

**CITY OF ONTARIO  
CITY COUNCIL AND HOUSING AUTHORITY  
AGENDA  
SEPTEMBER 15, 2020**

**Paul S. Leon**  
Mayor

**Debra Dorst-Porada**  
Mayor pro Tem

**Alan D. Wapner**  
Council Member

**Jim W. Bowman**  
Council Member

**Ruben Valencia**  
Council Member



**Scott Ochoa**  
City Manager

**Ruben Duran**  
City Attorney

**Sheila Mautz**  
City Clerk

**James R. Milhiser**  
Treasurer

**SPECIAL AND URGENT NOTICE**

In accordance with the Governor's Declarations of Emergency for the State of California (Executive Orders N-25-20 and N-29-20), the Ontario City Council Meetings are being conducted via teleconference to limit in-person attendance at the upcoming meeting of the City of Ontario City Council and Housing Authority.

Members of the public may utilize alternative measures established by the City of Ontario to view the City Council meetings and/or to address the Mayor and City Council Members.

The meeting will be live broadcast on local cable Channel 3 as well as live streamed at: [www.ontarioca.gov/Agendas/CityCouncil](http://www.ontarioca.gov/Agendas/CityCouncil), [YouTube.com/CityofOntario](https://www.youtube.com/CityofOntario); or Zoom.

**TO PROVIDE PUBLIC COMMENT:** Those wishing to speak during the "Public Comment" portion of the meeting or any item on "Consent Calendar" must call 909-395-2900 between 6:00 p.m. and 6:30 p.m. the day of the meeting.

**TO COMMENT BY E-MAIL:** Submit your comments by email no later than 4:00 p.m. on the day of the meeting by emailing your name, agenda item you are commenting on and your comments to [publiccomments@ontarioca.gov](mailto:publiccomments@ontarioca.gov). All comments received by the deadline will be forwarded to the City Council for consideration before action is taken on the matter.

**TO COMMENT BY MAIL:** To submit your comments by mail, provide your name, agenda item you are commenting on, and your comments by mailing to Records Management, Ontario City Hall, 303 East “B” Street, Ontario, CA 91764. Comments by mail must be received in the Records Management Department no later than 4:00 p.m. on the day of the meeting. Postmarks are not accepted. All comments received by the deadline will be provided to the City Council for consideration before action is taken on the matter.

We appreciate your understanding during this unprecedented time of social distancing under the Emergency Declaration Order. These procedures may be modified in the future as social and public gathering protocols change.

**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 provide public comment or to address the City Council have been provided alternative measures including U.S. mail, email, a website comment form, and the ability to call in and speak to the City Council. All public comments received by the established deadline for this meeting will be included as part of the official meeting record.

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.

**ORDER OF BUSINESS** The regular City Council and Housing Authority meeting begins with 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.

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

**6:30 p.m.**

***ROLL CALL***

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

**PLEDGE OF ALLEGIANCE**

Mayor pro Tem Dorst-Porada

**INVOCATION**

**PUBLIC COMMENTS**

**6:30 p.m.**

Members of the public who wish to provide a general comment or address a specific agenda item may do so by mailing comments to the City Clerk's Office, or by calling (909) 395-2900 between 6:00 – 6:30 p.m. for "Consent Calendar" items or by emailing [PublicComments@ontarioca.gov](mailto:PublicComments@ontarioca.gov) no later than 4:00 p.m. on the day of the meeting. Under provisions of the Brown Act, Council is prohibited from taking action on oral requests.

**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 August 18, 2020, and the special meeting of the City Council and Housing Authority of August 15, 2020, approving same as on file in the Records Management Department.

**2. BILLS/PAYROLL**

**Bills** August 14, 2020 through August 27, 2020 and **Payroll** August 2, 2020 through August 15, 2020, when audited by the Finance Committee.

**3. A RESOLUTION AMENDING THE APPENDIX TO THE CITY OF ONTARIO CONFLICT OF INTEREST CODE**

That the City Council adopt a resolution amending the Appendix to the Conflict of Interest Code to update position classification titles and filing requirements for City employees.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AND ADOPTING AN AMENDED APPENDIX OF THE CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974.

**4. A LEASE AGREEMENT BETWEEN CALIFORNIA STATE UNIVERSITY SAN BERNARDINO, INLAND EMPIRE CENTER FOR ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT CENTER, AND THE CITY OF ONTARIO**

That the City Council approve a lease agreement (on file in the Records Management Department) between California State University San Bernardino, Inland Empire Center for Entrepreneurship and Small Business Development Center, and the City of Ontario for the use of certain City-owned property located at 603 North Euclid Avenue for a one-year term with the option to extend for up to two additional one-year terms.

**5. A RESOLUTION APPOINTING MEMBERS TO THE ONTARIO ENHANCED INFRASTRUCTURE FINANCING DISTRICT PUBLIC FINANCING AUTHORITY**

That the City Council adopt a resolution to appoint representatives to serve as members of the Ontario Enhanced Infrastructure Financing District Public Financing Authority.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPOINTING MEMBERS TO THE ONTARIO ENHANCED INFRASTRUCTURE FINANCING DISTRICT PUBLIC FINANCING AUTHORITY.

**6. A RESOLUTION ADOPTING THE MEASURE I FIVE-YEAR CAPITAL PROJECT NEEDS ANALYSIS FOR FISCAL YEARS 2021-22 TO 2025-26**

That the City Council consider and adopt a resolution approving the FY2021-22 through FY2025-26 Measure I Five-Year Capital Project Needs Analysis (CPNA) and authorize the City Manager to approve changes to the plan as may be required by the City and/or San Bernardino County Transportation Authority (SBCTA).

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING THE MEASURE I FIVE-YEAR CAPITAL PROJECT NEEDS ANALYSIS FOR FY 2021-22 TO FY 2025-26.

**7. A RESOLUTION CONTINUING THE EXISTENCE OF A LOCAL EMERGENCY FOR THE 2020 CORONAVIRUS PANDEMIC**

That the City Council adopt a resolution continuing the Proclamation of Local Emergency for the 2020 Coronavirus Pandemic until further notice with an update scheduled for the October 6, 2020 City Council Meeting unless canceled sooner.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, PROCLAMING THE CONTINUED EXISTENCE OF A LOCAL EMERGENCY AND DIRECT THE EMERGENCY ORGANIZATION OF THE CITY OF ONTARIO TO TAKE ALL NECESSARY STEPS FOR THE PROTECTION OF LIFE, HEALTH AND SAFETY IN THE CITY OF ONTARIO.

**8. FIRST AMENDMENT TO THE CONSOLIDATED PLAN ANNUAL ACTION PLAN FOR THE 2020-21 PROGRAM YEAR**

That City Council take the following actions:

- (A) Approve the First Amendment to the FY2020-24 Consolidated Plan and FY2020-21 Annual Action Plan (on file in the Records Management Department) (“Substantial Amendment”); and
- (B) Authorize the City Manager to take all actions necessary or desirable to implement the Substantial Amendment.

**9. GOODS AND SERVICES AGREEMENTS FOR VEHICLE COLLISION REPAIR SERVICES/CALIFORNIA COLLISION CENTER/TOP GUN PAINT AND BODY/LOS ANGELES TRUCK CENTER/INLAND BODY & PAINT**

That the City Council authorize the City Manager to execute three-year Goods and Services Agreements (on file in the Records Management Department) with California Collision Center of Ontario, California, Top Gun Paint and Body of Ontario, California, Los Angeles Truck Center of Whittier, California, and Inland Body & Paint Center of Fontana, California for vehicle collision repairs with an estimated total value of \$240,000; and authorize the option to extend the agreements for up to two additional years consistent with City Council approved budgets.

**10. AWARD OF BID FOR PROCUREMENT OF POLICE UNIFORMS AND ALTERATION/PRISTINE UNIFORMS LLC/LA POLICE GEAR, INC.**

That the City Council approve and authorize the City Manager to execute three-year Goods and Services Agreements for the procurement of police uniforms and alteration services at set pricing per Bid Invitation #1346 with Pristine Uniforms, LLC of Rancho Cucamonga, California and LA Police Gear, Inc. of Valencia, California; and authorize the City Manager to extend the agreements for up to two additional years.

**PUBLIC HEARINGS**

**Pursuant to Government Code Section 65009, if you challenge the City's zoning, planning or any other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the public hearing.**

**11. A PUBLIC HEARING TO CONSIDER: [1] A GENERAL PLAN AMENDMENT (FILE NO. PGPA18-002) TO MODIFY THE POLICY PLAN (GENERAL PLAN) LAND USE PLAN (EXHIBIT LU-01) COMPONENT OF THE ONTARIO PLAN, CHANGING THE LAND USE DESIGNATION ON APPROXIMATELY 46 ACRES OF LAND FROM GENERAL COMMERCIAL AND BUSINESS PARK TO 4.13 ACRES OF NEIGHBORHOOD COMMERCIAL, 3.51 ACRES OF BUSINESS PARK, AND 39 ACRES OF INDUSTRIAL; [2] MODIFY THE FUTURE BUILDOUT TABLE (EXHIBIT LU-03) TO BE CONSISTENT WITH THE LAND USE DESIGNATION CHANGES; AND [3] AN AMENDMENT (FILE NO. PSPA18-003) TO THE EDENGLLEN SPECIFIC PLAN TO CHANGE THE LAND USE DESIGNATION FROM COMMUNITY COMMERCIAL, COMMERCIAL/ BUSINESS PARK FLEX ZONE, AND BUSINESS PARK/LIGHT INDUSTRIAL, TO 4.13 ACRES OF NEIGHBORHOOD COMMERCIAL, 3.51 ACRES OF BUSINESS PARK, AND 39 ACRES OF LIGHT INDUSTRIAL, INCLUDING UPDATES TO THE DEVELOPMENT STANDARDS, EXHIBITS, AND TEXT CHANGES TO REFLECT THE PROPOSED LAND USES. THE PROJECT SITE IS LOCATED AT THE SOUTHWEST CORNER OF RIVERSIDE DRIVE AND HAMNER AVENUE (APNS: 0218-171-21 AND 0218-171-27)**

That the City Council take the following actions:

- (A) Consider and adopt an Addendum to The Ontario Plan Environmental Impact Report (SCH# 2008101140);
- (B) Consider and adopt a resolution approving a General Plan Amendment (File No. PGPA18-002) to: [1] Modify the Policy Plan (General Plan) Land Use Plan (Exhibit LU-01) component of The Ontario Plan, changing the land use designation on approximately 46 acres of land located at the southwest corner of Riverside Drive and Hamner Avenue from General Commercial and Business Park to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Industrial; and [2] Modify the Future Buildout Table (Exhibit LU-03) to be consistent with the proposed land use designation changes; and

- (C) Consider and adopt a resolution approving an amendment to the Edenglen Specific Plan (File No. PSPA18-003) changing the land use designations on approximately 46 acres of land located at the southwest corner of Riverside Drive and Hamner Avenue from Neighborhood Commercial, Commercial/Business Park Flex Zone, and Business Park/Light Industrial, to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Light Industrial. The Specific Plan Amendment includes updates to development standards and exhibits, along with text changes to reflect the proposed land use changes.

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

Written communication.

Oral presentation.

Public hearing closed.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ADDENDUM TO THE ONTARIO PLAN (TOP) CERTIFIED ENVIRONMENTAL IMPACT REPORT (SCH # 2008101140), PURSUANT TO THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, FOR FILE NO PGPA06-001.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PGPA18-002, AN AMENDMENT TO THE LAND USE ELEMENT OF THE POLICY PLAN (GENERAL PLAN), REVISING EXHIBIT LU-01 (OFFICIAL LAND USE PLAN) AND EXHIBIT LU-03 (FUTURE BUILDOUT), AFFECTING PROPERTY LOCATED AT THE SOUTHWEST CORNER OF RIVERSIDE DRIVE AND HAMNER AVENUE, FROM GENERAL COMMERCIAL (20 ACRES) AND BUSINESS PARK (26.64 ACRES) TO 4.13 ACRES OF NEIGHBORHOOD COMMERCIAL, 3.51 ACRES OF BUSINESS PARK, AND 39 ACRES OF INDUSTRIAL, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0218-171-21 AND 0218-171-27. (SEE EXHIBITS A AND B) (PART OF CYCLE 2 FOR THE 2020 CALENDAR YEAR).

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSPA18-003, AN AMENDMENT TO THE EDENGLLEN SPECIFIC PLAN TO: (1) CHANGE THE LAND USE DESIGNATION ON 46.64 ACRES OF LAND FROM COMMUNITY COMMERCIAL, COMMERCIAL/BUSINESS PARK FLEX ZONE, AND BUSINESS PARK/LIGHT INDUSTRIAL TO 4.13 ACRES OF NEIGHBORHOOD COMMERCIAL, 3.51 ACRES OF BUSINESS PARK, AND 39 ACRES OF LIGHT INDUSTRIAL ON TWO PROPERTIES LOCATED AT THE SOUTHWEST CORNER OF RIVERSIDE DRIVE AND HAMNER AVENUE; AND (2) AMEND THE SPECIFIC PLAN TO UPDATE THE DEVELOPMENT STANDARDS, EXHIBITS, AND TEXT CHANGES TO REFLECT THE PROPOSED LAND USES, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0218-171-21 AND 0218-171-27.

**12. A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT (FILE NO. PDA18-006) BETWEEN THE CITY OF ONTARIO AND ONTARIO CC, LLC., TO ESTABLISH THE TERMS AND CONDITIONS FOR THE DEVELOPMENT OF TENTATIVE PARCEL MAP 20027 (FILE NO. PMTT18-009), FOR A 46.64-ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF RIVERSIDE DRIVE AND HAMNER AVENUE, WITHIN THE PROPOSED NEIGHBORHOOD COMMERCIAL, BUSINESS PARK AND LIGHT INDUSTRIAL LAND USE DESIGNATIONS OF THE EDENGLLEN SPECIFIC PLAN (APNS: 0218-171-21 AND 0218-171-27)**

That the City Council introduce and waive further reading of an ordinance approving the Development Agreement (File No. PDA18-006) between the City of Ontario and Ontario CC, LLC., to establish the terms and conditions for the development of Tentative Parcel Map 20027 (File No. PMTT18-009), for a 46.64-acre property located at the southwest corner of Riverside Drive and Hamner Avenue, within the proposed Neighborhood Commercial, Business Park and Light Industrial land use designations of the Edenglen Specific Plan (APNs: 0218-171-21 and 0218-171-27).

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. PDA18-006, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND ONTARIO CC, LLC., TO ESTABLISH THE TERMS AND CONDITIONS FOR THE DEVELOPMENT OF TENTATIVE PARCEL MAP 20027 (FILE NO. PMTT18-009), FOR A 46.64 ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF RIVERSIDE DRIVE AND HAMNER AVENUE, WITHIN THE PROPOSED NEIGHBORHOOD COMMERCIAL, BUSINESS PARK AND LIGHT INDUSTRIAL LAND USE DESIGNATIONS OF THE EDENGLLEN SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 0218-171-21 AND 0218-171-27.

**13. A PUBLIC HEARING TO CONSIDER CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT (SCH#2019050018), INCLUDING THE ADOPTION OF A MITIGATION MONITORING AND REPORTING PROGRAM AND A STATEMENT OF OVERRIDING CONSIDERATIONS, FOR THE FOLLOWING: 1) A GENERAL PLAN AMENDMENT (FILE NO. PGPA18-008) TO MODIFY THE LAND USE PLAN (EXHIBIT LU-01) OF THE POLICY PLAN (GENERAL PLAN) OF THE ONTARIO PLAN TO CHANGE THE LAND USE DESIGNATIONS FOR 85.6 ACRES OF LAND FROM GENERAL COMMERCIAL, OFFICE COMMERCIAL, AND LOW-MEDIUM DENSITY RESIDENTIAL (5.1-11 DWELLING UNITS PER ACRE) TO BUSINESS PARK AND GENERAL INDUSTRIAL, AND MODIFY THE FUTURE BUILDOUT TABLE (EXHIBIT LU-03) TO BE CONSISTENT WITH THE LAND USE DESIGNATION CHANGES; AND 2) A SPECIFIC PLAN (FILE NO. PSP18-002 - ONTARIO RANCH BUSINESS PARK) TO ESTABLISH THE LAND USE DISTRICTS, DEVELOPMENT STANDARDS, DESIGN GUIDELINES, AND INFRASTRUCTURE IMPROVEMENTS FOR THE POTENTIAL DEVELOPMENT OF UP TO 1,905,027 SQUARE FEET OF GENERAL INDUSTRIAL AND BUSINESS PARK LAND USES ON 85.6 ACRES OF LAND. THE PROJECT SITE IS BORDERED BY EUCALYPTUS AVENUE ON THE NORTH, MERRILL AVENUE ON THE SOUTH, SULTANA AVENUE ON THE EAST, AND EUCLID AVENUE ON THE WEST (APNS: 1054-011-01, 1054-011-02, 1054-011-04; 1054-021-01, 1054-021-02; 1054-271-01, 1054-271-02, 1054-271-03, 1054-281-01, 1054-281-02, and 1054-281-03)**

That the City Council take the following actions:

- (A) Consider and adopt a resolution certifying the Environmental Impact Report (SCH#2019050018) prepared for Ontario Ranch Business Park Specific Plan, File No. PSP18-002, which includes the adoption of a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan;
- (B) Consider and adopt a resolution approving a General Plan Amendment (File No. PGPA18-008) to modify the Land Use Element of The Ontario Plan (General Plan) to change the land use designations shown on the Land Use Plan Map (Exhibit LU-1) for 85.6 acres of land from General Commercial, Office Commercial, and Low-Medium Density Residential (5.1-11 dwelling units per acre) to Business Park and General Industrial and modify the Future Buildout Table (Exhibit LU-03) to be consistent with the land use designation changes; and

- (C) Introduce and waive further reading of an ordinance approving the Ontario Ranch Business Park Specific Plan (File No. PSP18-002).

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

Written communication.

Oral presentation.

Public hearing closed.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH# 2019050018) PREPARED FOR THE ONTARIO RANCH BUSINESS PARK SPECIFIC PLAN (FILE NO. PGPA18-008 AND PSP18-002) AND ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING AND REPORTING PLAN (APNS 1054-011-01, 1054-011-02, 1054-011-04; 1054-021-01, 1054-021-02; 1054-271-01, 1054-271-02, 1054-271-03; AND 1054-281-01, 1054-281-02, 1054-281-03).

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PGPA18-008, AN AMENDMENT TO THE LAND USE ELEMENT OF THE POLICY PLAN (GENERAL PLAN), REVISING EXHIBIT LU-01 (OFFICIAL LAND USE PLAN) AND EXHIBIT LU-03 (FUTURE BUILDOUT), AFFECTING PROPERTIES BOUNDED BY EUCALYPTUS AVENUE ON THE NORTH, MERRILL AVENUE ON THE SOUTH, SULTANA AVENUE ON THE EAST, AND EUCLID AVENUE ON THE WEST, FROM GENERAL COMMERCIAL (0.4 FAR), OFFICE COMMERCIAL (0.75 FAR), AND LOW-MEDIUM DENSITY RESIDENTIAL (5.1-11 DWELLING UNITS PER ACRE) TO BUSINESS PARK (0.6 FAR) AND INDUSTRIAL (0.55 FAR), AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 1054-011-01, 1054-011-02, 1054-011-04; 1054-021-01, 1054-021-02; 1054-271-01, 1054-271-02, 1054-271-03, 1054-281-01, 1054-281-02, AND 1054-281-03 (PART OF CYCLE 2 FOR THE 2020 CALENDAR YEAR).

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

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSP18-002, THE ONTARIO RANCH BUSINESS PARK SPECIFIC PLAN, TO ESTABLISH LAND USE DISTRICTS, DEVELOPMENT STANDARDS, DESIGN GUIDELINES, AND INFRASTRUCTURE IMPROVEMENTS FOR THE POTENTIAL DEVELOPMENT OF UP TO 1,905,027 SQUARE FEET OF GENERAL INDUSTRIAL AND BUSINESS PARK LAND USES ON 85.6 ACRES OF LAND. THE PROJECT SITE IS GENERALLY BORDERED BY EUCALYPTUS AVENUE ON THE NORTH, MERRILL AVENUE ON THE SOUTH, SULTANA AVENUE ON THE EAST, AND EUCLID AVENUE ON THE WEST, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 1054-011-01, 1054-011-02, 1054-011-04; 1054-021-01, 1054-021-02; 1054-271-01, 1054-271-02, 1054-271-03, 1054-281-01, 1054-281-02, AND 1054 281-03.

**14. RESOLUTIONS OF NECESSITY FOR THE ACQUISITION BY EMINENT DOMAIN OF FEE INTERESTS IN CERTAIN REAL PROPERTIES LOCATED ON GROVE AVENUE, BON VIEW AVENUE, AND MAIN STREET**

That the City Council conduct a public hearing and adopt Resolutions of Necessity declaring that the acquisition fee interests in certain real properties located on Grove Avenue, Bon View Avenue, and Main Street, more particularly described as Assessor Parcel Nos. 1049-161-18; 1049-161-19; 1049-121- 26; 1049-121-27; 1049-121-28; and 1049-194-20 (“Properties”), for the mitigation of airport impacts and the elimination of blight (“Project”) in Ontario, California.

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

Written communication.

Oral presentation.

Public hearing closed.

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

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION BY EMINENT DOMAIN OF FEE INTERESTS IN CERTAIN REAL PROPERTY LOCATED ON GROVE AVENUE IN ONTARIO, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NOS. 1049-161-18 AND 1049-161-19, FOR MITIGATION OF AIRPORT IMPACTS AND ELIMINATION OF BLIGHT IN THE CITY OF ONTARIO, CALIFORNIA.

