyance of the Site that the location, purpose, extent and development of the Project are in conformance with the City's general plan; and

WHEREAS, the Project is subject 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, on the basis of the initial study, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of insignificance, a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program were prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

WHEREAS, pursuant to the foregoing, the City Council has determined that a Notice of Determination should be filed for the Project pursuant to CEQA, the State CEQA Guidelines and the City's Local CEQA Guidelines; and

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

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

SECTION 1. The City Council approves the Agreement.

SECTION 2. City staff is directed to file a Notice of Determination with the San Bernardino County Clerk's Office within five (5) working days of the adoption of this Resolution.

SECTION 3. The City Council authorizes and directs the City Manager to execute and deliver such documents and instruments as may be reasonably necessary, desirable and/or convenient to implement the Agreement or the other actions authorized by this Resolution.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution.

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

PASSED, APPROVED AND ADOPTED this 3<sup>rd</sup> day of December 2013.

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

ATTEST:

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

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
LAW OFFICES OF LANCE E. GARBER  
CITY SPECIAL COUNSEL

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 3, 2013 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:            COUNCIL MEMBERS:

ABSENT:          COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2013-        duly passed and adopted by the Ontario City Council at their regular meeting held December 3, 2013.

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

(SEAL)

# CITY OF ONTARIO

*Agenda Report*  
December 3, 2013

SECTION:  
PUBLIC HEARINGS

**SUBJECT:** AN ORDINANCE AMENDING THE ONTARIO DEVELOPMENT CODE, ARTICLE 13 (FILE NO. PDCA13-005) TO CONDITIONALLY PERMIT HOOKAH ESTABLISHMENTS WITHIN THE C2 (CENTRAL BUSINESS DISTRICT COMMERCIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS

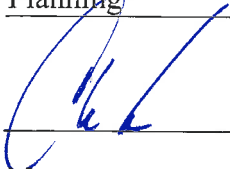
**RECOMMENDATION:** That the City Council introduce and waive further reading of an ordinance approving Development Code Amendment File No. PDCA13-005 to conditionally permit hookah establishments within the C2 and C3 zoning districts.

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

**FISCAL IMPACT:** It is anticipated that a nominal amount of increased sales tax revenue may result from sales at hookah lounges and there may be new leasing or purchasing of otherwise vacant properties.

**BACKGROUND:** In 2007, as a result of issues with an existing hookah lounge in the City, the Ontario Development Code was amended to prohibit hookah establishments within the City. Since adoption of the Code Amendment, hookah has become more of a mainstream business in Southern California. Within the past year, the City has received several inquiries from individuals wishing to establish a hookah lounge in the City. During meetings with the representatives, staff was provided information on hookah establishments in other cities. The representatives indicated that many of the cities allow hookah establishments but differed on the process for approving them. Staff took the information provided and contacted several cities to gain a better understanding of the conditions under which hookah establishments were allowed.

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

Prepared by: Luis E. Batres  
Department: Planning  
City Manager Approval: 

Submitted to Council/O.H.A. 12/03/2013  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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The cities contacted included Anaheim, Riverside, San Bernardino, Corona, Upland, Pomona, Chino, and Rancho Cucamonga and the counties of San Bernardino and Riverside. Of the ten agencies contacted, only the County of Riverside prohibited the use like Ontario. Three agencies allowed hookah by right and six required the hookah business to file a Conditional Use Permit (CUP).

As a result of the study findings, City staff from Police, Fire, Planning, Code Enforcement and the City Attorney's office met and determined that hookah could be adequately controlled in certain areas of the City by using a combination of requiring a CUP and the establishment of strict operating criteria. The criteria includes the following:

- The use can be a stand alone use (lounge).
- The use can be part of a sit-down restaurant with an outside open patio area for outside smoking or as part of an ABC licensed bona-fide eating establishment.
- Hookah cannot be associated with live entertainment.
- Hookah cannot be part of a stand alone bar or nightclub that serves alcoholic beverages.
- The establishment must be in compliance with state laws and regulations pertaining to a smoking facility (limitation on numbers of paid staff, must meet CAL-OSHA requirements for air filtration and circulation and meet fire standards for smoking lounges).
- The establishment must dispose of ash and coals in accordance with fire department requirements.