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

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION BY EMINENT DOMAIN OF A FEE INTEREST IN CERTAIN REAL PROPERTY LOCATED ON BON VIEW AVENUE AND MAIN STREET IN ONTARIO, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NOS. 1049-121-26, 1049-121-27, 1049-121-28 AND 1049-194-20, FOR MITIGATION OF AIRPORT IMPACTS AND ELIMINATION OF BLIGHT IN THE CITY OF ONTARIO, CALIFORNIA.

**15. A PUBLIC HEARING REGARDING AN ECONOMIC DEVELOPMENT SUBSIDY REPORT AND OPERATING COVENANT AGREEMENT BETWEEN THE CITY OF ONTARIO AND NIKE RETAIL SERVICES, INC. PURSUANT TO GOVERNMENT CODE SECTION 53083.1; AND CONSIDERATION OF A RESOLUTION ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT, APPROVING THE OPERATING COVENANT AGREEMENT AND MAKING RELATED FINDINGS**

That the City Council take the following actions:

- (A) Hold the public hearing;
- (B) Adopt the resolution accepting the Economic Development Subsidy Report prepared pursuant to Government Code Section 53083.1 regarding an Operating Covenant Agreement (on file in the Records Management Department) by and between the City of Ontario and NIKE Retail Services, Inc., hereinafter referred to as “NIKE”;
- (C) Adopt a resolution approving the Operating Covenant Agreement and authorizing the City Manager to execute the Agreement, and making related findings; and
- (D) Direct City staff to file a Notice of Exemption based upon the City Council’s finding that the impacts for this agreement is not a project and subject to environmental review and that there is no possibility that the activity in question may have a significant effect on the environment.

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

Written communication.

Oral presentation.

Public hearing closed.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT PREPARED PURSUANT TO GOVERNMENT CODE SECTION 53083.1 REGARDING THE DEVELOPMENT OF AN E-COMMERCE DISTRIBUTION FACILITY BY NIKE RETAIL SERVICES, INC. IN THE CITY OF ONTARIO AND APPROVING AN OPERATING COVENANT AGREEMENT.

**ADMINISTRATIVE REPORTS/DISCUSSION/ACTION**

**16. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO APPROVING AN EQUIPMENT LEASE/PURCHASE AGREEMENT AND ESCROW AND ACCOUNT CONTROL AGREEMENT AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH RELATING TO THE FINANCING OF CERTAIN EQUIPMENT FOR THE CITY**

That the City Council approve a resolution approving an Equipment Lease/Purchase Agreement and an Escrow and Account Control Agreement and authorizing certain other actions therewith (collectively, “the Lease Agreement”), between the City and Banc of America Public Capital Corp (“BAPCC”) to finance the implementation of certain energy related improvements to City facilities.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING EQUIPMENT LEASE/PURCHASE AGREEMENTS AND ESCROW AND ACCOUNT CONTROL AGREEMENTS AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH RELATING TO THE FINANCING OF CERTAIN EQUIPMENT FOR THE CITY.

**17. CONFIRMATION OF APPOINTMENT OF DEPUTY POLICE CHIEF MICHAEL LORENZ TO POLICE CHIEF**

That the City Council confirm the City Manager’s appointment of Michael Lorenz to the position of Police Chief.

**STAFF MATTERS**

City Manager Ochoa

**COUNCIL MATTERS**

**APPOINTMENT TO THE MUSEUM BOARD OF TRUSTEES**

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

**ADJOURNMENT**

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: A RESOLUTION AMENDING THE APPENDIX TO THE CITY OF ONTARIO CONFLICT OF INTEREST CODE**

**RECOMMENDATION:** That the City Council adopt a resolution amending the Appendix to the Conflict of Interest Code to update position classification titles and filing requirements for City employees.

**COUNCIL GOALS:** Operate in a Businesslike Manner

**FISCAL IMPACT:** The proposed action has no fiscal impact.

**BACKGROUND:** The City of Ontario originally adopted its Conflict of Interest Code in 1976, in compliance with Government Code §87000 et seq., with the last update occurring in September 2018. The Political Reform Act requires every local government agency to review its conflict of interest code biennially to determine if amendments or modifications are needed.

The Appendix to the City's Conflict of Interest Code designates those employees, officers and consultants who make or participate in the making of decisions which may affect the City's financial interests and therefore must disclose those interests in financial disclosure statements. These officials and employees may also be required to disqualify themselves from, making or participating in the making of governmental decisions affecting those interests.

Staff has reviewed the City's Conflict of Interest Code and is recommending that the Appendix of the Code be amended to reflect any new or changed position classification titles since the last update, as well as update the respective filing categories. No other amendments to the Code are recommended at this time. A list of the proposed changes is attached and a full revised copy of the Appendix has been prepared and is available in the Records Management Department.

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

Prepared by: Vicki Kasad  
Department: City Clerk/Records Mgmt.  
City Manager Approval: 

Submitted to Council/O.H.A. 09/15/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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## Conflict of Interest Code Filer Changes

<u>Titles to Add</u>	<u>Proposed Filing Categories</u>
Assistant Human Resources Director	2,3,6,7
Budget Director	2,3,6,7
Business License Supervisor	6
Communications & Community Relations Director	1,2
Community Information Supervisor	6
Community Improvement Supervisor	6
Forensic Manager	6
General Services Director	2,3,6
Human Resources Analyst	6
Information Technology Applications Director	6
Information Technology Operations Director	6
Information Technology Systems Director	6
Internal Audit Manager	1
Legislative Analyst	6
Payroll Analyst	6
Performance & Optimization Analyst	6
Performance & Optimization Manager	6,7
Principal Project Manager	6,7
Purchasing Manager	6,7
Senior Community Information Specialist	6
Senior Information Technology Analyst	6
Senior Network Engineer	2,7
Utilities Assistant General Manager	2,3,6,7
Utilities Customer Services Director	2,3,6,7

### Not Currently Active Classifications (Proposed for Deletion)

Assistant Civil Engineer  
Assistant Community Development Director  
Assistant Director of Facilities & Municipal Services  
Chief Investment/Bond Officer  
City Prosecutor  
Development Manager  
Forensic Supervisor  
Government Affairs Director  
Management Services Director  
Revenue Services Director  
Solid Waste Supervisor  
Telecommunications Manager  
Oversight Board to the Successor Agency



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AND ADOPTING AN AMENDED APPENDIX OF THE CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974.

WHEREAS, the Legislature of the State of California enacted the Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), which contains provisions relating to conflicts of interest which potentially affect all officers, employees and consultants of the City of Ontario (the "City") and requires all public agencies to adopt and promulgate a Conflict of Interest Code; and

WHEREAS, the City Council adopted a Conflict of Interest Code which was last amended on September 4, 2012, by Resolution No. 2012-071, in compliance with Government Code Section 81000 et seq.; and

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which could result in the City being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

WHEREAS, a public meeting was held upon the proposed amended Appendix of the Conflict of Interest Code at a regular meeting of the City Council on September 15, 2020, at which all present were given an opportunity to be heard on the proposed amended Appendix.

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

SECTION 1. The City Council does hereby adopt the proposed amended Appendix of the Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the Records Management Department along with the Conflict of Interest Code and available to the public for inspection and copying.

SECTION 2. That said amended Appendix of the Conflict of Interest Code shall become effective 30 days after adoption and approval.

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

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September, 2020.

---

PAUL S. LEON, MAYOR

ATTEST:

---

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

---

BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-    was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020 by the following roll call vote, to wit:

AYES:            MAYOR/COUNCIL MEMBERS:

NOES:            COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2020-    duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

**CONFLICT OF INTEREST CODE  
OF THE  
CITY OF ONTARIO**



- Appendix Amended September , 2020 – Resolution No. 2020-  
Appendix Amended September 18, 2018 – Resolution No. 2018-128  
Appendix Amended October 4, 2016 – Resolution No. 2016-097  
Appendix Amended October 21, 2014 – Resolution No. 2014-101  
Appendix Amended September 4, 2012 – Resolution No. 2012-071  
Appendix Amended December 7, 2010 – Resolution No. 2010-098  
Appendix Amended November 18, 2008 – Resolution No. 2008-115  
Appendix Amended November 21, 2006 – Resolution No. 2006-113  
Appendix Amended January 18, 2005 – Resolution No. 2005-006  
Appendix Amended December 17, 2002 – Resolution No. 2002-124  
Appendix Amended February 19, 2002 – Resolution No. 2002-027**

**Adopted July 20, 1999 – Resolution 99-102**

**APPENDIX**

**CONFLICT OF INTEREST CODE**

**OF THE**

**CITY OF ONTARIO**

**Amended September \_\_\_\_, 2020**

**EXHIBIT "A"**

The Mayor, Members of the City Council and Planning Commission, the City Manager, the City Attorney, the City Treasurer, and All Other City Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18701(b), are NOT subject to the City's Code but are subject to the disclosure requirements of the Act (Government Code Section 87200 et sec.). [Regs. § 18730(b)(3)]

**OFFICIALS WHO MANAGE PUBLIC INVESTMENTS**

It has been determined that the positions listed below are Other City Officials who manage public investments. These positions are listed here for information purposes only.

Executive Director of Finance

Investment Officer

Financial Consultant

Individuals holding one of the above - listed positions may contact the FPPC for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The FPPC makes the final determination whether a position is covered by §87200.

**DESIGNATED POSITIONS**  
**GOVERNED BY THE CONFLICT OF INTEREST CODE**

<b><u>DESIGNATED EMPLOYEES'</u></b> <b><u>TITLE OR FUNCTION</u></b>	<b><u>DISCLOSURE CATEGORIES</u></b> <b><u>ASSIGNED</u></b>
Accounting Manager	4
Administrative Officer	6
Administrative Specialist (Confidential)	6
Assistant City Clerk/Records Management Director	6
Assistant City Engineer	2, 3, 6, 7
Assistant City Manager	1, 2
Assistant Director of Housing & Neighborhood Preservation	2,3,6,7
Assistant Engineer	2, 3, 6, 7
Assistant Human Resources Director	2,3,6,7
Assistant Library Director	2, 3, 6
Assistant Parks and Maintenance Director	2,3,6,7
Assistant Planner	2, 3, 6, 7
Assistant Planning Director	2, 3, 6, 7
Assistant Recreation/Community Services Director	2, 3, 6
Associate Civil Engineer	2, 3, 6, 7
Associate Engineer	2, 3, 6, 7
Associate Landscape Planner	2, 3, 6, 7
Associate Planner	2, 3, 6, 7
Broadband Operations Director	2,3,6,7
Broadband Operations Manager	6,7

Budget Director	2,3,6,7
Budget Manager	6,7
Building Inspection Manager	2, 3, 6, 7
Building Official	2, 3, 6, 7
Building Plans Examiner	7
Building Plans Specialist	7
Business License Supervisor	6
Business Operations Director	1, 2
Chief Innovation Officer	1, 2
City Attorney (not filing under Gov Code § 87200)	1, 2
City Clerk	1, 2
City Engineer	2, 3, 6, 7
Combination Building Inspector	6, 7
Communications & Community Relations Director	1, 2
Community Improvement Director	2,3,6,7
Community Improvement Manager	6,7
Community Improvement Officer	6
Community Information Supervisor	6
Community Improvement Supervisor	6
Community Life and Culture Officer	6
Community Relations and Communication Manager	6,7
Custodial Services Supervisor	6
Database Administrator	6

Departmental Administrator	1, 2
Deputy City Manager	1,2
Deputy Fire Chief	2, 6, 7
Deputy Fire Marshal	2,6,7
Deputy Police Chief	2, 6, 7
Design and Construction Director	2,3,6,7
Economic Development Coordinator	2
Economic Development Manager	1 ,2
Economic Development Specialist	2
Emergency Manager	5
EMS Nurse Administrator	6, 7
Engineering Assistant	6
Engineering Assistant - GIS	6
Environmental Programs Manager	5,7
Environmental Water/Wastewater Engineer	2, 3, 5, 7
Executive Director Community Life and Culture	1,2
Executive Director Development	1,2
Executive Director Economic Development	1,2
Executive Director Housing & Neighborhood Preservation	1,2
Executive Director Human Resources	1,2
Executive Director Information Technology	1,2
Executive Director Public Works	1,2
Facilities Maintenance Supervisor	6



Financial Analyst	5
Fire Administrative Director	2,3,6,7
Fire Battalion Chief	6, 7
Fire Chief	2, 6, 7
Fire Investigation Supervisor	6
Fire Prevention Inspector	6, 7
Fire Protection Analyst	2,3
Fire Safety Specialist	6
Fiscal Services Director	1, 2
Fleet Services Manager	6
Forensic Manager	6
General Services Director	2,3,6
Housing Director	2, 3, 6
Housing Manager	6
Human Resources Analyst	6
Information Technology Applications Director	6
Information Technology Applications Manager	6
Information Technology Operations Director	6
Information Technology Systems Director	6
Internal Audit Manager	1
Internal Auditor	1
Landscape Planner	2, 3, 7
Legislative Analyst	6

Library Director	6
Management Analyst	6
Municipal Services Director	6
Municipal Services Manager	6
Museum Director	6
Neighborhood Improvement Specialist	1, 2
Parks and Maintenance Director	2,3,6,7
Parks and Maintenance Manager	6,7
Parks and Maintenance Supervisor	6
Payroll Analyst	6
Payroll Manager	6,7
Performance & Optimization Analyst	6
Performance & Optimization Manager	6,7
Plan Check Engineer	2, 7
Planning Director	2, 3, 6, 7
Police Administrative Director	6
Police Captain	6, 7
Police Chief	6, 7
Police Lieutenant	6, 7
Principal Engineer	2, 3, 6, 7
Principal IT Analyst	2,3
Principal Planner	2, 3, 6, 7
Principal Project Manager	6, 7

Project Coordinator	2, 3, 6
Project Manager	2, 3, 6
Public Facilities Maintenance Manager	6
Public Services Project Manager	6
Public Works Inspector	6, 7
Purchasing Assistant	6
Purchasing Manager	6, 7
Purchasing Team Leader	6
Recreation/Community Services Director	2,3,6,7
Recreation/Community Services Manager	6,7
Recreation /Community Services Supervisor	6
Revenue Services Specialist	6
Revenue Services Supervisor	6
Risk/Safety Manager	6,7
Senior Associate Civil Engineer	2, 3, 6, 7
Senior Associate Engineer	2, 3, 6, 7
Senior Combination Building Inspector	6, 7
Senior Community Information Specialist	6
Senior Community Improvement Officer	6
Senior Deputy Fire Chief	2, 3, 7
Senior Environmental Technician	6
Senior Financial Analyst	5
Senior Fire Safety Specialist	6

Senior Human Resources Analyst	6
Senior Information Technology Analyst	6
Senior Landscape Architect	6
Senior Landscape Planner	6
Senior Legislative Analyst	6
Senior Management Analyst	6
Senior Neighborhood Improvement Specialist	1, 2
Senior Network Engineer	2, 7
Senior Plan Check Engineer	2, 7
Senior Planner	2, 3, 6, 7
Senior Project Coordinator	2, 3, 6
Senior Project Manager	2, 3, 6
Senior Public Works Inspector	6, 7
Senior Recreation/Community Services Supervisor	6
Senior Systems Analyst	6
Senior Telecommunications Analyst	5
Street Maintenance Supervisor	6
Supervising Building Inspector	6, 7
Supervising Public Works Inspector	6, 7
Survey Party Chief	6, 7
Sustainability Program Manager	6
Traffic/Transportation Manager	2, 3, 6, 7
Utilities Administrative Services and Integrated Waste Director	2,3,6,7

Utilities Assistant General Manager	2,3, 6, 7
Utilities Customer Services Director	2,3,6,7
Utilities General Manager	1, 2
Utilities Operations Director	2,3,6,7
Utilities Operations Division Manager	6,7
Utilities Project Manager	2, 3, 6
Utilities Supervisor	6
Water Production Manager	6, 7
Water Quality Specialist	6, 7
Water Resources Manager	6, 7
Water/Sewer Maintenance Manager	6, 7

## **BOARDS, COMMISSIONS AND COMMITTEES**

Library Board of Trustees	2, 3, 6
Museum Board Members	6
Recreation and Parks Commission Members	2, 3, 6

## **CONSULTANTS**

Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

## EXHIBIT "B"

### DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property, which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in, and sources of income from, business entities that do business or own real property within jurisdiction of the City, plan to do business or own real property within the jurisdiction of the City within the next year, or have done business or owned real property within the jurisdiction of the City within the past two (2) years.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the City.

Category 3: All investments and business positions in, and sources of income from, business entities that are engaged in land development, construction, or the acquisition or sale of real property within the jurisdiction of the City, plan to engage in such activities within the jurisdiction of the City within the next year, or have engaged in such activities within the jurisdiction of the City within the past two (2) years.

Category 4: All investments and business positions in, and sources of income from, business entities that are banking, savings and loan, or other financial institutions.

Category 5: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the City.

Category 6: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the Designated Employee's Department.

Category 7: All investments and business positions in, and sources of income from, business entities subject to the regulatory, permit, or licensing authority of the Designated Employee's Department, will be subject to such authority within the next year, or have been subject to such authority within the past two (2) years.

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: A LEASE AGREEMENT BETWEEN CALIFORNIA STATE UNIVERSITY SAN BERNARDINO, INLAND EMPIRE CENTER FOR ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT CENTER, AND THE CITY OF ONTARIO**

**RECOMMENDATION:** That the City Council approve a lease agreement (on file in the Records Management Department) between California State University San Bernardino, Inland Empire Center for Entrepreneurship and Small Business Development Center, and the City of Ontario for the use of certain City-owned property located at 603 North Euclid Avenue for a one-year term with the option to extend for up to two additional one-year terms.


**COUNCIL GOALS:** Invest in the Growth and Evolution of the City's Economy  
Operate in a Businesslike Manner

**FISCAL IMPACT:** The lease rate for the property is proposed at \$1 per month, and in return, the City will gain the monetized value of the business assistance services provided to the community by the Small Business Development Center.

**BACKGROUND:** In 2012, California State University San Bernardino (CSUSB), in partnership with the Inland Empire Center for Entrepreneurship (IECE), was awarded a grant to operate a Small Business Development Center (SBDC) in the Inland Empire. Downtown Ontario was identified as a prime location for a new SBDC to provide business assistance services. On April 3, 2012 the City Council approved the original lease agreement, and on October 20, 2015 and July 3, 2018, renewed the lease agreement, with CSUSB and IECE, to operate an SBDC office in the City-owned property located at 603 North Euclid Avenue.

SBDC provides services through professional business advisors such as: development of business plans; manufacturing assistance; financial packaging and lending assistance; exporting and importing support; disaster recovery assistance; procurement and contracting aid; and market research services.

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

Prepared by: Bradley Gates  
Department: Economic Development  
City Manager Approval: 

Submitted to Council/O.H.A. 09/15/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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Small business owners also have access to professional development courses and workshops that assist them in becoming more efficient and productive entrepreneurs. These services are provided at little or no cost to businesses. To ensure the monetary value of the services provided by the SBDC reflect the current fair market rental rate of office space in downtown (estimated at approximately \$24,000 annually), the City requires the SBDC to provide an annual report, subject to review and approval by the City, outlining the value of services provided, and any investment yielded by those services.

The services provided by the SBDC has resulted in significant positive impact for area businesses. At this particular time when small businesses have been impacted by the COVID-19 pandemic, the services provided by the SBDC are especially valuable. The SBDC is a catalyst for daytime activity and is a valuable component of the small business growth efforts underway in downtown Ontario. Staff recommends that the City Council approve the lease agreement with the SBDC to use the City-owned property located at 603 North Euclid Avenue for an additional one-year term, with the option to extend for up to two additional one-year terms.

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: A RESOLUTION APPOINTING MEMBERS TO THE ONTARIO ENHANCED INFRASTRUCTURE FINANCING DISTRICT PUBLIC FINANCING AUTHORITY**

**RECOMMENDATION:** That the City Council adopt a resolution to appoint representatives to serve as members of the Ontario Enhanced Infrastructure Financing District Public Financing Authority.


**COUNCIL GOALS:** 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:** There is no fiscal impact associated with this action.

**BACKGROUND:** In response to the elimination of redevelopment agencies, California Senate Bill 628, effective January 1, 2015, California Assembly Bill 313, effective January 1, 2016, and Assembly Bill 116, effective January 1, 2020 authorize the ability for local government entities to form Enhanced Infrastructure Financing Districts (EIFD), which is intended to succeed the former Redevelopment financing mechanism for revitalizing certain areas of the community. An EIFD is a governmental entity, separate and distinct from the city, and is governed by a Public Financing Authority (PFA) for the purpose of funding public capital facilities, infrastructure, affordable housing and other specified projects of communitywide significance, primarily by capturing property tax increment revenue generated within the district. The EIFD may finance projects through the issuance of bonds for an array of public infrastructure projects as well as supporting economic development efforts within the district.

Under EIFD law, the PFA will serve as the governing board of the Ontario EIFD and must include a majority of board members representing the legislative bodies of the participating taxing entities and at least two members of the public. On December 17, 2019, the City Council adopted a Resolution of Intention (Resolution No. 2019-172) to form the Ontario EIFD and establish the Ontario EIFD Public Financing Authority. Under this Resolution, the PFA consists of five members, including, three

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

Prepared by: Bradley Gates  
Department: Economic Development  
City Manager Approval: 

Submitted to Council/O.H.A. 09/15/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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members of the Ontario City Council, and two members of the public that are appointed by the City Council. If at a future date, an additional taxing entity chooses to be involved, such as the County of San Bernardino, the PFA will consist of five members, including, two members of the Ontario City Council, one member of the San Bernardino County Board of Supervisors, one public member appointed by the City, and one public member appointed by the County.

The purpose of this item is to appoint the members of the PFA. Pursuant to the Resolution forming the PFA, it is recommended that the following individuals be appointed as members of the PFA:

- 1) City Council Representative – Paul Leon
- 2) City Council Representative – Debra Dorst-Porada
- 3) City Council Representative – to be filled at a later date, pending County participation
- 4) Public Member – Michael Krouse, Greater Ontario Convention and Visitors Bureau
- 5) Public Member – John Andrews, City of Ontario Economic Development Agency

Members of the PFA serve at the pleasure of the City Council and are appointed to serve until their successor assumes office.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPOINTING MEMBERS TO THE ONTARIO ENHANCED INFRASTRUCTURE FINANCING DISTRICT PUBLIC FINANCING AUTHORITY.

WHEREAS, pursuant to Chapter 2.99 of Part 1 of Division 2 of Title 5 of the California Government Code (commencing with Section 53398.50) (the "EIFD Law"), the City Council of the City of Ontario ("Council") is authorized to establish an Enhanced Infrastructure Financing District ("EIFD"); and

WHEREAS, on December 17, 2019, the City Council adopted Resolution 2019-172, a Resolution of Intention to establish the Ontario Enhanced Infrastructure Financing District and created the Ontario EIFD Public Financing Authority (PFA); and

WHEREAS, the City Council is required to appoint members to the PFA; and

WHEREAS, Pursuant to Government Code Section 53398.51.1(a)(1), the PFA is currently comprised of five members appointed by the City Council, including three members of the City Council and two members of the public; and

WHEREAS, the City Council desires to appoint members to the Ontario EIFD Public Financing Authority.

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

SECTION 1. Recitals. The above recitals are true and correct.

SECTION 2. Appointments. The City Council appoints the following individuals as members of the Ontario EIFD Public Financing Authority:

- 1) Mayor Paul Leon
- 2) Mayor pro Tem Debra Dorst-Porada
- 3) Public member Michael Krouse
- 4) Public member John Andrews

SECTION 3. Term of Appointments. Members of the Ontario EIFD PFA serve at the pleasure of the City Council until the time their successor assumes office.

SECTION 4. Severability. If any provision of this Resolution is held invalid, such invalidity shall not affect other provisions or applications of this Resolution.

SECTION 5. Certification. The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

SECTION 6. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-\_\_ was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020 by the following roll call vote, to wit:

AYES:       MAYOR/COUNCIL MEMBERS:

NOES:       COUNCIL MEMBERS:

ABSENT:    COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2020-\_\_ duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: A RESOLUTION ADOPTING THE MEASURE I FIVE-YEAR CAPITAL PROJECT NEEDS ANALYSIS FOR FISCAL YEARS 2021-22 TO 2025-26**

**RECOMMENDATION:** That the City Council consider and adopt a resolution approving the FY2021-22 through FY2025-26 Measure I Five-Year Capital Project Needs Analysis (CPNA) and authorize the City Manager to approve changes to the plan as may be required by the City and/or San Bernardino County Transportation Authority (SBCTA).

**COUNCIL GOALS:** Invest in the Growth and Evolution of the City's Economy  
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 CPNA is a tool to assist the SBCTA Board of Directors and staff in programming available and projected Measure I Fund revenues. The CPNA is not a budget commitment. The individual projects listed in the CPNA are either currently identified in the City of Ontario Capital Improvement Program Budget (CIP) or will be identified in the CIP at the time that the local fund share is needed and approved by the City Council.

**BACKGROUND:** San Bernardino County voters approved passage of the 2010 through 2040, thirty-year Measure I program in November 2004, authorizing San Bernardino Associated Governments, now SBCTA, to impose a one-half percent sales tax on retail transactions and use tax in the incorporated and unincorporated territory of the County of San Bernardino. Revenue from the tax can only be used for transportation improvements and traffic management programs authorized in the 2010-2040 Measure I Expenditure Plan set forth in Ordinance No. 04-1 of the Authority. The Expenditure Plan for the San Bernardino Valley Subarea, of which Ontario is a part, requires that Measure I revenue be applied to the following programs:

**STAFF MEMBER PRESENTING:** Scott Murphy, AICP, Executive Director Development Agency

Prepared by: Jaime Maciel-Carrera, T.E.

Department: Engineering

City Manager

Approval:



Submitted to Council/O.H.A.

09/15/2020

Approved:

Continued to:

Denied:

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

The 2010-2040 Measure I Strategic Plan requires each local jurisdiction applying for revenue from the Measure I Major Street Arterial sub-program and Valley Freeway Interchange program to annually adopt and update a Five-Year CPNA. The Five-Year CPNA is not a funding commitment by either SBCTA or the City, but a tool to assist SBCTA staff and their Board of Directors in programming available Measure I Fund revenues. The CPNA is not a wish list but a financially constrained, realistic schedule of the projects for which the agency intends to use Measure I dollars. “Financially constrained” means that the required local Development Impact Fee (DIF) match contribution will be available before the project begins or the DIF match requirement has been met by an internal Measure I loan arranged with SBCTA in accordance with the Measure I Strategic Plan.

The Five-Year CPNA covers projects in the Measure I Major Street Arterial sub-program and Valley Freeway Interchange program. This year’s Five-Year CPNA includes the following projects: Grove Avenue widening (from Fourth Street to Airport Drive); Grove Avenue/Holt Boulevard intersection widening; Mountain Avenue/Holt Boulevard intersection widening; Etiwanda Avenue/Airport Drive intersection improvements; and SR-60 at Archibald Avenue interchange improvements. Also included are three (3) projects that will be constructed as part of SBCTA’s I-10 Express Lane Project - the Fourth Street bridge undercrossing improvement (between I-10 eastbound and westbound ramps); I-10 at Vineyard Avenue interchange improvements; and I-10 at Euclid Avenue interchange improvements. Grade separation projects are not included in the CPNA as they are accounted for in separate agreements.

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



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING THE MEASURE I FIVE-YEAR CAPITAL PROJECT NEEDS ANALYSIS FOR FY 2021-22 TO FY 2025-26

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

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

WHEREAS, the Strategic Plan requires each local jurisdiction applying for revenue from certain Measure I Programs to annually adopt and update a Five-Year Capital Project Needs Analysis; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ontario, California, APPROVES the Measure I Five-Year Capital Project Needs Analysis for FY 2021-22 through FY 2025-26, attached to this Resolution as Exhibit "A" and hereby incorporated by this reference.

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

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

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

ATTEST:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

---

BEST BEST & KRIEGER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020 by the following roll call vote, to wit:

AYES:            MAYOR/COUNCIL MEMBERS:

NOES:            COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2020-        duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

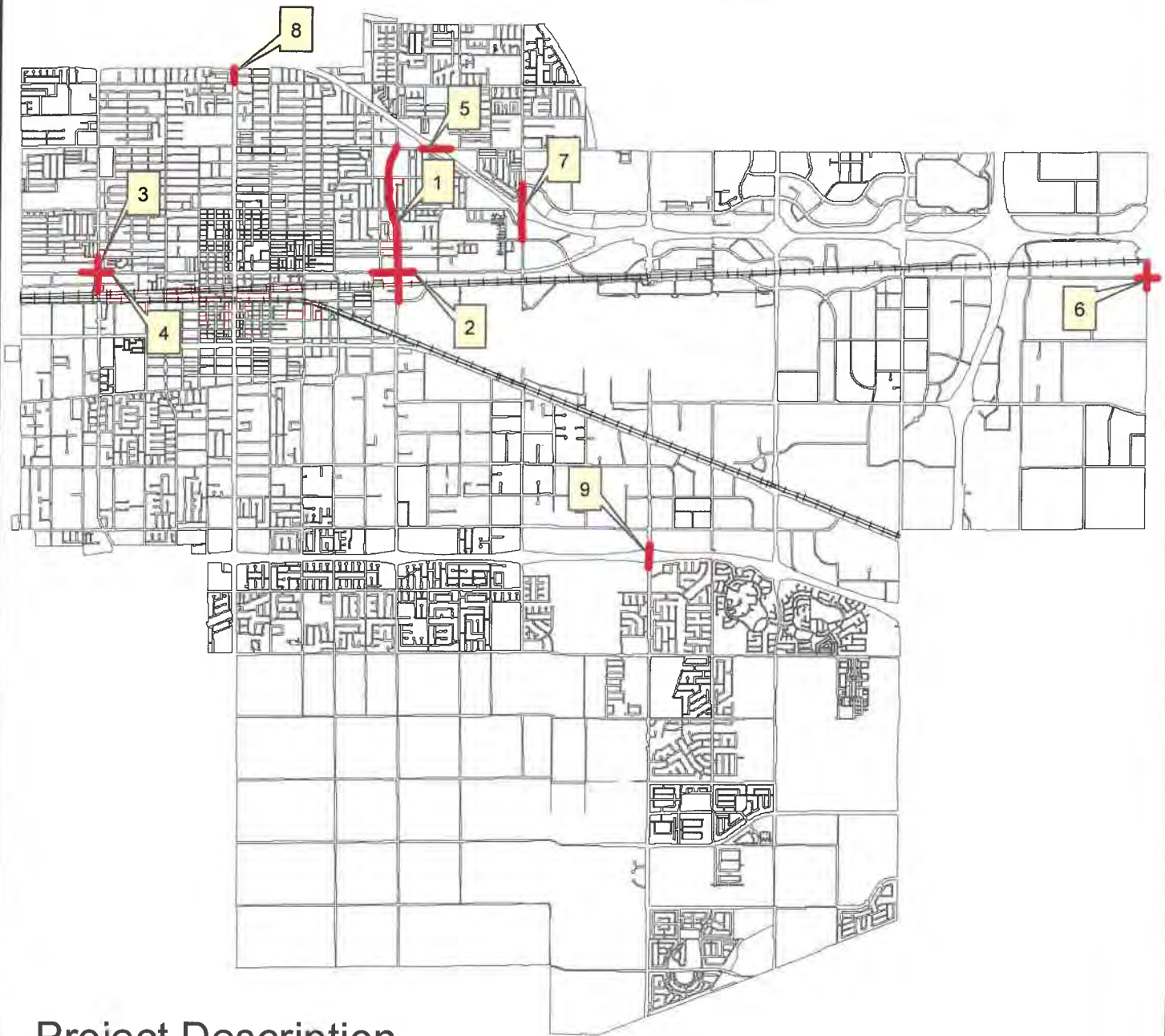
\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

## Exhibit A

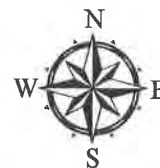
# Five-Year Capital Project Needs Analysis

2021/2022 - 2025/2026



## Project Description

- 1 Widen Grove Ave. from Fourth St. to Airport Dr. from 4 to 6 lanes.
- 2 Widen Holt Blvd. from 750 ft. west of to 750 ft. east of Grove Ave. from 4 to 6 lanes.
- 3 Widen Mountain Ave. between Brooks St. and Vesta St. from 4 to 6 lanes.
- 4 Widen Holt Blvd. from 750 ft. west of to 750 Ft. east of Mountain Ave. from 4 to 6 lanes.
- 5 Fourth Street Bridge Undercrossing Improvement.
- 6 Etiwanda Avenue and Airport Drive Intersection Improvements.
- 7 I-10 at Vineyard Ave. Interchange Improvements.
- 8 I-10 at Euclid Ave. Interchange Improvements.
- 9 SR-60 at Archibald Ave. Interchange Improvements.



# Capital Project Needs Analysis

Agency: Ontario

Program: Valley Arterial Sub-Program

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

Agency Project Name: Grove Corridor Widening (Fourth St to Airport Dr) and Holt Blvd/Grove Ave Intersection Widening

Agency reported Total Project Cost: \$4,100,000

Escalation Factor:%

## Actual Prior Year Dollars and escalated costs in subsequent years (not in 1,000s)

Public Share: 55.60% | Dev. Share: 44.40%

		Funding	Prior	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Future	Total	
Nexus Total Project Cost (All phases):  <b>32,200,000</b>	<b>PA&amp;ED</b>	MI ART	5,589	0	0	0	0	0	0	5,589	
		DEMO	50,260	0	0	0	0	0	0	50,260	
		DEV FEE	4,463	0	0	0	0	0	0	4,463	
		<b>Total</b>	<b>60,312</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>60,312</b>
Total Presented Funding (Prior - FY25/26):  <b>2,356,582</b>	<b>PS&amp;E</b>	MI ART	164,726	0	0	0	0	0	0	164,726	
		DEV FEE	131,544	0	0	0	0	0	0	131,544	
		<b>Total</b>	<b>296,270</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>296,270</b>
Total Measure I Request (Prior - FY25/26):  <b>1,282,315</b>	<b>ROW</b>	MI ART	34,750	104,250	0	0	0	0	0	139,000	
		DEV FEE	27,750	83,250	0	0	0	0	0	111,000	
		<b>Total</b>	<b>62,500</b>	<b>187,500</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>250,000</b>
	<b>CONST</b>	MI ART	0	243,250	729,750	0	0	0	0	0	973,000
		DEV FEE	0	194,250	582,750	0	0	0	0	0	777,000
		<b>Total</b>	<b>0</b>	<b>437,500</b>	<b>1,312,500</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,750,000</b>
<b>Total</b>		<b>419,082</b>	<b>625,000</b>	<b>1,312,500</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,356,582</b>	

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 20/21 expenses.

Project Comments: Costs include PA&ED of the Grove Corridor project; and PS&E, ROW and CON for the Grove portion of the Holt/Grove intersection project.

Last Update: 8/18/2020 2:40:26 PM

# Capital Project Needs Analysis

Agency: Ontario

Program: Valley Arterial Sub-Program

Project Name: Widen Holt Blvd from Benson Ave to Vineyard Ave from 4 to 6 lanes

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

Agency reported Total Project Cost: \$2,400,000

Escalation Factor: %

## Actual Prior Year Dollars and escalated costs in subsequent years (not in 1,000s)

Public Share: 55.60% | Dev. Share: 44.40%

		Funding	Prior	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Future	Total
Nexus Total Project Cost (All phases):  <b>48,817,215</b>	<b>PA&amp;ED</b>	<b>Total</b>								
Total Presented Funding (Prior - FY25/26):  <b>2,296,270</b>	<b>PS&amp;E</b>	MI ART	164,726	0	0	0	0	0	0	164,726
		DEV FEE	131,544	0	0	0	0	0	0	131,544
		<b>Total</b>	<b>296,270</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Total Measure I Request (Prior - FY25/26):  <b>1,276,726</b>	<b>ROW</b>	MI ART	34,750	104,250	0	0	0	0	0	139,000
		DEV FEE	27,750	83,250	0	0	0	0	0	111,000
		<b>Total</b>	<b>62,500</b>	<b>187,500</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>CONST</b>	MI ART	0	243,250	729,750	0	0	0	0	973,000
		DEV FEE	0	194,250	582,750	0	0	0	0	777,000
		<b>Total</b>	<b>0</b>	<b>437,500</b>	<b>1,312,500</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total</b>			<b>358,770</b>	<b>625,000</b>	<b>1,312,500</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,296,270</b>

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 20/21 expenses.

Project Comments: This is a portion of Nexus Project "Widen Holt Blvd from Benson Ave to Vineyard Ave from 4 to 6 lanes". Costs include the PS&E, ROW and CON for the Holt portion of the Holt/Grove intersection project.

Last Update: 8/18/2020 2:45:51 PM

# Capital Project Needs Analysis

Agency: Ontario  
 Program: Valley Arterial Sub-Program  
 Project Name: Widen Mountain Ave from Sixth Street to s/o Holt Blvd  
 Agency Project Name: Widen Mountain Ave. between Brooks and Vesta Streets from 4 to 6 lanes  
 Agency reported Total Project Cost: \$4,419,234  
 Escalation Factor:0%

## Actual Prior Year Dollars and escalated costs in subsequent years (not in 1,000s)

Public Share: 55.60% | Dev. Share: 44.40%

		Funding	Prior	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Future	Total
Nexus Total Project Cost (All phases):  <b>7,467,000</b>	<b>PA&amp;ED</b>	<b>Total</b>								
Total Presented Funding (Prior - FY25/26):  <b>4,419,234</b>	<b>PS&amp;E</b>	MI ART	206,079	0	0	0	0	0	0	206,079
		DEV FEE	164,566	0	0	0	0	0	0	164,566
		<b>Total</b>	<b>370,645</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Total Measure I Request (Prior - FY25/26):  <b>2,455,529</b>	<b>ROW</b>	MI ART	389,200	0	0	0	0	0	0	389,200
		DEV FEE	310,800	0	0	0	0	0	0	310,800
		<b>Total</b>	<b>700,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>CONST</b>	MI ART	1,395,187	465,063	0	0	0	0	0	1,860,250
		DEV FEE	1,116,254	372,085	0	0	0	0	0	1,488,339
		<b>Total</b>	<b>2,511,441</b>	<b>837,148</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total</b>			<b>3,582,086</b>	<b>837,148</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4,419,234</b>

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 20/21 expenses.

Project Comments: This is a portion of Nexus Project "Widen Mountain Ave from Sixth Street to s/o Holt Blvd". Costs include the PS&E, ROW and CON for the Mountain portion of the Holt/Mountain intersection project.

Last Update: 8/21/2020 11:19:30 AM

# Capital Project Needs Analysis

Agency: Ontario  
 Program: Valley Arterial Sub-Program  
 Project Name: Widen Holt Blvd from Benson Ave to Vineyard Ave from 4 to 6 lanes  
 Agency Project Name: Widen Holt Blvd. from 750 ft. west of to 750 ft. east of Mountain Ave. from 4 to 6 lanes  
 Agency reported Total Project Cost: \$4,419,234  
 Escalation Factor: %

## Actual Prior Year Dollars and escalated costs in subsequent years (not in 1,000s)

Public Share: 55.60% | Dev. Share: 44.40%

		Funding	Prior	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Future	Total
Nexus Total Project Cost (All phases):  <b>48,817,215</b>	<b>PA&amp;ED</b>	Total								
Total Presented Funding (Prior - FY25/26):  <b>4,419,234</b>	<b>PS&amp;E</b>	MI ART	206,079	0	0	0	0	0	0	206,079
		DEV FEE	164,566	0	0	0	0	0	0	164,566
		Total	370,645	0	0	0	0	0	0	<b>370,645</b>
Total Measure I Request (Prior - FY25/26):  <b>2,455,529</b>	<b>ROW</b>	MI ART	389,200	0	0	0	0	0	0	389,200
		DEV FEE	310,800	0	0	0	0	0	0	310,800
		Total	700,000	0	0	0	0	0	0	<b>700,000</b>
	<b>CONST</b>	MI ART	1,395,187	465,063	0	0	0	0	0	1,860,250
		DEV FEE	1,116,254	372,085	0	0	0	0	0	1,488,339
		Total	2,511,441	837,148	0	0	0	0	0	<b>3,348,589</b>
<b>Total</b>			<b>3,582,086</b>	<b>837,148</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4,419,234</b>

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 20/21 expenses.

Project Comments: This is a portion of Nexus Project "Widen Holt Blvd from Benson Ave to Vineyard Ave from 4 to 6 lanes". Costs include PS&E, ROW and CON for the Holt portion of the Holt/Mountain intersection project.

Last Update: 8/21/2020 11:21:37 AM



# Capital Project Needs Analysis

Agency: Ontario

Program: Valley Arterial Sub-Program

Project Name: Replace 4th St structure between I-10 westbound ramps and I-10 eastbound ramps and widen to 5 lanes

Agency Project Name: Fourth Street Bridge Undercrossing Improvement

Agency reported Total Project Cost: \$21,566,769

Escalation Factor:%

## Actual Prior Year Dollars and escalated costs in subsequent years (not in 1,000s)

Public Share: 55.60% | Dev. Share: 44.40%

		Funding	Prior	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Future	Total
Nexus Total Project Cost (All phases): <b>21,567,000</b>	<b>PA&amp;E</b>	MI ART	347,700	0	0	0	0	0	0	347,700
		DEV FEE	277,660	0	0	0	0	0	0	277,660
		<b>Total</b>	<b>625,360</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>625,360</b>
Total Presented Funding (Prior - FY25/26): <b>21,566,768</b>	<b>PS&amp;E</b>	MI ART	626,127	0	0	0	0	0	0	626,127
		DEV FEE	500,001	0	0	0	0	0	0	500,001
		<b>Total</b>	<b>1,126,128</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,126,128</b>
Total Measure I Request (Prior - FY25/26): <b>11,991,122</b>	<b>ROW</b>	MI ART	1,218,008	0	0	0	0	0	0	1,218,008
		DEV FEE	972,654	0	0	0	0	0	0	972,654
		<b>Total</b>	<b>2,190,662</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,190,662</b>
	<b>CONST</b>	MI ART	7,681,314	2,117,973	0	0	0	0	0	9,799,287
		DEV FEE	1,441,567	0	0	0	0	0	0	1,441,567
		DEV LOAN	4,692,432	1,691,332	0	0	0	0	0	6,383,764
		<b>Total</b>	<b>13,815,313</b>	<b>3,809,305</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>17,624,618</b>
<b>Total</b>		<b>17,757,463</b>	<b>3,809,305</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>21,566,768</b>

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 20/21 expenses.

Project Comments: Loan agreement for \$6,383,764 of City DIF share. SBCTA is the lead agency on the project.

Last Update: 8/18/2020 3:33:05 PM

# Capital Project Needs Analysis

Agency: Ontario  
 Program: Valley Arterial Sub-Program  
 Project Name: Spot Widen Airport Dr from Kettering to Etiwanda Ave from 2 to 4 lanes, including intersection at Etiwanda/Slover  
 Agency Project Name: Etiwanda Avenue and Airport Drive Intersection Improvements  
 Agency reported Total Project Cost:  
 Escalation Factor:%

## Actual Prior Year Dollars and escalated costs in subsequent years (not in 1,000s)

Public Share: 55.60% | Dev. Share: 44.40%

		Funding	Prior	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Future	Total
Nexus Total Project Cost (All phases): <b>5,270,000</b>	<b>PA&amp;ED</b>	Total								
Total Presented Funding (Prior - FY25/26): <b>3,346,396</b>	<b>PS&amp;E</b>	Total								<b>0</b>
Total Measure I Request (Prior - FY25/26): <b>1,860,596</b>	<b>ROW</b>	MI ART	55,600	0	0	0	0	0	0	55,600
		DEV FEE	44,400	0	0	0	0	0	0	44,400
		Total	100,000	0	0	0	0	0	0	<b>100,000</b>
	<b>CONST</b>	MI ART	902,498	902,498	0	0	0	0	0	1,804,996
		DEV FEE	720,700	720,700	0	0	0	0	0	1,441,400
Total	1,623,198	1,623,198	0	0	0	0	0	<b>3,246,396</b>		
<b>Total</b>		<b>1,723,198</b>	<b>1,623,198</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3,346,396</b>

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 20/21 expenses.