On November 18, 2013, the Planning Commission considered an application to amend the Development Code to conditionally permit hookah establishments within the C2 (Central Business District Commercial) and C3 (Commercial Service) zoning districts and establish operational criteria for such a use. In considering the request, the Commission found that each establishment could be adequately regulated with the CUP and operating conditions. They indicated that with the Conditional Use Permit (CUP), the City will be able to impose conditions of approval; such as regulating business hours, requiring proper ventilation and imposing security requirements. They also indicated that since the approval of a CUP would be discretionary, the City will still have the ability to deny an establishment for cause if the location is not appropriate or complimentary to other existing land uses. The Planning Commission voted to recommend City Council approval of PDCA13-005

**ENVIRONMENTAL REVIEW:** Pursuant to the California Environmental Quality Act (CEQA), the proposed Development Code amendment is exempt from CEQA (codified as Public Resources Code Sections 21000 et seq.) ("CEQA") and the State CEQA Guidelines, pursuant to CEQA Guidelines Section 15061(b)(3), which states that the activity is covered by the general rule that CEQA applies only to projects that 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.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA13-005, A DEVELOPMENT CODE AMENDMENT REVISING TITLE 9 (DEVELOPMENT CODE), ARTICLE 13, TABLE 13-1 (PERMITTED, CONDITIONAL AND ANCILLARY LAND USES-ALL ZONING DISTRICTS) TO CONDITIONALLY PERMIT HOOKAH ESTABLISHMENTS WITHIN THE C2 (CENTRAL BUSINESS DISTRICT COMMERCIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS the City of Ontario ("Applicant") has initiated a Development Code Amendment, File No. PDCA13-005, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

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

WHEREAS, the Application proposes to allow hookah establishments as a conditionally permitted use within the C2 (Central Business District Commercial) and C3 (Commercial Service) zoning districts; and

WHEREAS, the C2 (Central Business District Commercial) and the C3 (Commercial Service) zoning districts are to allow the development of commercial establishments typically found in shopping centers serving the day-to-day shopping and service needs of residents and the business community. Further, the corresponding land use in TOP identifies General Commercial as “local and regional serving retail, personal service, entertainment, dining, office, tourist-serving, and related commercial uses”; and

WHEREAS, the proposed Development Code amendment is exempt from the California Environmental Quality Act (codified as Public Resources Code Sections 21000 et seq.) (“CEQA”) and the State CEQA Guidelines, pursuant to CEQA Guidelines Section 15061(b)(3), which states that the activity is covered by the general rule that CEQA applies only to projects that 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; and

WHEREAS, on November 18, 2013, the Planning Commission of the City of Ontario conducted a duly noticed public hearing to consider and concluded said hearing on that date. After deliberating the matter, the Commission voted to recommend approval of the application to the City Council; and

WHEREAS, on December 3, 2013, the City Council conducted a duly noticed public hearing 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 administrative record of the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a) The proposed Development Code amendment is exempt from the California Environmental Quality Act (codified as Public Resources Code Sections 21000 et seq.) ("CEQA") and the State CEQA Guidelines, pursuant to CEQA Guidelines Section 15061(b)(3), which states that the activity is covered by the general rule that CEQA applies only to projects that 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.

b) The determination of CEQA exemption reflects the independent judgment of the City Council.

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

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

b) The proposed Development Code Amendment will provide land use flexibility in the city and it will assist in the goal of creating a complete community; and

c) The proposed Development Code Amendment will allow the city to provide land use flexibility, and the amendment will also allow the City to be consistent with what other surrounding agencies are already doing; and

d) The propose Development Code Amendment will support the vision of the City to be a leader within Southern California and the Inland Empire; and

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

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council approves File No. PDCA13-005, amending Development Code Chapter 1, Article 13, Table 13-1 to allow hookah establishments as a conditionally permitted use within the C2 (Central Business District Commercial) and C3 (Commercial Service) zoning districts subject to the following restrictions and as shown on Exhibit "A" attached:

- 1) The use can be a standalone use (lounge); and
- 2) The use can be part of a sit-down restaurant with an outside open patio area for outside smoking or as part of an ABC licensed bona-fide eating establishment; and
- 3) Hookah cannot be associated with live entertainment; and
- 4) Hookah cannot be part of a bar or nightclub; and
- 5) The establishment must be in compliance with state laws and regulations pertaining to a smoking facility (limitation on numbers of paid staff, must meet CAL-OSHA requirements for air filtration and circulation and meet fire standards for smoking lounges); and
- 6) The use must dispose of ash and coals in accordance with fire department requirements.

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

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

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

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

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

ATTEST:

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

APPROVED AS TO FORM:

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

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

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. \_\_\_\_\_ was duly introduced at a regular meeting of the City Council of the City of Ontario held December 3, 2013 and adopted at the regular meeting held \_\_\_\_\_, 2013 by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

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

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

(SEAL)

## Exhibit “A”

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

### Use Legend:

P: Permitted    C: Conditional Use Permit required    U: Refer to underlying zoning district    ---: Prohibited

Uses	<i>Professional and Commercial Districts</i>						
	<i>AP</i>	<i>NC</i>	<i>C1</i>	<i>C2</i>	<i>C3</i>	<i>C4</i>	<i>EA</i>
Tobacco products stores (excluding hookah bars, smoking lounges and similar facilities)	---	---	P	P	P	P	---
<b>Hookah establishments</b>	---	---	---	<b>C</b>	<b>C</b>	---	---