Project Comments: City of Fontana is the lead agency on the project.

Last Update: 8/19/2020 2:58:03 PM

# Capital Project Needs Analysis

Agency: Ontario  
 Program: Valley Freeway Interchange Program  
 Project Name: I-10 & Vineyard Ave  
 Agency Project Name:  
 Agency reported Total Project Cost: \$3,007,680  
 Escalation Factor:%

## Actual Prior Year Dollars and escalated costs in subsequent years (not in 1,000s)

Public Share: 55.60% | Dev. Share: 44.40%

		Funding	Prior	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Future	Total
Nexus Total Project Cost (All phases): <b>1,800,000</b>	<b>PA&amp;ED</b>	MI VFI	32,112	0	0	0	0	0	0	32,112
		DEV FEE	48,168	0	0	0	0	0	0	48,168
		<b>Total</b>	<b>80,280</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>80,280</b>
Total Presented Funding (Prior - FY25/26): <b>3,007,680</b>	<b>PS&amp;E</b>	MI VFI	64,224	0	0	0	0	0	0	64,224
		DEV FEE	96,336	0	0	0	0	0	0	96,336
		<b>Total</b>	<b>160,560</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>160,560</b>
Total Measure I Request (Prior - FY25/26): <b>1,203,072</b>	<b>ROW</b>	MI VFI	110,800	0	0	0	0	0	0	110,800
		DEV FEE	166,200	0	0	0	0	0	0	166,200
		<b>Total</b>	<b>277,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>277,000</b>
	<b>CONST</b>	MI VFI	783,533	212,403	0	0	0	0	0	995,936
		DEV FEE	1,175,300	318,604	0	0	0	0	0	1,493,904
		<b>Total</b>	<b>1,958,833</b>	<b>531,007</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,489,840</b>
<b>Total</b>		<b>2,476,673</b>	<b>531,007</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3,007,680</b>	

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 20/21 expenses.

Project Comments: SBCTA is the lead agency on the project.

Last Update: 8/18/2020 3:40:29 PM

# Capital Project Needs Analysis

Agency: Ontario  
 Program: Valley Freeway Interchange Program  
 Project Name: I-10 & Euclid Ave  
 Agency Project Name:  
 Agency reported Total Project Cost: \$624,591  
 Escalation Factor:%

## Actual Prior Year Dollars and escalated costs in subsequent years (not in 1,000s)

Public Share: 55.60% | Dev. Share: 44.40%

		Funding	Prior	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Future	Total
Nexus Total Project Cost (All phases): <b>630,000</b>	<b>PA&amp;ED</b>	MI VFI	118,944	0	0	0	0	0	0	118,944
		DEV FEE	16,704	0	0	0	0	0	0	16,704
		<b>Total</b>	<b>135,648</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>135,648</b>
Total Presented Funding (Prior - FY25/26): <b>4,873,866</b>	<b>PS&amp;E</b>	MI VFI	225,994	0	0	0	0	0	0	225,994
		DEV FEE	31,738	0	0	0	0	0	0	31,738
		<b>Total</b>	<b>257,732</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>257,732</b>
Total Measure I Request (Prior - FY25/26): <b>4,249,275</b>	<b>ROW</b>	MI VFI	492,130	0	0	0	0	0	0	492,130
		DEV FEE	69,113	0	0	0	0	0	0	69,113
		<b>Total</b>	<b>561,243</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>561,243</b>
	<b>CONST</b>	MI VFI	2,674,433	737,774	0	0	0	0	0	3,412,207
		DEV FEE	399,450	107,586	0	0	0	0	0	507,036
		<b>Total</b>	<b>3,073,883</b>	<b>845,360</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3,919,243</b>
<b>Total</b>		<b>4,028,506</b>	<b>845,360</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4,873,866</b>	

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 20/21 expenses.

Project Comments: SBCTA is the lead agency on the project.

Last Update: 8/18/2020 3:42:28 PM

# Capital Project Needs Analysis

Agency: Ontario  
 Program: Valley Freeway Interchange Program  
 Project Name: SR-60 & Archibald Ave  
 Agency Project Name:  
 Agency reported Total Project Cost: \$23,910,000  
 Escalation Factor:%

## Actual Prior Year Dollars and escalated costs in subsequent years (not in 1,000s)

Public Share: 55.60% | Dev. Share: 44.40%

		Funding	Prior	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Future	Total
Nexus Total Project Cost (All phases): <b>9,650,000</b>	<b>PA&amp;ED</b>	MI VFI	274,750	0	0	0	0	0	0	274,750
		DEV FEE	535,721	0	0	0	0	0	0	535,721
		<b>Total</b>	<b>810,471</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>810,471</b>
Total Presented Funding (Prior - FY25/26): <b>23,910,000</b>	<b>PS&amp;E</b>	MI VFI	457,746	0	0	0	0	0	0	457,746
		DEV FEE	892,538	0	0	0	0	0	0	892,538
		<b>Total</b>	<b>1,350,284</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,350,284</b>
Total Measure I Request (Prior - FY25/26): <b>6,956,327</b>	<b>ROW</b>	MI VFI	640,493	0	0	0	0	0	0	640,493
		DEV FEE	1,248,866	0	0	0	0	0	0	1,248,866
		<b>Total</b>	<b>1,889,359</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,889,359</b>
	<b>CONST</b>	MI VFI	5,033,104	550,234	0	0	0	0	0	5,583,338
		DEV FEE	12,848,893	1,427,655	0	0	0	0	0	14,276,548
		<b>Total</b>	<b>17,881,997</b>	<b>1,977,889</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>19,859,886</b>
<b>Total</b>		<b>21,932,111</b>	<b>1,977,889</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>23,910,000</b>	

\*Prior should identify any expenses incurred in prior years that have not yet been reimbursed by SBCTA including FY 20/21 expenses.

Project Comments: SBCTA is the lead agency on the project.

Last Update: 8/24/2020 9:06:31 AM

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: A RESOLUTION CONTINUING THE EXISTENCE OF A LOCAL EMERGENCY FOR THE 2020 CORONAVIRUS PANDEMIC**

**RECOMMENDATION:** That the City Council adopt a resolution continuing the Proclamation of Local Emergency for the 2020 Coronavirus Pandemic until further notice with an update scheduled for the October 6, 2020 City Council Meeting unless canceled sooner.

**COUNCIL GOALS:** Maintain the Current High Level of Public Safety


**FISCAL IMPACT:** This resolution maintains the City's compliance with State and Federal requirements for emergency response and promotes the City's eligibility to receive State and Federal emergency assistance funds.

**BACKGROUND:** Governments worldwide are responding to an outbreak of respiratory disease caused by a novel (new) coronavirus that was first detected in China and which as now been detected in nearly 100 countries, including the United States. The virus has been named "SARS-CoV-2"; and the disease it causes has been named "coronavirus disease 2019" (abbreviated "COVID-19").

COVID-19 is a serious disease that as of August 31, 2020 has killed over 847,000 people worldwide with over 6 million confirmed cases and over 183,000 deaths in the United States, as well as infecting more than 699,000 and killing over 13,000 in California. On March 4, 2020, the Governor of the State of California declared a State of Emergency. On March 10, 2020, the San Bernardino County Health Department proclaimed a Public Health Emergency; and the Board of Supervisors issued a Proclamation of Local Emergency due to COVID-19. On March 11, 2020, the World Health Organization declared the disease a global pandemic. On March 13, 2020, the President of the United States declared a National Emergency.

On June 18, 2020, California Governor Newsom issued a statewide order mandating the wearing of face masks or coverings for the public in which the City of Ontario followed by requiring face masks or coverings for city employees. On June 28, 2020, California Governor Newsom issued an order closing

**STAFF MEMBER PRESENTING:** Jordan Villwock, Fire Administrative Director

Prepared by: Raymond Cheung  
Department: Fire Department  
City Manager Approval: 

Submitted to Council/O.H.A. 09/15/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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bars and restricting indoor restaurant operations for seven counties including the County of San Bernardino. On July 13, 2020, California Governor Newsom issued an order closing additional businesses including gyms, worship services, personal care services, hair salons, and malls. On August 28, 2020, California Governor Newsom released the next evolution of the response called the Blueprint for a Safer Economy. This plan replaces the State Watchlist and allows for more businesses to safely open with restrictions.

Beginning in July 2020, the City of Ontario began issuing Temporary Use Permits allowing restaurants to use outdoor spaces for dining purposes while waiving fees and expediting the process. Additionally, in July 2020, the City of Ontario drafted an operational transition plan for City facilities to reclose and some work functions to return to a telecommuting basis due to the increase infections in the County and the potential for employee spread.

The City of Ontario regularly participates in disaster drills to maintain its preparedness. The City's first and second response agencies are prepared for the impact of COVID-19; however, the declaration of a local emergency further unlocks resources and legal authority to quickly respond to changing conditions.

Through Ontario Ordinance No. 2990, the City Manager, as the Director of Emergency Services, proclaimed a Local Emergency on July 14, 2020 with additional details and originally proclaimed on March 17, 2020, to enhance the City's ability to mobilize local resources, coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and seek potential reimbursement by the State and Federal governments.

Per California Government Code § 8630, a proclamation of local emergency must be ratified by the governing body within 7 days of issuance and reviewed and continued every 30 days thereafter until termination of the local emergency as conditions warrant.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, PROCLAIMING THE CONTINUED EXISTENCE OF A LOCAL EMERGENCY AND DIRECT THE EMERGENCY ORGANIZATION OF THE CITY OF ONTARIO TO TAKE ALL NECESSARY STEPS FOR THE PROTECTION OF LIFE, HEALTH AND SAFETY IN THE CITY OF ONTARIO.

WHEREAS, City of Ontario Ordinance No. 2990 empowers the City Manager as the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when said city is affected or likely affected by a public calamity and the City Council is not in session; and

WHEREAS, conditions of disaster or of extreme peril to the safety of persons and property have re-risen due to increased levels of positive cases of COVID-19 and accompanying higher hospitalizations and death rates; and

WHEREAS COVID-19 has spread to every country in the world, infecting more than 12 million persons and killing more than 550,000 individuals worldwide, and exists in every state in the United States, infecting more than 3 million persons and killing over 130,000 in the country, as well as infecting more than 300,000 and killing over 6,700 in California; and

WHEREAS, on June 18, 2020, California Governor Gavin Newsom issued a statewide order mandating the wearing of face masks or coverings for the public which the City of Ontario followed by requiring face masks or coverings for city employees; and

WHEREAS, on June 28, 2020, California Governor Gavin Newsom issued an order closing bars and restricting indoor restaurant operations for seven counties including the County of San Bernardino; and

WHEREAS, on July 13, 2020, California Governor Gavin Newsom issued an order closing additional businesses including gyms, worship services, personal care services, hair salons, and malls; and

WHEREAS, the City is issuing Temporary Use Permits allowing restaurants to use outdoor spaces for dining purposes to maintain a safe environment for restaurant employees and patrons while waiving fees and expediting the process; and

WHEREAS, the City has drafted an operational transition plan for City facilities to reclose and some work functions to return to a telecommuting basis due to the increased infections in the County and the potential for employee-spread; and

WHEREAS, the City's ability to mobilize local resources, coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and seek future reimbursement by the State and Federal governments will be critical to the continued battle against COVID-19; and



WHEREAS, these conditions warrant and necessitate that the City of Ontario declare the existence of a local emergency.

WHEREAS, on July 21, 2020 the Ontario City Council ratified Resolution No. 2020-124 proclaiming the existence of a local emergency.

WHEREAS, on August 18, 2020, the Ontario City Council ratified Resolution No. 2020-146 proclaiming the continued existence of a local emergency.

NOW THEREFORE, BE IT RESOLVED, by the City Council does hereby proclaim the existence of a local emergency and directs the Emergency Organization of the City of Ontario to take the necessary steps for the protection of life, health and safety in the City of Ontario.

IT IS FURTHER RESOLVED, that during the existence of said local emergency the powers, functions, and duties of the Emergency Organization of the City shall be those prescribed by state law, by ordinances, and resolutions of the City; and

THE CITY COUNCIL DIRECTS, that all City Departments shall review and revise their department emergency and contingency plans to address the risks COVID-19 poses to their critical functions in coordination with the Office of Emergency Management (OEM); and

THE CITY COUNCIL FURTHER DIRECTS, that all City Departments shall track costs for staffing, supplies, and equipment related to COVID-19 preparation and prevention and forward that information to the Financial Services Agency; and

THE CITY COUNCIL FURTHER DIRECTS, that OEM shall coordinate Citywide planning, preparedness and response efforts regarding COVID-19 with the San Bernardino County Department of Public Health and the San Bernardino County Office of Emergency Services (OES).

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the City Council, that the Resolution to Proclamation of a Local Emergency shall continue the previous proclamation while including additional requirements, guidelines, and procedures.

IT IS FURTHER RESOLVED AND ORDERED, by the City Council that a copy of this Resolution be forwarded to the San Bernardino County Office of Emergency Services to be forwarded to the Director of the California Governor's Office of Emergency Services requesting that the Director find it acceptable in accordance with State law; that the Governor of California pursuant to the Emergency Services Act, issue a proclamation declaring an emergency in San Bernardino County; that the Governor waive regulations that may hinder response and recovery efforts; that response and recovery assistance be made available under the California Disaster Assistance Act; and that the State expedite access to State and Federal resources and any other appropriate federal disaster relief programs.

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

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-     was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2020-     duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: FIRST AMENDMENT TO THE CONSOLIDATED PLAN ANNUAL ACTION PLAN FOR THE 2020-21 PROGRAM YEAR**

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

- (A) Approve the First Amendment to the FY2020-24 Consolidated Plan and FY2020-21 Annual Action Plan (on file in the Records Management Department) (“Substantial Amendment”); and
- (B) Authorize the City Manager to take all actions necessary or desirable to implement the Substantial Amendment.

**COUNCIL GOALS:** Pursue City’s Goals and Objectives by Working with Other Governmental Agencies

**FISCAL IMPACT:** The Substantial Amendment reprograms \$126,364 in Community Development Block Grant (CDBG) funds allocated to public service activity programs (1) COVID-19 Recovery Response Team and (2) Enhanced Homeless Services. Reprogrammed funds will be used to support the creation of a Continuum of Care Manager position. If approved, the associated expenditures will be included in the Fiscal Year 2020-21 First Quarter Budget Update Report to the City Council.

**BACKGROUND:** The Annual Action Plan sets forth the projected uses of federal entitlement funds including CDBG, HOME, and ESG program funds for the coming program year. The Plan addresses the efforts to be made towards accomplishing the goals and objectives included in the City’s Five-Year Consolidated Plan (2020-24). On June 16, 2020, the City Council approved the submission of the Annual Action Plan (2020-2021) as an application to the U.S. Department of Housing and Urban Development (HUD). The modifications described below require that the Annual Action Plan be amended in accordance with HUD regulations by a “Substantial Amendment” (as that term is used in the Citizen Participation Plan).

**STAFF MEMBER PRESENTING:** Scott Murphy, Executive Director Development

Prepared by: Hannah K. Mac Kenzie  
Department: Housing and Neighborhood Preservation

City Manager Approval: 

Submitted to Council/O.H.A. 09/15/2020

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

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

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

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The Substantial Amendment to the 2020-21 Annual Action Plan will allow the City to reprogram grant funding from two public service activities that are eligible to receive alternative CARES Act funding: (1) COVID-19 Recovery Response Team and (2) Enhanced Homeless Services. The reprogrammed CDBG funds are being proposed to create a Continuum of Care Manager (CoC) position in the City's Community Life & Culture Agency. The CoC is designed to provide services to assist individuals and families experiencing homelessness find appropriate housing solutions with the goal of long-term stability. The CoC Manager position will be responsible for managing all aspects of the homeless services CoC on behalf of the City including coordination with subrecipients, collaboration with local homeless service providers, consultation and participation with the San Bernardino County CoC and Coordinated Entry Systems, development of new programs and identification of funding sources to expand Ontario's CoC. The funding reallocation will allow for a recurring funding of the position as a public service activity.

The COVID-19 Recovery Response Team and the Enhanced Homeless Services were initiated at the early onset of the Coronavirus pandemic in an effort to quickly provide services to those in need of rental assistance, economic development activities, homeless outreach, and motel vouchers as the pandemic unfolded. These activities are currently funded by an allocation of CDBG public service funds. In April 2020, the City was advised of entitlement allocations made available through the CARES Act, including \$1,096,879 in Community Development Block Grant Coronavirus (CDBG-CV) funds and \$552,724 in Emergency Solutions Grant Coronavirus (ESG-CV) which could be used for these services. Additionally, in June 2020, the City received a second notification of federal CARES Act funding from HUD indicating that the City will receive \$1,584,528 more in ESG funds referred to as ESG-CV2. As there is now alternative funding sources for the activities of the COVID-19 Recovery Response Team and the Enhanced Homeless Services programs, the recommended reduction in CDBG public service funding for these activities will result in no impact to the delivery of these services.

Staff recommends the following project funding modifications:

Description	Implementing Agency	2021-2021 CDBG Program Budget	Substantial Amendment	Final 2020-2021 CDBG Program Budget
<b><u>COVID-19 Recovery Response Team</u></b> Public service activities in response to COVID-19 pandemic.	Housing Department – City of Ontario	\$66,364	\$0	\$0
<b><u>Enhanced Homeless Services</u></b> Mercy House provided street outreach, motel vouchers, and utility assistance.	Mercy House	\$60,000	\$0	\$0
<b><u>Continuum of Care Manager</u></b> Promotion, coordination, and implementation of Continuum of Care planning processes and activities.	Community Life and Culture – City of Ontario	\$0	\$126,364	\$126,364

On March 31, 2020, HUD published a memorandum of available waivers of Community Planning and Development (CPD) Grant Program and Consolidated Plan Requirements to Prevent the Spread of

COVID-19 and Mitigate Economic Impacts caused by COVID-19. Among the waivers authorized was the reduction of the required public comment period for substantial amendments from 30 days to 5 days. The draft First Amendment to the Fiscal Year 2020-21 One-Year Action Plan was published on the City's website on September 10, 2020. Subsequent to City Council approval, the plan will be submitted to the U.S. Department of Housing and Urban Development.

Staff recommends approval of the Substantial Amendment to the 2020-21 One-Year Action Plan and submission of the Substantial amendment to the U.S. Department of Housing and Urban Development.

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: GOODS AND SERVICES AGREEMENTS FOR VEHICLE COLLISION REPAIR SERVICES**

**RECOMMENDATION:** That the City Council authorize the City Manager to execute three-year Goods and Services Agreements (on file in the Records Management Department) with California Collision Center of Ontario, California, Top Gun Paint and Body of Ontario, California, Los Angeles Truck Center of Whittier, California, and Inland Body & Paint Center of Fontana, California for vehicle collision repairs with an estimated total value of \$240,000; and authorize the option to extend the agreements for up to two additional years consistent with City Council approved budgets.

**COUNCIL GOALS:** Maintain the Current High Level of Public Safety  
Operate in a Businesslike Manner

**FISCAL IMPACT:** The Fiscal Year 2020-21 Adopted Operating Budget includes appropriations of \$240,000 in the Equipment Services Fund for vehicle collision repairs of the City's fleet. Annual expenditures are estimated at \$90,000 for California Collision Center, \$25,000 for Top Gun Paint and Body, \$75,000 for Los Angeles Truck Center, and \$50,000 for Inland Body and Paint. Total expenditures are estimated to be \$240,000. The total compensation paid by the City under the original term and any subsequent term extensions will be contingent upon the type and amount of work performed, billed at the contracted fixed hourly rates consistent with Bid No. 1338 and shall not exceed City Council approved appropriations.

**BACKGROUND:** The City routinely performs maintenance and repairs on over 700 vehicles and pieces of equipment to keep them safe and operational. The Fleet Services Department relies on its vendors to assist in providing parts and services to repair vehicles that have been involved in traffic accidents to improve vehicle availability. The City averages over 50 vehicle accidents per year with annual costs totaling over \$200,000.

In July 2020, the City solicited bids for vehicle collision repairs of the City's fleet and four bids were received through the City's electronic bid management system in response to Bid No. 1338. A list of the four respondents follows:

**STAFF MEMBER PRESENTING:** Tito Haes, Executive Director Public Works

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

Submitted to Council/O.H.A. 09/15/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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**COMPANY**

California Collision Center  
Top Gun Paint and Body  
Inland Body and Paint Center  
Los Angeles Truck Center

**LOCATION**

Ontario, CA  
Ontario, CA  
Fontana, CA  
Whittier, CA

Each vendor submitted hourly rates for body repair, refinishing, frame repair, mechanical repair, and paint and materials. Based on the bid responses, credentials, pricing, favorable product availability and responsive service, staff recommends executing agreements with the four vendors. Purchase agreements with multiple vendors gives the City flexibility in ensuring that quality and timeliness of services and goods are met to provide vehicle availability. The selected vendors possess the knowledge, qualifications and experience to meet the needs of the City.



# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: AWARD OF BID FOR PROCUREMENT OF POLICE UNIFORMS AND ALTERATIONS**

**RECOMMENDATION:** That the City Council approve and authorize the City Manager to execute three-year Goods and Services Agreements for the procurement of police uniforms and alteration services at set pricing per Bid Invitation #1346 with Pristine Uniforms, LLC of Rancho Cucamonga, California and LA Police Gear, Inc. of Valencia, California; and authorize the City Manager to extend the agreements for up to two additional years.


**COUNCIL GOALS:** Maintain the Current High Level of Public Safety  
Operate in a Businesslike Manner

**FISCAL IMPACT:** The Fiscal Year 2020-21 Adopted Budget includes appropriations of \$139,650 for the purchase of police uniforms and alterations. Appropriations for future years of the agreements will be included in respective annual budgets to be approved by the City Council. The suppliers will be compensated for uniforms and alteration services ordered on an as-needed basis, based upon the rates set forth in the respective agreements, and not to exceed the total annual approved appropriations amount.

**BACKGROUND:** A clean and well-maintained uniform is an essential symbol of professional policing and identifies City police officers to the public as the law enforcement authority in society and a source of assistance in times of need.

On August 3, 2020, the City solicited bids for Police Uniforms and Alterations to replace the expiring agreements with the City's current vendors. The City received two responses which met the bid requirements: Pristine Uniforms and LA Police Gear. Based on the bid responses, credentials, pricing, product availability, and service, staff recommends the award to both Pristine Uniforms and LA Police Gear. Awarding the bid to multiple vendors ensures the availability of products and services as Department needs arise.

**STAFF MEMBER PRESENTING:** Derek Williams, Chief of Police

Prepared by: Douglas Sorel  
Department: Police  
City Manager Approval: 

Submitted to Council/O.H.A. 09/15/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
PUBLIC HEARINGS

**SUBJECT: A PUBLIC HEARING TO CONSIDER: [1] A GENERAL PLAN AMENDMENT (FILE NO. PGPA18-002) TO MODIFY THE POLICY PLAN (GENERAL PLAN) LAND USE PLAN (EXHIBIT LU-01) COMPONENT OF THE ONTARIO PLAN, CHANGING THE LAND USE DESIGNATION ON APPROXIMATELY 46 ACRES OF LAND FROM GENERAL COMMERCIAL AND BUSINESS PARK TO 4.13 ACRES OF NEIGHBORHOOD COMMERCIAL, 3.51 ACRES OF BUSINESS PARK, AND 39 ACRES OF INDUSTRIAL; [2] MODIFY THE FUTURE BUILDOUT TABLE (EXHIBIT LU-03) TO BE CONSISTENT WITH THE LAND USE DESIGNATION CHANGES; AND [3] AN AMENDMENT (FILE NO. PSPA18-003) TO THE EDENGLLEN SPECIFIC PLAN TO CHANGE THE LAND USE DESIGNATION FROM COMMUNITY COMMERCIAL, COMMERCIAL/ BUSINESS PARK FLEX ZONE, AND BUSINESS PARK/LIGHT INDUSTRIAL, TO 4.13 ACRES OF NEIGHBORHOOD COMMERCIAL, 3.51 ACRES OF BUSINESS PARK, AND 39 ACRES OF LIGHT INDUSTRIAL, INCLUDING UPDATES TO THE DEVELOPMENT STANDARDS, EXHIBITS, AND TEXT CHANGES TO REFLECT THE PROPOSED LAND USES. THE PROJECT SITE IS LOCATED AT THE SOUTHWEST CORNER OF RIVERSIDE DRIVE AND HAMNER AVENUE (APNS: 0218-171-21 AND 0218-171-27)**

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

- (A) Consider and adopt an Addendum to The Ontario Plan Environmental Impact Report (SCH# 2008101140);
- (B) Consider and adopt a resolution approving a General Plan Amendment (File No. PGPA18-002) to: [1] Modify the Policy Plan (General Plan) Land Use Plan (Exhibit LU-01) component of The Ontario Plan, changing the land use designation on approximately 46 acres of land located at the southwest corner of Riverside Drive and Hamner Avenue from General Commercial and Business

**STAFF MEMBER PRESENTING:** Scott Murphy, AICP, Executive Director Development Agency

Prepared by: Lorena Mejia  
Department: Planning

City Manager  
Approval: 

Submitted to Council/O.H.A. 09/15/2020

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

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

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

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Park to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Industrial; and [2] Modify the Future Buildout Table (Exhibit LU-03) to be consistent with the proposed land use designation changes; and

- (C) Consider and adopt a resolution approving an amendment to the Edenglen Specific Plan (File No. PSPA18-003) changing the land use designations on approximately 46 acres of land located at the southwest corner of Riverside Drive and Hamner Avenue from Neighborhood Commercial, Commercial/Business Park Flex Zone, and Business Park/Light Industrial, to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Light Industrial. The Specific Plan Amendment includes updates to development standards and exhibits, along with text changes to reflect the proposed land use changes.

**COUNCIL GOALS: 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 Ontario Ranch**

**FISCAL IMPACT:** No net direct fiscal impacts are anticipated with the adoption of the General Plan and Edenglen Specific Plan Amendment. The proposed land use designation changes from General Commercial and Business Park to Neighborhood Commercial, Business Park, and Industrial provides for a mixture of similar commercial/retail and industrial uses. Any potential long-term fiscal impact and anticipated expenditures to the City would be offset by development impact fees and property tax revenues from the future development. The elimination of 15.8 acres of Commercial designated land would result in the net loss of 207,409 square feet of potential commercial space (based on a 0.30 FAR). The loss of 207,409 square feet of commercial space represents less than 0.67% of the over 31 million square feet of commercial (retail/office) properties that are existing and planned throughout the City of Ontario. The addition of 15.87 acres of industrial/business park designated land would result in the net gain of 531,345 square feet of potential industrial/business park space (based on a 0.55 FAR) which also allows for commercial uses. The net gain of 531,345 square feet of industrial/business park space represents less than 0.3% increase of the over 181 million square feet of industrial/business park properties that are existing and planned throughout the City of Ontario.

**BACKGROUND:** The Edenglen Specific Plan (File No. PSP03-005) and related Environmental Impact Report ("EIR") was approved and certified by the City Council on November 1, 2005. The Edenglen Specific Plan established the land use designations, development standards, and design guidelines on 158.7 acres of land, which included the potential development of 584 dwelling units, approximately 217,000 square feet of Commercial development, and 550,000 square feet of Business Park/Light Industrial development.

In 2010, The Ontario Plan ("TOP") was adopted, which set forth the land use pattern for the City to achieve its Vision. With the adoption of TOP, a General Commercial and Business Park land use designation was assigned to the Project site.

On September 11, 2018, the applicant submitted five applications to facilitate the construction of an industrial development project, which included a General Plan Amendment (File No. PGPA18-002), an amendment to the Edenglen Specific Plan (File No. PSPA18-003), a Tentative Parcel Map (File No. PMTT18-009/TPM 20027) to subdivide 46.64 acres of land into 7 numbered lots and one

lettered lot and a Development Plan (File No. PDEV18-031) to construct five industrial buildings totaling 968,092 square feet.

**GENERAL PLAN AMENDMENT:** The proposed General Plan Amendment (GPA) will revise Exhibit LU-01 Land Use Plan, changing the land use designation on approximately 46 acres of land from General Commercial (20 acres) and Business Park (26.64 acres) to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Industrial, as shown in Exhibit A: General Plan Amendment Map.

- **Commercial Land Uses** – The GPA includes changes to Figure LU-03: Future Buildout, to reflect the proposed land use designation changes. The proposed land use designation change would eliminate 20 acres (TOP gross acres) of General Commercial designated land and 261,360 square feet of potential commercial space (based on a 0.30 FAR). The amendment would add 4.13 acres of Neighborhood Commercial designated land and 53,971 square feet of potential commercial space (based on a 0.30 FAR). The net loss of 207,409 square feet of commercial space represents a less than 0.67% decrease in building area over the 31 million square feet of commercial (retail/office) space that is existing and/or planned throughout the City.
- **Industrial/Business Park Land Uses** – The proposed GPA includes the elimination of 23.13 acres (TOP gross acres) of Business Park land and 403,017 square feet of potential business park space (based on a 0.40 FAR). The amendment would add 39 acres of Industrial designated land and 934,362 square feet of potential industrial space (based on a 0.55 FAR). The net gain of 531,345 square feet of industrial/business park space represents a less than 0.3% increase in building area over the 181 million square feet of industrial/business park space that is existing and/or planned throughout the City.

**EDENGLLEN SPECIFIC PLAN AMENDMENT:** The proposed Edenglen Specific Plan Amendment (SPA) includes changes to the Edenglen Land Use Plan (see, Exhibit B - Edenglen Land Use Plan) and Land Use Summary Table. The revisions to the Land Use Plan and Land Use Summary will reflect the proposed changes to the Project site land use designations from Community Commercial, Commercial/Business Park Flex Zone, and Business Park/Light Industrial to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Light Industrial.

The 4.13-acre Neighborhood Commercial land use is located at the southwest corner of Hamner Avenue and Riverside Drive and allows for up to 40,000 square feet of commercial land uses, which could accommodate a mid-size grocery store and in-line retail. The 3.51-acre Business Park land use is located along Riverside Drive, at the northwest corner of the Project site. The Business Park land use designation allows commercial land uses to accommodate flexibility in land uses along Riverside Drive. The 39 acres of Light Industrial is located on the southern portion of the project site and allows for warehousing or light manufacturing land uses. Heavy manufacturing uses will not be allowed.

The SPA includes updates to development standards, the land use matrix, and various exhibits, along with text/map changes to reflect the proposed changes in land use and infrastructure. The development regulations and land use matrix have been amended to include standards for the Neighborhood Commercial, Business Park, and Light Industrial land uses. All changes and additions to the Specific Plan (exhibits, tables, and development standards) are contained within the revised Specific Plan document, and are highlighted in red.

**COMMUNITY MEETINGS:** The Planning Department held two community meetings to discuss the proposed subject applications. The first community meeting was in-person and held on December 12, 2018, at the Colony High Branch Library. The second meeting was a virtual presentation and available on the City Website from June 1, 2020, thru July 21, 2020.

At the first community meeting, 12 people were in attendance and, of those, 10 were residents in opposition to the proposed Project. A total of 42 comments in opposition to the proposed Project were received, including 4 comment cards, 6 phone calls and 34 emails. Community concerns and comments regarding the SPA and GPA included:

- The Edenglen Specific Plan was developed as a walkable residential community with pedestrian linkages to trails and a future commercial center to serve the community. Therefore, the surrounding residents were in opposition of the proposed elimination of the General Commercial land use designation of the Policy Plan (General Plan) and the Community Commercial district of the Edenglen Specific Plan in the initial proposal.

*In response to community comments, the applicant performed a retail market study. The Market Study determined the amount of viable commercial acreage for the project site. A Retail Market Assessment was prepared by Streetsense (Dated: May 16, 2019) which concluded that retail demand was insufficient and could not be supported at the project site, due to lack of demand and an oversupply of retail space. The City's Economic Development Agency consultant HdL ECON Solutions (Dated: July 2019) who prepared a Peer Review of the Market Study and concluded that the project site could support up to 8 acres of Neighborhood Commercial (130,0000 square feet). Streetsense prepared a response letter to the Peer Review (Dated: January 30, 2020) and concluded that the methodology utilized by the HdL did not take into account new commercial under construction located at the southwest corner of New Haven Avenue and Ontario Ranch Road (New Haven Marketplace), as a result the site could only support 8,400 to 28,400 square feet of retail (Attachment A: Retail Market Assessment, Peer Review of the Market Study and Peer Review response letter). As a result the study proposed General Plan amendment was revised to include: 4.13 acres of Neighborhood Commercial located on the northeast corner of the project site; 3.51 acres of Business Park located on the northwest corner of the site; and 38.64 acres of Light Industrial located on the southern portion of the site.*

- Concerns were raised regarding potential noise impacts from the proposed industrial uses and related Development Plan for the project site.

*In response to community comments/concerns, the related Development Plan project (File No. PDEV18-031) has been designed to minimize noise impacts to the residents. The truck yards have all been oriented away from the western property line. Screen walls that are 12-feet high have been included around the truck courts and have been strategically located along the western property line to block noise traveling from the property. Trash bins have been moved to the interior of the property and will be enclosed to insulate noise. These design features, along with the 200-foot SCE utility corridor that separates the properties, will substantially diminish any noise impacts to the adjacent residential community.*

*A noise study was completed by Urban Crossroads (July 2020) that analyzed operational noise impact increases along the eastern property line of the Edenglen residential community. Urban*

*Crossroads measured existing noise levels on October 10, 2019 and modeled the increased noise that will be generated by the proposed operations at the property. The study concluded that the operation of a typical warehouse distribution center would result in a noise increase of 0.3 dBA, which is generally indiscernible to the human ear. Furthermore, the placement of the buildings will assist in the reduction of traffic noise that currently exist from Hamner Avenue and help reduce wind and dust impacts from seasonal Santa Ana winds to the existing residential community.*

- Concerns were also raised regarding the related proposed Development Plan and increase truck traffic on Riverside Drive.

*In response to community concerns, the related Development Plan project (File No, PDEV18-031) has been designed to have truck traffic enter and exit primarily onto Hamner Avenue. Hamner Avenue is a designated Truck Route and truck traffic will primarily be coming onto the project site from the nearby SR 60 Freeway I-15 Freeway interchanges. Building 2 and the future commercial development will have primary access from Riverside Drive. Buildings 3, 4, 5 and 6 will have primary access from Hamner Avenue. Furthermore, the project has been conditioned to have tractor-trailer trucks travel east towards Hamner Avenue when exiting the site and shall not utilize Riverside Drive west of the project site to access/exit the project site.*

As discussed above, the applicant revised their proposal to address concerns raised at the first Community Meeting. Due to the COVID-19 virus pandemic and the Governor's Executive Orders, and to ensure the health and safety of City residents by limiting contact that could spread the virus, a second in-person community meeting could not be held. In response, the Planning Department provided for a virtual community presentation and mailed a pamphlet to Edenglen and Creekside residents, containing a summary of the concerns raised at the first meeting and a brief overview of the revised Project. The pamphlet included information about the virtual presentation that was posted on the City Website from June 1, 2020, thru June 15, 2020, for residents' review and comment. The City received eight comments opposing the proposed Project and the previous issues and concerns were raised a second time by residents. One new issue raised was regarding the timing of the virtual presentation. Residents were concerned that the community would not engage due to the pandemic and protests that were occurring at the time. Due to this concern, the virtual presentation, Project information, and public comment link remained on the Planning Department website for an additional five weeks and was removed on July 21, 2020. During the extended time period, no further comments or phone calls were received.

**HEALTH RISK ASSESSMENT:** The Applicant was required to prepare a Health Risk Assessment ("HRA") to determine whether the proposed Project would pose a health risk to the existing residential land uses. The HRA prepared by Urban Crossroads (Dated: July 9, 2020) analyzed the cancer burden estimates as well as the Project operational Toxic Air Contaminants ("TACs") impact from Diesel Particulate Matter ("DPM") emissions. Both analyses concluded that these factors would be less than significant; therefore, no mitigation is required for the Project beyond that which was previously analyzed in The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140), as certified by the Ontario City Council on January 27, 2010. Furthermore, the project was designed to minimize any potential impacts to existing residential development. The tractor-trailer yard areas are oriented away from the existing residential uses and tractor-trailer main access to the site shall be taken from Hamner Avenue (designated truck route). Additionally, the project has been conditioned to have trucks travel east, towards Hamner Avenue, when exiting the site. Trucks shall not be allowed to utilize Riverside Drive, west of the project site, to access or exit the project site.

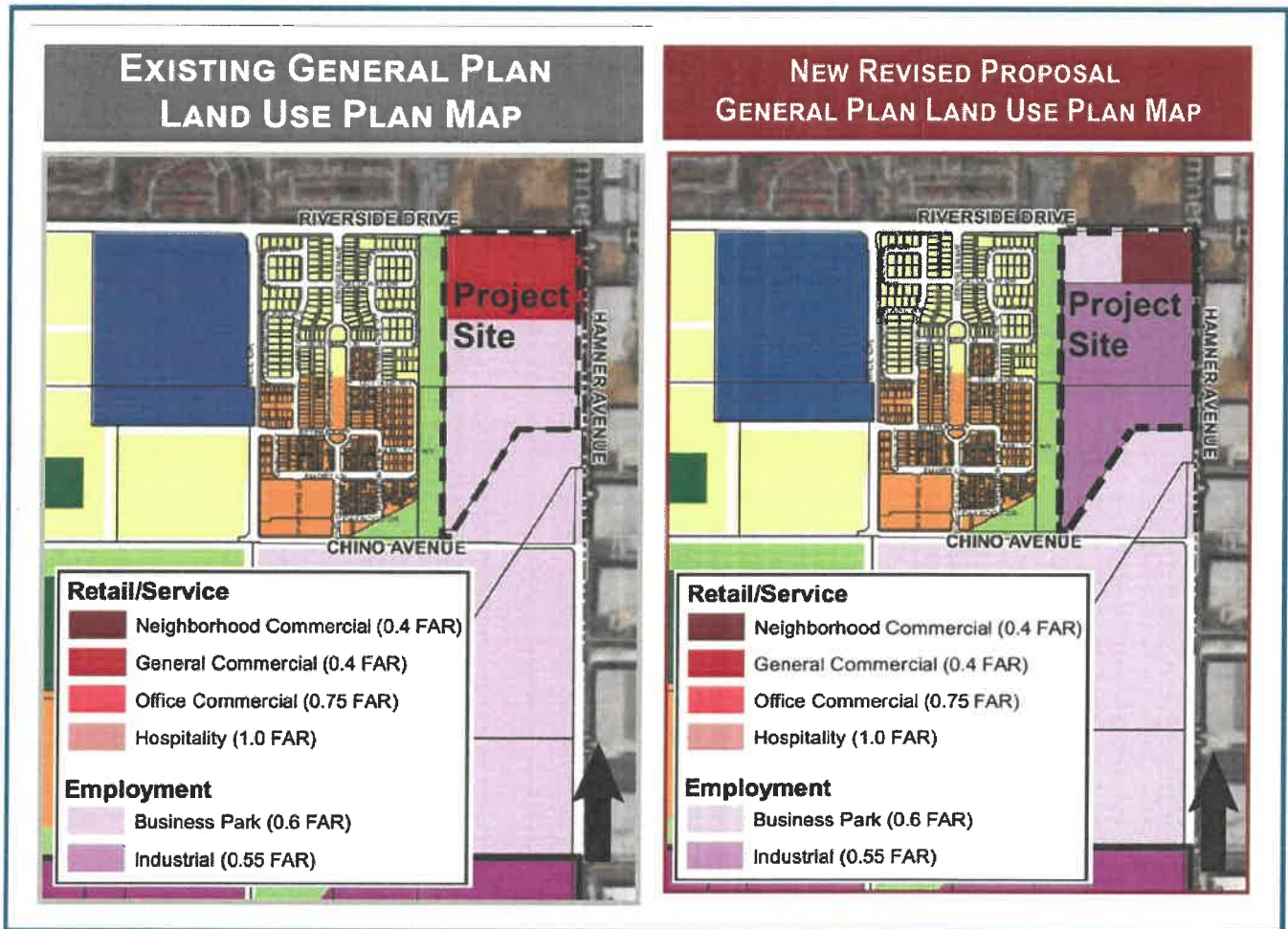
**PLANNING COMMISSION REVIEW:** On August 25, 2020, the Planning Commission conducted a duly noticed public hearing on the subject applications and voted unanimously (6-0) to recommend that the City Council approve the TOP Addendum, the General Plan Amendment and Edenglen Specific Plan Amendment. Additionally, the Planning Commission approved the Tentative Parcel Map and Development Plan subject to conditions. Most notably, the Planning Commission required the redesign of Building 2, the Business Park building facing Riverside Drive. The Commission suggested the design be more conducive to multiple tenants, identifying such things as elimination of dock high doors as a consideration. The final design of the building is subject to Planning Commission review and approval.

**HOUSING ELEMENT COMPLIANCE:** The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project the Project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The Edenglen Specific Plan was listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. However, the eastern half of the Edenglen Specific Plan (Project site) was not included as one of the properties in the Available Land Inventory since the eastern half of the Specific Plan did not include any residential land use designations.

**AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE:** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan (“ALUCP”), establishing the Airport Influence Area for Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. The proposed project is located within the Airport Influence Area of Ontario International Airport and was evaluated and found to be consistent with the policies and criteria of the ALUCP. Any special conditions of approval associated with uses in close proximity to the airport are included in the conditions of approval provided with the attached Resolution.

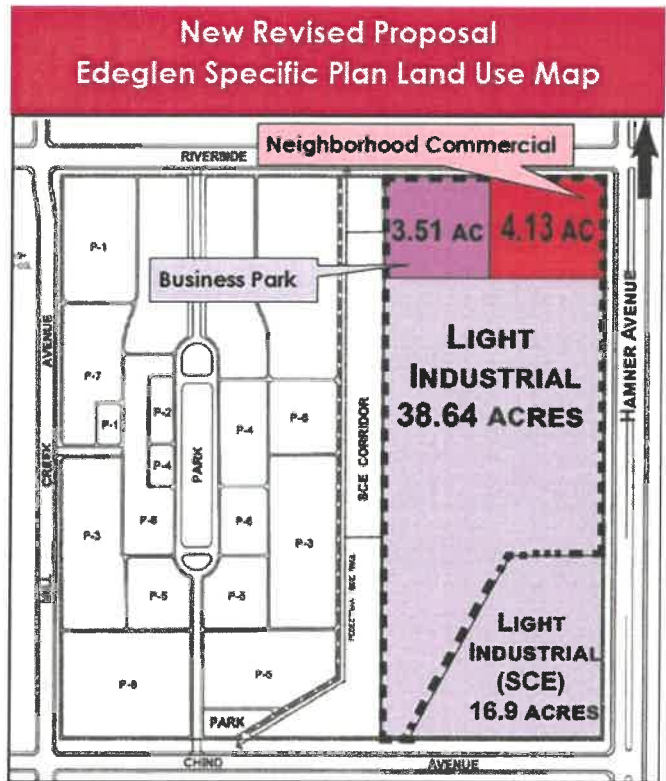
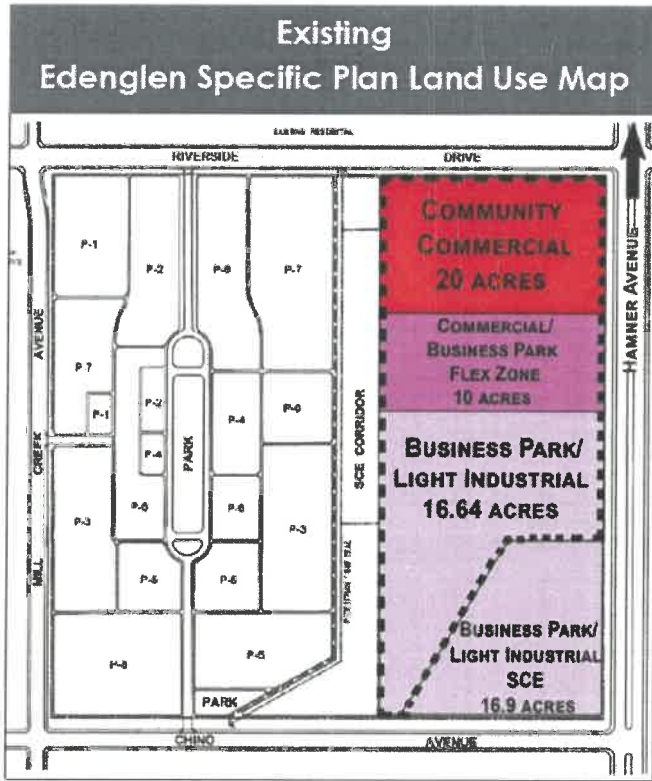
**ENVIRONMENTAL REVIEW:** Staff has prepared an Addendum to The Ontario Plan (File No. PGPA06-001) EIR (SCH# 2008101140) certified by City Council on January 27, 2010. This application introduces no new significant environmental impacts, and all previously-adopted mitigation measures are a condition of project approval. The environmental impacts of this Project were thoroughly analyzed in the EIR Addendum prepared for General Plan Amendment (File No. PGPA18-002) and an amendment to the Edenglen Specific Plan (File No. PSPA18-003), which concluded that implementation of the Project could result in a number of significant effects on the environment that were previously analyzed in the Certified EIR, and that the Certified EIR identified mitigation measures that would reduce each of those significant effects to a less-than-significant level.

*Exhibit A – General Plan Amendment Map*





*Exhibit B - Edenglen Land Use Plan*



**Attachment A:  
Retail Market Assessment,  
Peer Review of the Market Study and  
Peer Review Response Letter**

## Hamner Ave/ Riverside Drive Retail Market Assessment

*Prepared for Crow Holdings Industrial and the City of Ontario*

*May 16, 2019*

### KEY RECOMMENDATION:

- Retail is **not recommended** for the Hamner Ave/Riverside Drive.
- Resident's ability to drive (2.3 cars per household; 81% drive to work) to meet their retail needs presents the opportunity **to cluster retail demand** within the market at the **most appropriate auto oriented retail location** to promote high retail productivity and long-term sustainability. Tenants will not support walkable, pedestrian-oriented retail in this market because of a lack of density and they have the opportunity to drive to more options.

### KEY FINDINGS:

Retail demand calculated for the development site located at Hamner Ave/Riverside Drive was determined to be insufficient to support retail that will be leasable and sustainable, thus leading to vacant storefronts and retail oversupply:

- **The site cannot support an anchor tenant**, such as a grocery store or pharmacy (CVS/Walgreens). This factor, coupled with the site's low volume of retail demand, will likely lead to poor quality retail tenants, vacant storefronts, and depress the overall retail market, if retail is pursued at this site.
- The site is surrounded by developable land that is more appropriate for retail development. Exhibit A ranks the nearby sites for retail suitability and tenant demand. The approximate 40 acres located directly north of the site has the best site conditions at this intersection for retailers including visibility and accessibility from the Interstate. **Development of retail on one of the two properties will significantly impact the other property's ability to capture retail sales and support retail tenants, so retail should be developed only on the most suitable property.** Moreover, comparable retail already exists on the southeast corner of the intersection.

- **Retail performs at its highest productivity when *clustered*.** Pockets of disjointed retail in suboptimal locations create a highly competitive environment rather than a complementary market, where cross-shopping is encouraged and retailers benefit from co-tenanting. This results in high vacancy and poor tenant quality.

## INTRODUCTION

The site studied in this effort is in Ontario, California located at the southwest corner of the Hamner Avenue / Milliken Avenue and East Riverside Drive intersection. The purpose of this study is to examine the retail appropriateness of the development site and the ability of the site to realize any market supported demand, which will consider site conditions, leasing factors, retail market principles, and best practices. Finally, as this site is part of the larger redevelopment effort, this study will identify and discuss the implications of developing market-supported retail at the site. A competitive review of existing and upcoming retail clusters in the market area, trade area analysis, customer demographic analysis, and development risk assessments were undertaken to generate a comprehensive understanding of the site's retail potential.

## COMPETITION REVIEW

Given the urban-suburban typology of Ontario, competition for the site is measured on two levels – locally-serving neighborhood centers for convenience-based trips and regionally-serving destination hubs for experience-based trips. Retail customer behaviors are rooted in convenience, access, and visibility as well as tenant quality and variety of offerings. These factors are considered when assessing the market influence of each retail competitor.

Neighborhood-serving retail centers are characterized by a dominant mix of Neighborhood Goods & Services (NG&S) tenants, which include grocery stores, barber shops, hair/nail salons, pharmacies, dry cleaners, and similar uses. These retail centers primarily meet the need for convenience-based shopping trips. Thus, they compete on a geographically smaller scale, meaning customers frequenting retailers in this category will almost always patronize retail locations in close proximity to their work and home. As a result, customers are less likely to pass up the nearest shopping opportunity to fulfill their everyday needs. In this market, neighborhood-serving retail nodes are clustered along major commuter corridors, such as Route 60 (Pomona Freeway) and Interstate 15. Therefore, these auto-oriented retail developments cater to customers arriving by car, as they are highly visible and accessible from the roadway and provide ample surface parking. Households immediately surrounding the site are well-served by an existing neighborhood-serving retail node two miles – less than a five-minute drive – from the site. This retail node is comprised of the **Archibald Ranch Town Center** and **Archibald's Plaza** and includes a Ralph's grocery store, a Walgreens and Rite Aid pharmacies, dry cleaners, nail salons, and several fast-causal restaurants.

Regionally-serving retail nodes include power centers, shopping mall, and walkable lifestyle centers and are characterized by their dominate mix of retailers in the General Merchandise, Apparel, Furnishings, and Other (GAFO) category and typically include a cluster of full-services restaurants and an entertainment component, such as a movie theatre. These centers attract customers from a larger trade area in comparison to local, neighborhood-serving retail clusters. Fewer of these retail nodes can be supported in any given region as GAFO retailers demand a higher sales per square foot compared to NG&S retailers and the GAFO purchases account for approximately 20% of all retail purchases. Further amplifying the competitive landscape for sales in this category is the rise of e-commerce, which currently accounts for 9% of all retail sales and is growing at approximately 15% per year.

The region is well-served in this category. Competition includes the **Ontario Mills** - a traditional shopping enclosed shopping mall 10-minutes north of the site, **Eastvale Gateway** - a big-box power center anchored by a Target and movie theatre 10-minutes south of the site, and **Victoria Gardens** - an upscale, walkable lifestyle center with a number of full-service restaurant options.

#### TRADE AREA BOUNDARIES

Boundaries for trade areas are determined for primary and secondary levels of customers and are impacted by competition, drive times, sociological and geographical boundaries, shopping patterns by customer type, and other factors. The development site's trade areas are heavily impacted by the intense competition to the north and south and the neighborhood-serving retail scattered throughout the area as well as travel times throughout the region via the Interstate system.

Households and employees in the Primary Trade Area (PTA) are expected to patronize retail at higher frequency than other areas. Their shopping choices will be based on the convenience of the opportunity as well as the quality of the offering. The PTA is bound by Route 60 to the north, Edison Avenue to the south, Interstate 15 to the east, and canal to the west, as shown in Exhibit B.

Households within the Secondary Trade Area are expected to patronize retail at the site often, but with less frequency than the Primary Trade Area, as they have more convenient retail offerings closer to their residences. The STA is compromised of the neighborhoods and industrial areas to the north, east, and west, approximately half of a mile from the boundaries of the PTA.

## CUSTOMER DEMOGRAPHICS

Customer spending habits are influenced by household incomes and their ability and willingness to travel throughout the region to competitive retail offerings, indicated by household car ownership rates (2.28 cars per household), commute times to work (39 minutes), and percentage of adults who commute to work by car (81%). These attributes indicate consumers are heavily reliant on personal vehicles to complete their daily routines, which directly translates to their shopping behaviors and retail preferences to include drive-throughs, visible storefront from the roadways, signage, and ample parking with convenient access to a retailer's front door.

Household incomes and household sizes also influence consumer shopping habits and the retail potential in this market. The median household income in the PTA is \$85,300 while the STA is slightly lower at \$77,600. These incomes are higher than the national average (\$60,000), however average household size (3.3 people in the PTA, 3.5 people in the STA) is much larger than the national average (2.6 people), an indicator that households likely have limited discretionary spending on retail goods and services.

The Primary Trade Area workforce is a very diverse mix of blue-collar occupations to include employees in the Construction, Manufacturing, Wholesale Trade, and Transportation and Warehousing industries as well as in the Retail Trade industry. These workers are unlikely to patronize traditional retail, given long and inflexible hours and limited breaks. Spending is reflective of the insular jobs within a company's industrial/manufacturing complex.

## CONCLUSIONS

**LACKING CRITICAL MASS OF RETAIL DEMAND.** While demand for additional retail development may exist, this specific site does not demand retail that would make development and tenanting a feasible task, thus resulting in vacant retail storefronts that create an eyesore and stigmatizes the property. Without a grocery or pharmacy anchor, which is not market supported at the site, retail at this site in the volumes that it is demanded will struggle to capture the sales needed to survive in a competitive market where customers have a number of options within a short drive and customer decisions are rooted in convenience.

**SITE CONDITIONS AND LEASABILITY CONCERNS.** The site is out-positioned by more competitive developable land, specifically the undeveloped land north of the site, which is highly visible from the Interstate and more accessible from the Interstate exit.

Development on this land would position any shopping opportunities to be highly competitive with the subject site, leading to vacancy and deferred maintenance. As detailed in the customer demographics section, retail consumer behaviors are rooted in convenience,

access, and visibility. Retailers fully understand customer behaviors and patterns and will seek out sites with the utmost visibility and accessibility. Additionally, the site is located on the “edge” of the new residential neighborhood, as the site is bound by an industrial park to the east. While employees in the industrial park generate a small amount of retail demand, retailers in this market would prefer to be located at more significant residential intersections with larger residential populations nearby.

**IMPACTS OF RETAIL OVERSUPPLY.** A comprehensive study of Ontario’s retail supply is necessary to understanding the specific conditions of Ontario’s retail market; however, a brief review of the retail supply indicates that the market is currently oversupplied with retail space. One indicator of retail oversupply is a high rate of vacancy, which is observed at approximately 40% at Plaza Cardenas and 30-35% along Euclid Avenue in addition to the many vacancies on Grove Ave.

Oversupply occurs when the supply of retail space surpasses the demand for retail and it can have many adverse consequences for retailers, property owners, municipalities, and ultimately, the health and safety of the community.

The first indicator of retail oversupply is the underperformance of individual retailers, as retail sales in the market are spread too thin across too many retailers. Businesses located in an oversupplied retail market report low sales numbers as a result of their inability to capture a sufficient volume of sales. Retailers in this vulnerable position may be forced to close because low sales numbers are not financially justifiable.

When retailers close their doors, vacancy increases. Retail vacancy in markets that are oversupplied with retail space creates both a tough situation for landlords and negatively impacts retailers surrounding the recently closed business. Landlords risk long-term vacancy and decreasing rental rates in order to attract retailers, lowering the bar for the quality of retailer entering the market, as lower quality tenants seek lower rents. A secondary consequence for landlords decreasing rental rates at their properties, is the reduction of net operating income that may be reinvested in the property on items such as maintenance, repairs, façade improvements, and tenant improvements. High vacancy rates in retail clusters have adverse impacts on the health of the surrounding retailers, as vacant storefronts do not drive traffic to the center. Extreme vacancy issues can lead to disinvestment, blight, and abandonment. Not only does this decrease the property value of retail spaces due to visible blight caused by forgone repairs, it negatively impacts the productivity of neighboring retail spaces and the value of surrounding residential neighborhoods.

Retail oversupply is harmful to the commercial and residential real estate market, but this trend in the industry is not confined to landlords, real estate investors, property owners, and business owners. **Communities experience the lasting impacts of retail oversupply long after the property owners have sold their properties or left them to decay. Retail**

**oversupply that results in vacancy can create significant blight issues, impacting public health and safety.** The Center for Disease Control (CDC) has shown there is a connection between neighborhood conditions and the well-being of residents. Recognizing the need for healthy communities, the CDC has formed a special counsel and research department on Neighborhood and the Built Environment. The CDC reports that living near vacant or abandoned lots has serious impacts on an individual's quality of life, as these locations are commonly used for dumping litter and other waste materials. **Because vacant retail spaces are unoccupied and do not generate pedestrian activity, there is a lack of "eyes on the street" – an ideal situation for criminal activity and vandalism.** Living nearby to blighted properties can result in lower literacy scores for pre-K children, increased violence, higher rates of chronic illness, and breakdown of social networks and capital. **The oversupply of retail space is not just an economic market issue; it is a public health issue.**

Pursuing retail development in oversupplied markets does not in and of itself trigger the consequences of oversupply but will add to the overall condition of oversupply in the market.

#### RETAIL DEVELOPMENT RECOMMENDATIONS

The City of Ontario is uniquely positioned with the opportunity presented by a "blank slate" and massive residential development momentum in the southeast corner of the city. The addition of thousands of households is expected to add a considerable amount of retail demand to the area, which presents the rare opportunity for the City of Ontario to create a thoughtful and progressive retail strategy in that area. Retail performs best when clustered at the best locations, as this type of development allows retailers to function in a complementary fashion. When retail is disjointed, separated into smaller centers, and scattered throughout the region, retailers are forced to compete against each other, which naturally leads to winners and losers in the market.

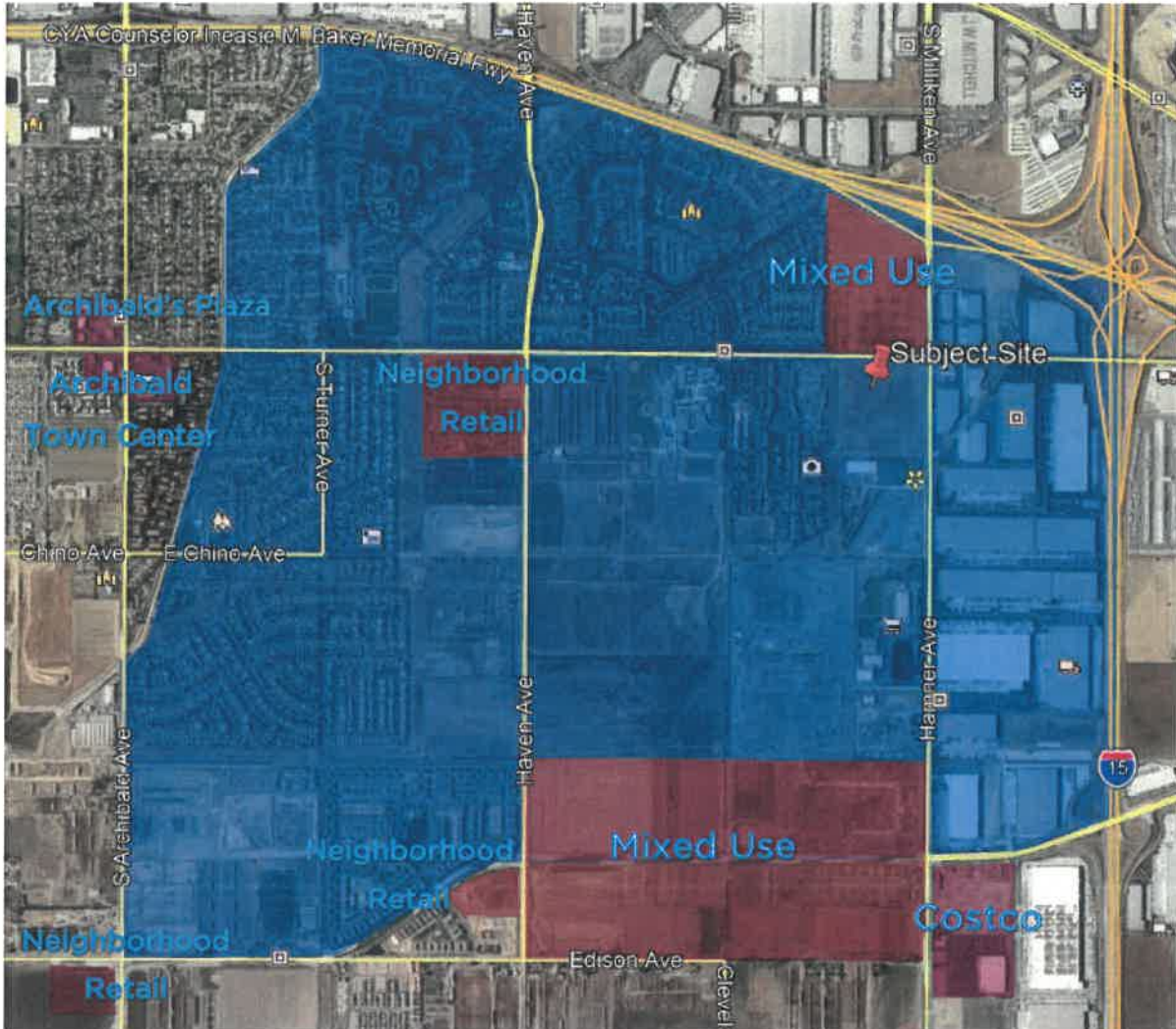
In conclusion, the site does not justify the development of retail space. Any retail development at this intersection would be best served by limited convenience retail (gas, sundry, sandwich) on the northwest corner and the existing retail on the southeast corner as commuters make their way to and from work.




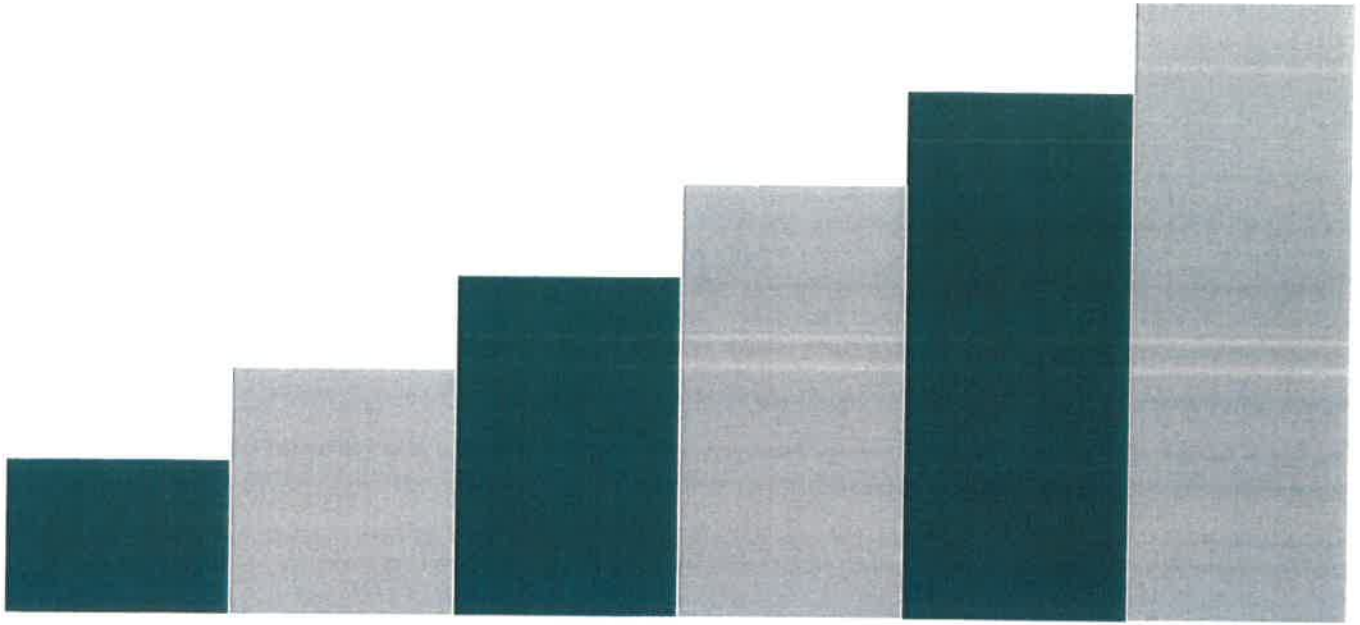
**EXHIBIT A**  
**VICINITY RETAIL SITE RANKING**



**EXHIBIT B**  
**PRIMARY TRADE AREA**



-  PRIMARY TRADE AREA
-  EXISTING RETAIL
-  FUTURE RETAIL ZONING



*Development Driven by Data*

City of Ontario  
Peer Review - Market Study - Crow Holdings Property  
at SWC of Hamner/Riverside

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## About Us

In 2014, HdL Companies created ECONSolutions to expand services in providing strategic planning and consulting services to assist local governments with economic development planning and execution. ECONSolutions offers a variety of products and services for customized solutions based on a client's budget needs and specific development requirements.

Whether you need to understand a trade area, fill a vacancy, or market a shopping center, ECONSolutions will collaborate with city staff, developers, and real estate professionals to bring increased economic activity to your community. We will work with city staff in formulating steps to capitalize on near-term opportunities, evaluate areas for redevelopment or repositioning of commercial shopping centers, future revenue projections and feasibility studies to ultimately devise a strategy to encourage commercial development in your city through an understanding of your marketplace.

Our ECONSolutions staff has more than 50 years of local economic development and community development experience in California. ECONSolutions offers up-to-date data capability, an online GIS platform with state-of-the-art software for market analytics and the ability to leverage HdL's extensive databases systems. ECONSolutions can engage in projects of every size ranging from data analysis to comprehensive studies to advisory support and to public/private collaboration.

## ECONSolutions Team



Nearly 50 Years of Economic Development and Community Development experience



Unique combination of public and private sector experience



Have worked for 75 local governments including 35 present city clients



Utilize cutting edge software, along with established and proven network of developers, shopping center owners, retailers and real estate professionals

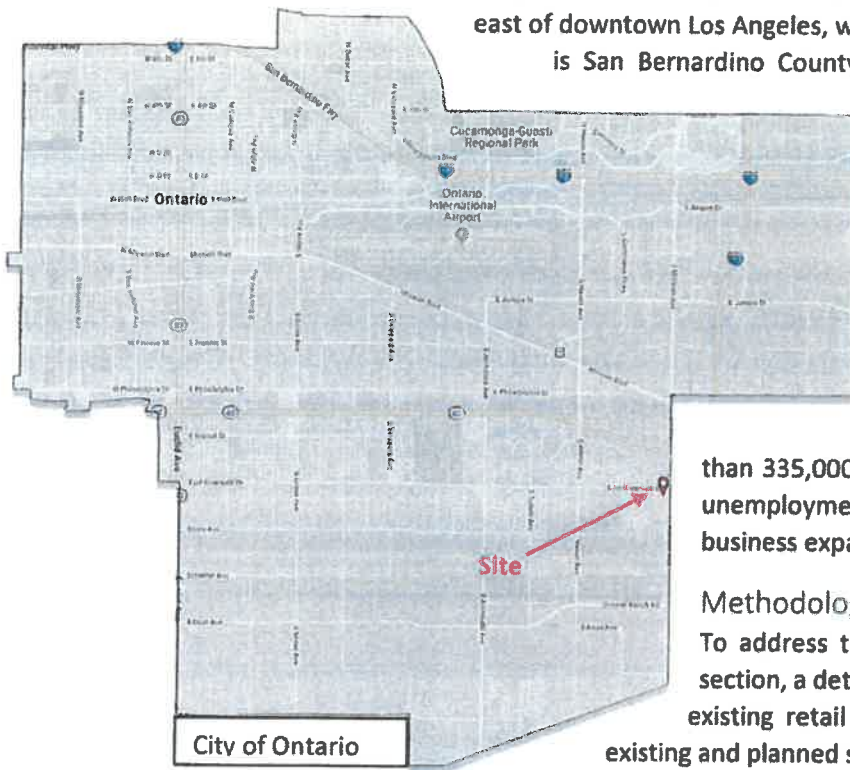
## Objective

The City of Ontario has requested a peer review of the analysis conducted by StreetSense for a 46-acre property owned by Crow Holdings, for the Hamner Avenue/Riverside Avenue project area within the Edenglen Specific Plan. The review will incorporate the following considerations in providing insight as to the highest and best uses to include within the project area:

- Site Analysis/Trade Area Summary
- Consumer Demand & Market Supply Assessment/Void Analysis
- Market Analysis
- Next Steps and Recommendations

## Overview

The City of Ontario is located in the southwestern San Bernardino County, 35 miles east of downtown Los Angeles, with a population of nearly 177,000 and is San Bernardino County's fourth most populous city in the



County and the sixth largest in the Inland Empire. Ontario is strategically positioned in the Inland Empire along major transportation routes, providing easy access to its commercial and industrial areas via Interstate 10, Interstate 15, and State Route 60. Within a 10-minute drive time of

downtown Ontario, there are more than 335,000 people with solid income levels, low unemployment and a plethora of opportunities for business expansion opportunities.

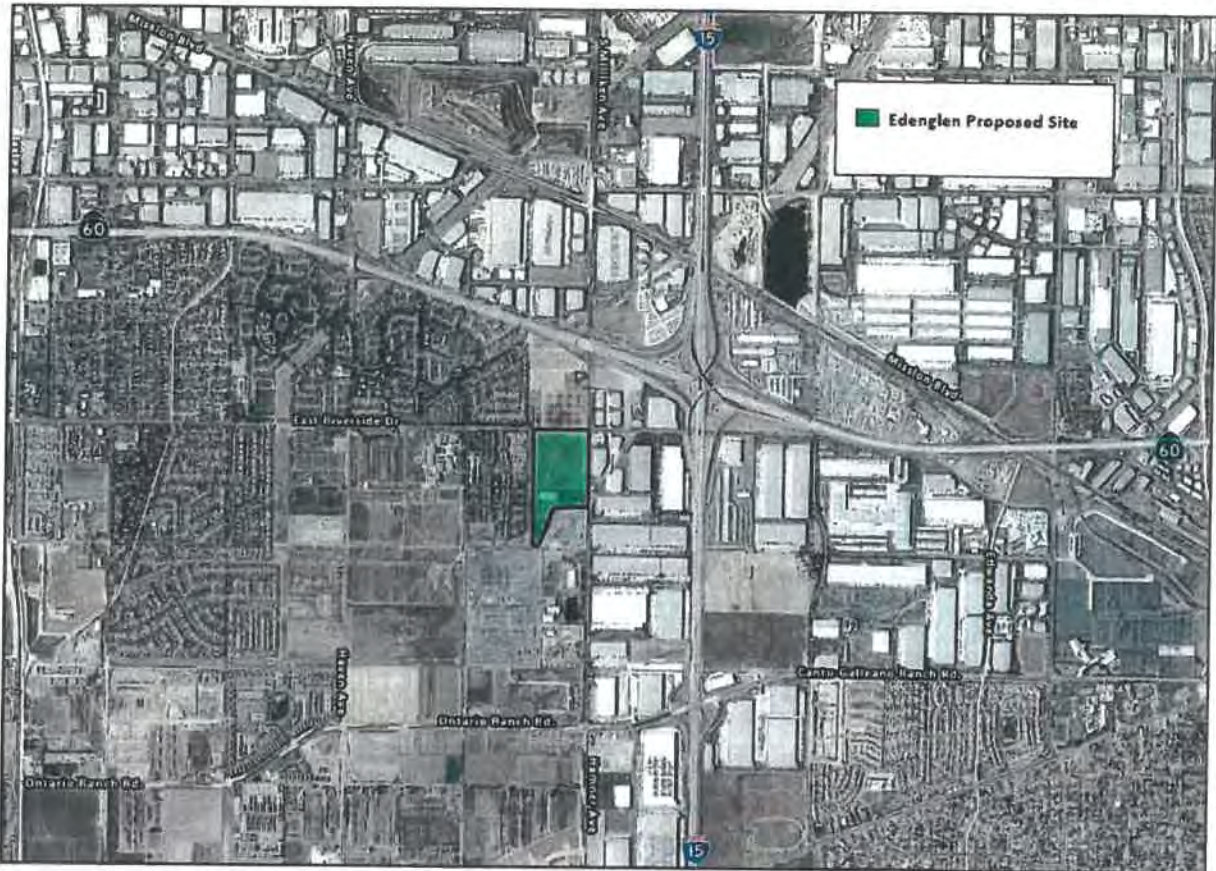
### Methodology

To address the issues presented in the objective section, a detailed evaluation was performed of the existing retail in the trade area, as well as major existing and planned shopping areas in and surrounding the defined trade area. The trade area was defined using a 5-minute primary and a 10-minute secondary drive time from the project site of the proposed development at the southwest corners of Hamner and Riverside Avenues based on the evaluation of existing centers, driving patterns, and current and future population massing.

Additionally, a Consumer Demand & Market Supply Assessment, along with a Void Analysis of the primary trade area was conducted, which provides a glimpse into the overall retail potential of the trade area, evaluated in relation to per capita population; which produced a per capita opportunity ratio (per capita opportunity demand/surplus is the ratio of the demand/surplus to overall consumer demand aggregate to per capita levels).

## Site Analysis

The 46-acre site owned by Crow Holdings is situated within the Edenglen Specific plan within the City of Ontario and includes 160 acres in total. Approximately 77 acres has been designated for residential to include 584 single family and multifamily residences along with 15 acres designated for open space/park area. Cutting through the property running north and south in the middle of the specific plan, 12.8 acres consist of Southern California Edison easement/corridor which has been designated for a public trail. The remaining approximate 70 acres (including the 46-acre Crow Holdings property) with three major property owners is current designated for commercial and business park/light industrial uses.



The site is surrounded by industrial uses to the east, north and southeast, including some major e-commerce/logistics uses by major national retailers including Amazon, Walmart, and ProLogis (international 3PL). To the west and south, existing and planned residential uses as well as the adjacent Colony High School and other public schools including elementary and middle schools.

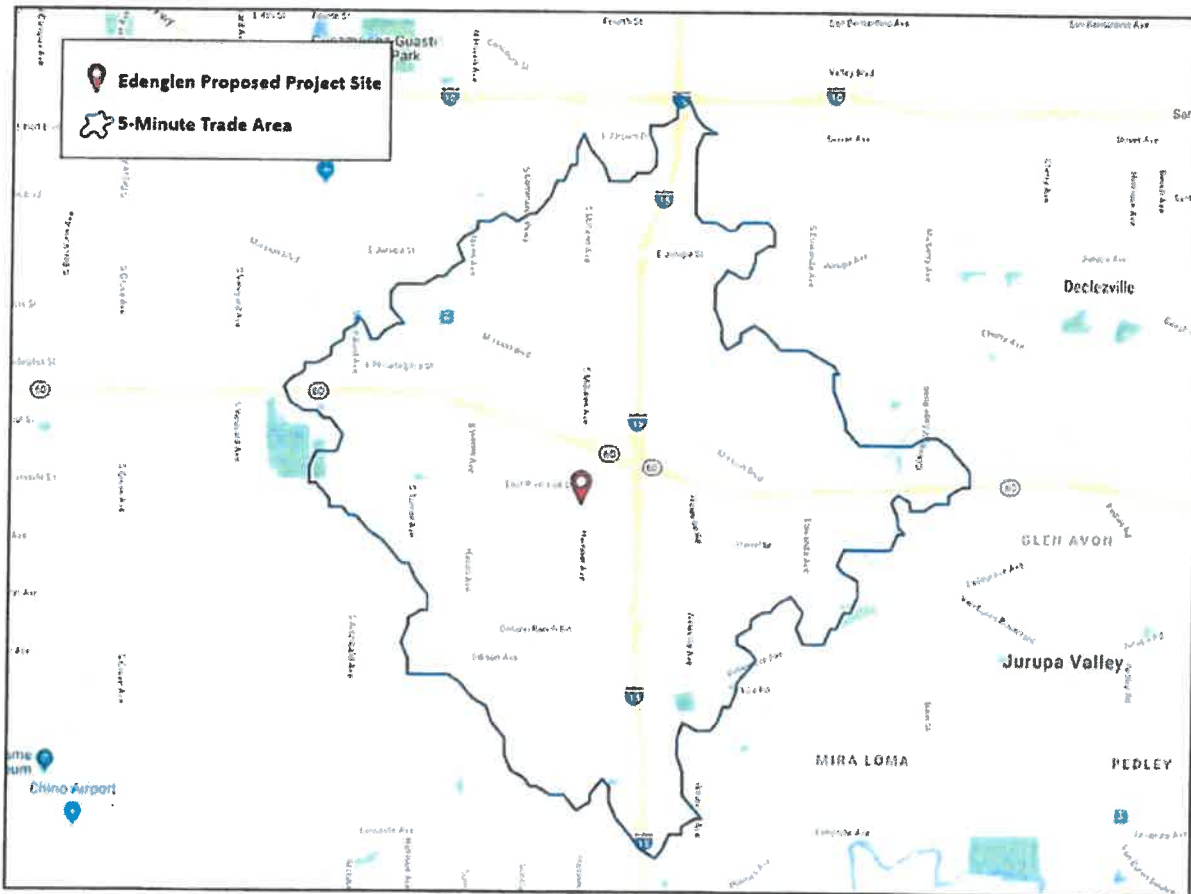
### Access

The site is less than half a mile west of the I-15 freeway, less than a quarter mile south of the 60 freeway, just over a mile north of Cantu Galleano Ranch Road and approximately a mile east of Haven Avenue. Ingress and egress to the site will be best accessed along Hamner Avenue, which is a major north/south arterial road. East Riverside Avenue will be best used for access from the residential communities to the west. With the development of uses that will potentially attract more truck traffic, Chino Avenue should

be improved to allow for at a minimum left in/out access to go south along Hamner Avenue to Cantu Galleano Ranch Road and the I-15 freeway.

### Trade Area Summary

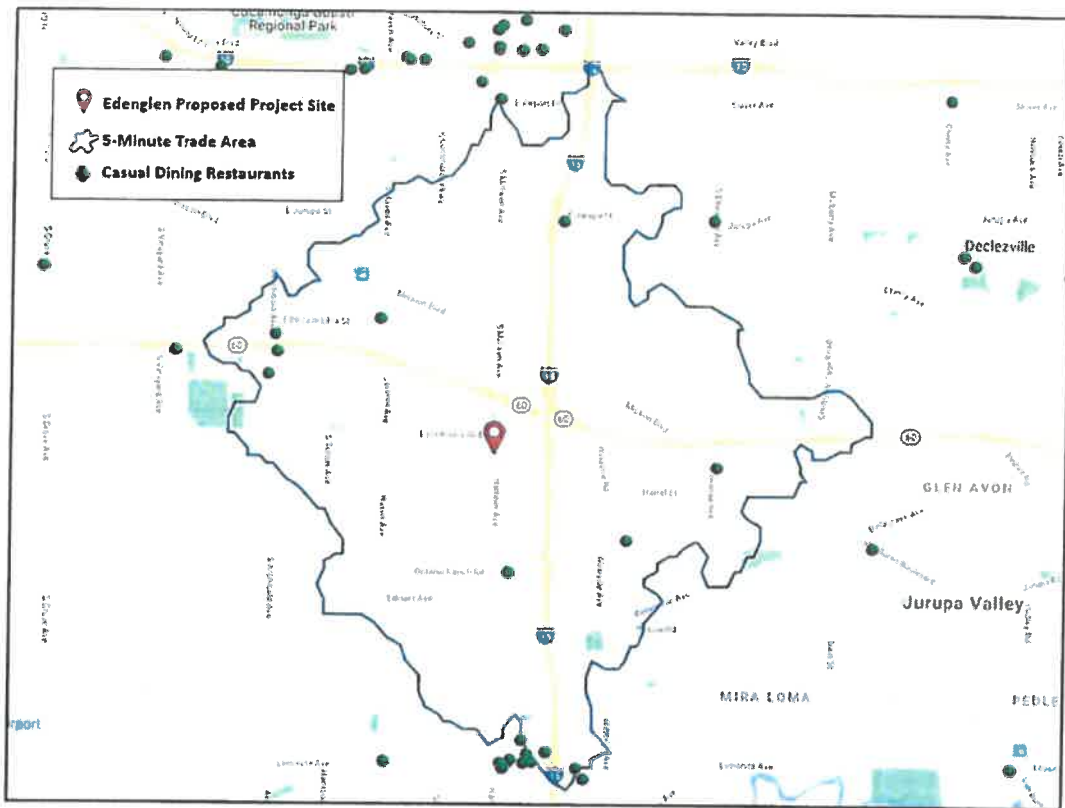
Based on analysis, it is determined that the proposed commercial uses of the site are limited to a local neighborhood shopping center due to community gravitational patterns and the existing adjacent commercial centers which is discussed in more detail in the following sections of this analysis. The retail uses servicing the trade area will appeal to customers from short distances with the uses primary servicing convenience and daily shopping needs. The following map illustrates the boundaries of the primary 5-minute drive time trade area:



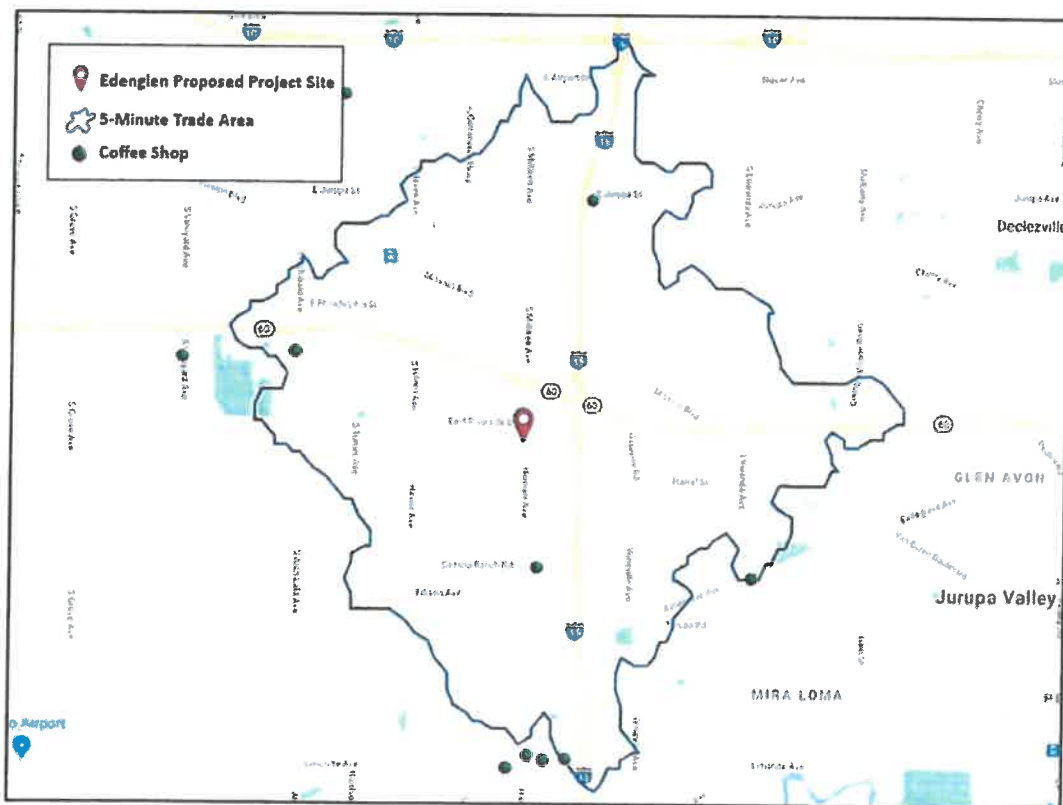
Please note, as a result of the retail trade area, the proposed project area will face some competition with existing retail centers. However, the employment with some of the uses operating 24/7 warrant consideration attracting additional neighborhood retail uses for the convenience of the workforce which is just under 30,000 people and a daytime population of nearly 45,000 people according to SiteSeer demographics as of July 2019. The 5-minute trade area nearly doubles in size during the day which has a trade area population of 25,381, as a result of a large inflow of employees coming from outside of the trade area and city working at the plethora of e-commerce/logistics businesses in the area. Additionally, more residential development is presently underway in the Ontario Ranch area of the City of Ontario that is just south and southwest of the site.



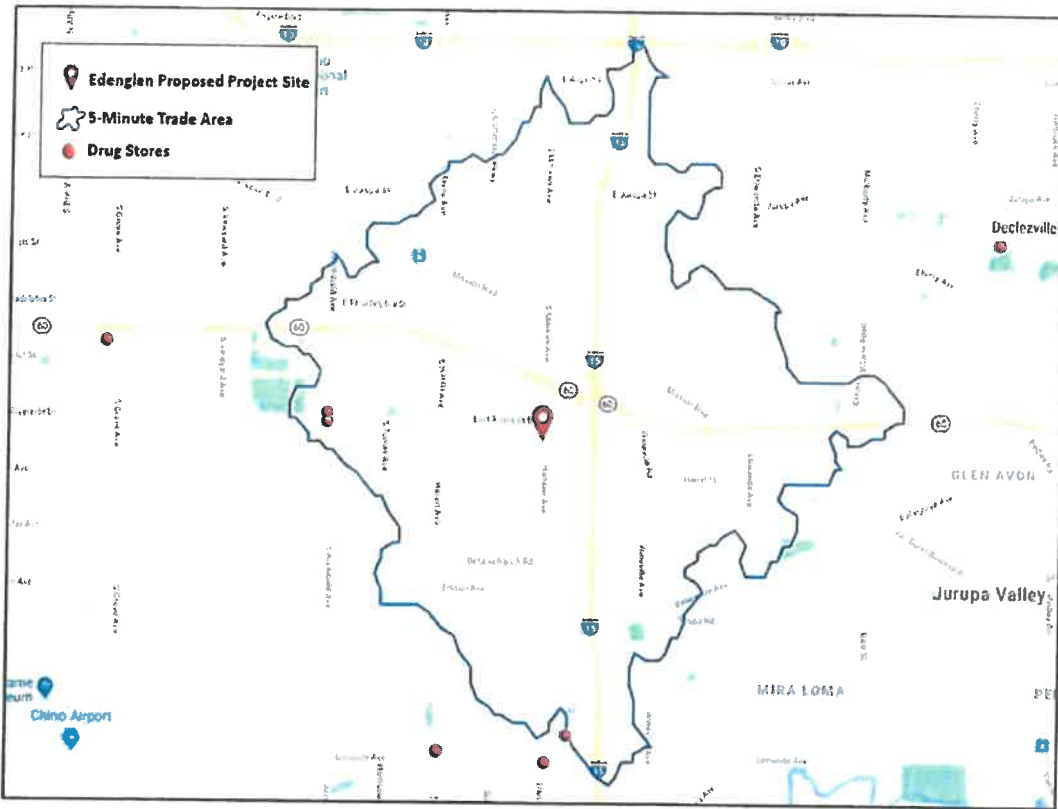




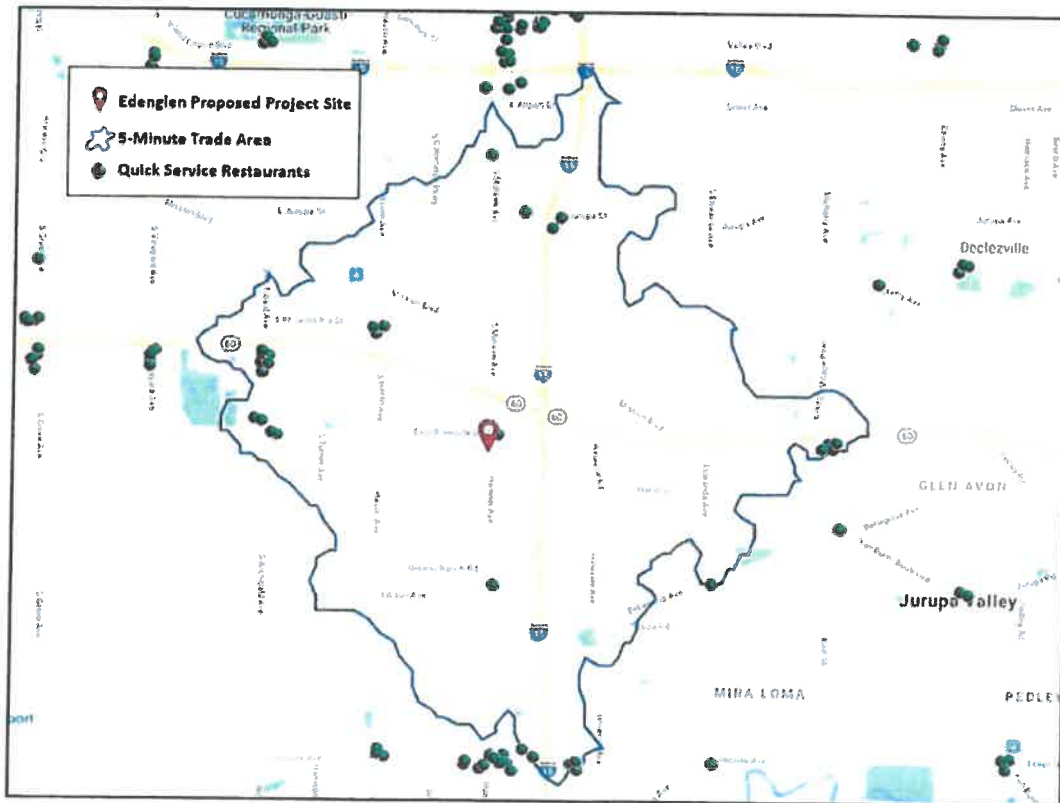
5-minute drive time showing the void in Casual Dining Restaurant establishment types



5-minute drive time showing the void in Coffee Shop establishment types



5-minute drive time showing the void in Drug Store establishment types



5-minute drive time showing the void in Quick Service Restaurant establishment types

## Consumer Demand & Market Supply Assessment

A Consumer Demand & Market Supply Assessment for the trade area identifies unfulfilled market supply for consumer demand. The trade area shows approximately \$26,695,559 being spent outside the primary and secondary trade areas as well as outside of the City of Ontario, much of this being spent to the south in shopping areas in the City of Eastvale. This represents approximately \$266,000 in potential sales tax revenue that could be realized by the City of Ontario. ECONSolutions used a methodology whereby the potential leakage is weighed against the potential sales that can be realized from a prototypical commercial shopping center. The potential leakage is then factored into sales per square foot based on potential sales resulting from a potential retail category. To that end, ECONSolutions is estimating approximately 100,000 to 120,000 square feet of retail can be realized and absorbed within the trade area. Additionally, the Ontario Ranch (New Model Colony) is a master-planned community of 13 square miles in Ontario with more than 46,000 new homes anticipated to be developed including many presently under development at this time. The consideration of absorbing 100,000 to 120,000 square feet of new retail shopping, in addition to new homes coming to the Ontario Ranch area presents the opportunity for the development of a 6 to 8-acre neighborhood shopping center at this site. The nearest neighborhood shopping center is situated at the southwest corner of Riverside Drive and Archibald Avenue, 3 miles to the west from the site. To the south of the site at the southeast corner of Hamner Avenue and Cantu Galleano Rancho Road is the Station at Goodman Commerce in the City of Eastvale, which is a 60-acre retail development with a 650,000-power center anchored by Costco and it is a regional draw has and I-15 freeway exposure.

## Void Analysis Summary

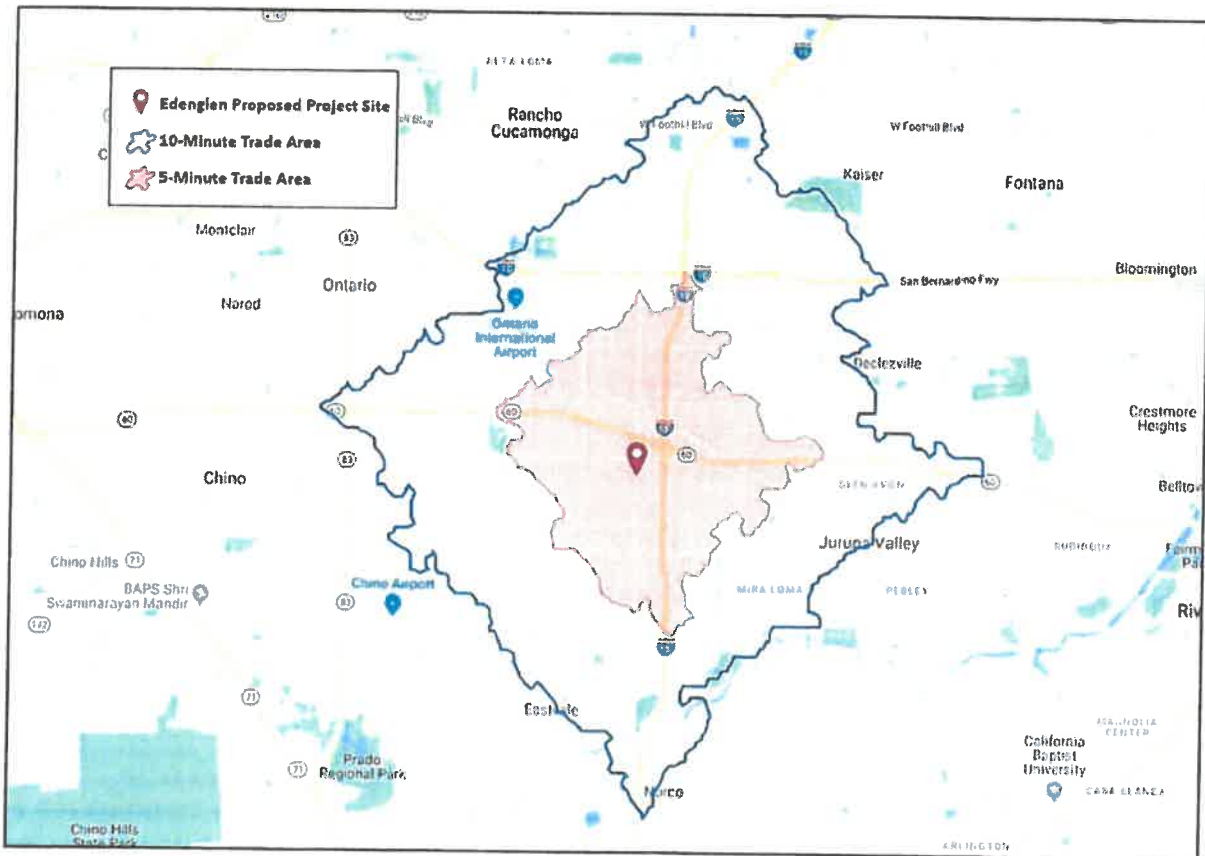
The following are possible national and regional targets from a Void Analysis on retailers and restaurants not in the trade area, as well as those active in trade areas similar in make-up to the project area.

Banks	Fitness	Fuel/ Convenience	Grocery/ Drug Store	Restaurants	Retail
Bank of California	UFC Gyms	Exxon/Mobil	H Mart	Coffee Bean & Tea Leaf	F21 Red
Bank of the West	Anytime Fitness	Texaco	99 Ranch Market	Peet's Coffee	WSS
Citibank	Chuze Fitness	Arco AM/PM	Aldi	Dutch Bros Coffee	Daiso Japan
		Shell	El Super	Pizza Studio	CosmoProf
			Grocery Outlet	Olive Garden	Bob's Discount Furniture
			Big Saver Foods	Pollo Campero	
			Good Neighbor Pharmacy	Norm's Restaurant	
			Mother's Market	L&L Hawaiian Barbecue	
				85 Degree Bakery & Café	
				Corner Bakery	
				Doghaus	

### Current Market Conditions

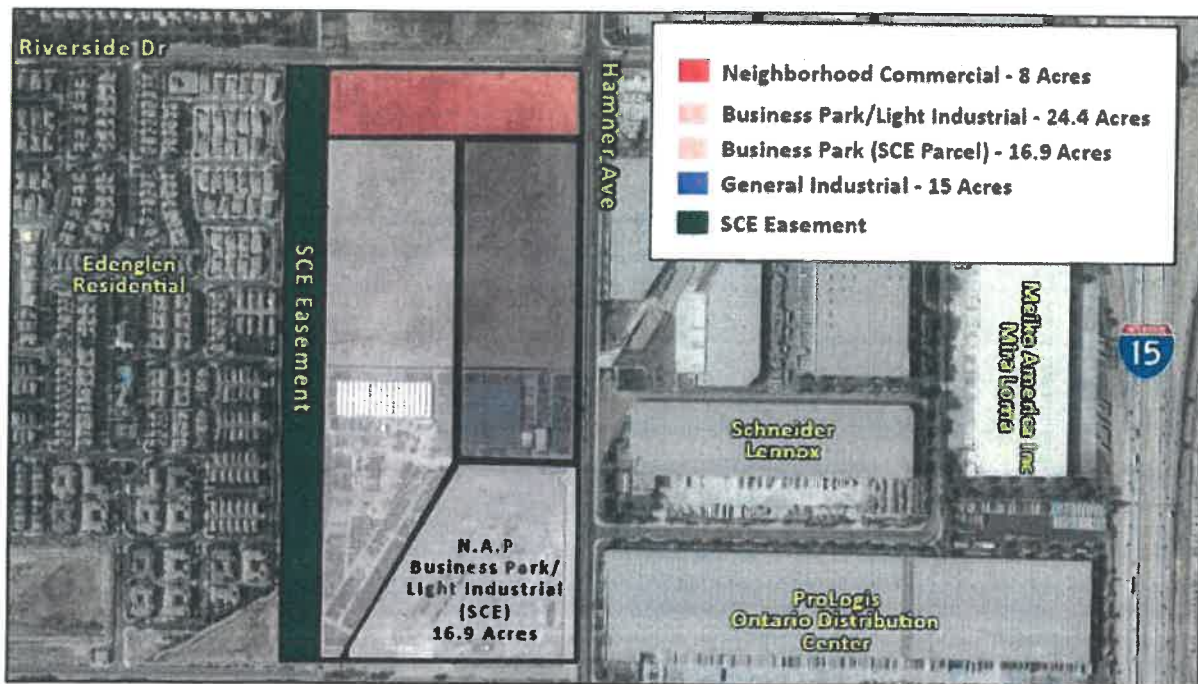
As previously mentioned, the trade area for the Edenglen Specific Plan is defined in drivetimes with the primary trade area defined as a 5-minute drivetime and besides south Ontario, it also includes the most northern section of the City of Eastvale and the western most section of the City of Jurupa Valley. The secondary trade area is defined as a 10-minute drivetime and includes some of the surrounding cities including the cities listed previously, as well as portions of northern Norco, southeast portion of Rancho Cucamonga and the most southwestern area of the City of Fontana as well as portion of unincorporated San Bernardino County that is a part of the City of Fontana sphere of influence. Within the 5-minute drivetime, there are several retail options including neighborhood, strip/convenience centers, and a few community centers. However, within the immediate area the access to grocery, quick service/fast casual restaurants, banks and other convenience services is lacking – with only a small neighborhood shopping center anchored by Ralph’s at the southwest corner of Riverside Drive and Archibald Avenue, 3 miles away. Much of the residential areas in south Ontario are presently having to travel to the south to shopping centers on Limonite Avenue in the City of Eastvale.

The 5-minute drivetime consist of approximately 25,381 people living in 7,913 households and hosts a daytime population of 44,817 along with a workforce of 29,440. The 5-minute drivetime makes up approximately 8% of the total population for the City of Ontario. The 10-minute drivetime consist of approximately 171,275 people living in 46,879 households and hosts a daytime population of 225,327 along with a workforce of 126,889. The 10-minute drivetime makes up approximately 31% of the total population of the City of Ontario.



## Market Analysis – Recommended Land Use

The proposed non-residential land uses within the Edenglen Specific Plan provides an opportunity for the City of Ontario to increase employment opportunities and provide for additional retail that specifically caters to the primary trade area workforce. However, the land uses within the specific plan need to consider the residential to the west of the site and as such should look to implement land uses that allow for a transition of use types that are more complementary than large industrial buildings that would negatively impact both major and minor arterial roads. The intent of the suggested uses should provide a natural transition from the intense e-commerce/logistics uses to the east and north of the site to the residential to the west. Additionally, the suggested land use will also provide opportunities for quick convenience retail/restaurants in the primary trade area catering to the area's workforce and daytime population.



The potential to create a campus type location that is physically appealing with comfortable outdoor settings that invite pedestrian links and casual meetings, and whose architecture reflects both enduring institutional qualities and cutting-edge features to attract potential tenants that will bring high wage job opportunities and also complement the surrounding area. The development of neighborhood scale shopping center here could serve the needs of residents, in the area, along with shopping and restaurant needs of the many employees working in the area.

The site could accommodate the following building square footage:

- Business Park/Office – 630,000 square feet (using existing FAR of 0.6)
  - Flex Space (R&D, Data Center, Showrooms)
- Office (SCE) – 440,000 square feet (using existing FAR of 0.55)
- Industrial – 350,000 square feet (using existing FAR of 0.6)
  - Distribution (e-commerce, Warehouse, Light Assembly) – single building
- Retail – 130,000 square feet (using existing FAR of 0.4)

Using data provided by the Bureau of Labor Statistics for average square foot per employee (based on use type), the total proposed approximate 1.5 million square feet of space could potentially employ nearly 2,300 employees.

## Recommendation

The Peer Review of the Retail Market Assessment provided by StreetSense indicates that the study was lacking in determining the market demand for more retail development in the area. The study did a very elementary evaluation of current market conditions and of site considerations in comparing other undeveloped properties in the area. The study really provided limited analysis on the market demand for new retail development in the area, including doing a Consumer Demand and Market Supply Assessment to ascertain the unfulfilled market supply for consumer demand in this area of Ontario. StreetSense purports that retail is not recommended here but provides no analysis or market demand data to support this finding. Additionally, the StreetSense report provided no mention of the addition of a significant amount of new residential units presently under development in the Ontario Ranch area, just south and southwest of the site. It also makes no correlation to the opportunity to better serve the retail and restaurant demand of the huge daytime population in this area of Ontario, Eastvale and Jurupa Valley.

The Market Study provided by ECONSolutions by HdL determines there is presently a market demand for 100,000 to 120,000 square feet of new retail in this area. The Consumer Demand & Market Supply Assessment demonstrates that nearly \$26.7 million in consumer spending is being done outside of the 5-minute drive time trade area, which equates to nearly \$267,000 in lost sales tax revenue for the City of Ontario. In fact, many of the residents and workers in this area are traveling outside of the trade area to shopping areas to the south in the City of Eastvale. Additionally, the need for more retail above 100,000 to 120,000 square feet will continue to grow as nearly 46,000 new homes are built in the Ontario Ranch area, just south and southwest of the site. Using the statistic provide by the census bureau of 3.46 persons per household in the City of Ontario (Census Bureau, 2019), at buildout this could increase the total population by approximately 159,000 people.

The recommendation for land uses for the site include:

- 8-acres of Neighborhood Commercial on the northerly part of the property (fronting on Riverside Drive, but also having visibility from Hamner Avenue). This zoning would allow for the development of an approximately 100,000 to 120,000 square foot neighborhood shopping center.
- 15-acres of General Industrial fronting on Hamner Avenue (and across the street from existing industrial development. This zoning would enable the development of an approximately 350,000 square foot industrial building for a logistics or distribution user.
- 24.4-acres of Business Park that serves as a transition to the existing residential to the west of the site, as well as to the General Industrial to the east. This zoning would enable the development of several buildings in a campus like setting with approximately 630,000 square feet of building space. Examples of this type of development is prevalent at many locations in Ontario, Chino and Eastvale and market demand should be high with new users generating new employment opportunities in the area and increase in retail demand as well.

## Hamner Ave/ Riverside Drive

Response: *Peer Review – Market Study – Crow Holdings Property at SWC of Hamner/Riverside*

*Prepared for Crow Holdings Industrial and the City of Ontario*

*January 30, 2020*

The purpose of this document is to evaluate the methodologies, findings, conclusions, and recommendations of the *Peer Review – Market Study – Crow Holdings Property at SWC of Hamner/Riverside* document prepared by ECONSolutions by HdL as commissioned by the City of Ontario. This document is to serve as a response to ECONSolutions peer review of Streetsense's retail market study commissioned by Crow Holdings Industrial.

To calculate the market demand for retail at the site, HdL utilizes a retail leakage model to determine retail demand. Retail leakage models compare total retail business sales to total retail household expenditures within a given trade area. The result of this comparison is either a surplus of retail sales or a leakage of retail sales within the trade area. Retail leakage models are useful in understanding the baseline retail market conditions in a given submarket. The pitfall of utilizing a retail leakage model to determine retail potential is in the trade area delineation and the assumption that leakage can be recaptured at brick-and-mortar retailers within the trade areas, which doesn't accurately reflect household retail spending occurring through ecommerce retailers. The conclusion that all of the retail leakage can be recaptured assumes that all household spending can and should occur within the trade area, which in this study, is a five-minute drivetime. This methodology and trade area delineation does not accurately reflect the reality of consumer behaviors in this market, as demographics indicate an ability and willingness to drive outside a five-minute area. Finally, this methodology does not consider the fundamental reality that retail markets are competitive, and sites are not evaluated equally by prospective tenants.

Almost all neighborhoods throughout the nation experience leakage. While retail leakage gap/opportunity reports are considered in Streetsense's analyses, our approach to calculating market demand is more specific by utilizing a gravity model. By assigning a capture rate, or percentage likelihood for customers to patronize retail offerings within each submarket with respect to competition (both online and brick-and-mortar retailers), travel behaviors, and convenience, Streetsense is able to provide a more accurate estimation of how much additional square footage is supportable at the site. The gravity model used to determine the supportable retail square footage at this site considers the reality of the intense competition



to the north at Ontario Mills and south at Eastvale. Due to their tenant mix, quality, and quantity of retail offerings, these two retail developments will continue to be driving forces in the market and because of their retail momentum and established presence in the market, these developments and available development parcels surrounding these developments will continue to capture any latent demand for retail in the market.

Despite the differences in approach and methodology to estimating retail potential for a site, leakage models should consider new retail construction within the trade area, as new product within the trade area will absorb the amount of identified leakage. HdL reports a leakage of \$26.7 million in annual retail sales within the trade area, which equates to 100,000 to 120,000 square feet of retail potential. However, HdL does not include the construction of New Haven Marketplace, a 91,600 square foot grocery-anchored neighborhood retail center. New Haven Marketplace is under construction at the southwest corner of Ontario Road and New Haven Avenue, located one and a half miles southwest of the site within the site's trade area. Therefore, in a leakage study of the site, new retail construction will recapture 91,600 square feet of identified retail leakage, resulting in a remaining 8,400 to 28,400 square feet of retail leakage. Retail leakage absorption through new construction is not limited to current development projects, but also future development projects that may not be underway. Undeveloped land zoned for retail and commercial use within the trade area are potential retail opportunities to recapture identified retail leakage. The HdL study assumes that 100% of the leakage should be captured at the subject property and does not assign any portion of the leakage to any other sites, even though many are in better locations to capture the leakage.

In addition to new construction, leakage models should also consider potential redevelopment or retenanting of vacant or underutilized existing retail space. In a similar manner to new construction, redevelopment and retenanting replaces retail space that is not capturing retail sales, and thus contributing to leakage, and converts it into space that can capture retail sales, which will decrease the amount of reported leakage. Redevelopment can also include the addition of pad sites at existing retail centers. While no current redevelopments are planned, possible redevelopment or retenanting of retail centers in the trade area would further decrease the amount of leakage reported within the trade area. These opportunities include Pacific Plaza, Archibald Ranch Town Center, and Archibalds Plaza.

In summary, the retail leakage model is a useful tool to gaining a baseline understanding of retail market conditions and opportunities at a high level within a trade area, however there are limitations to this approach. Additionally, the leakage model utilized by HdL to estimate retail demand omits consideration of new retail developments. This is a significant omission

as HdL concludes that the entirety of retail leakage within the trade area (\$26.7 million) can be captured at the site in consideration. This conclusion does not consider absorption through new construction and potential redevelopment. Therefore, utilizing the leakage model approach to determine retail demand, the market appropriate, supportable retail program at the site is between 8,400 to 28,400 square feet.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ADDENDUM TO THE ONTARIO PLAN (TOP) CERTIFIED ENVIRONMENTAL IMPACT REPORT (SCH # 2008101140), PURSUANT TO THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, FOR FILE NO PGPA06-001.

WHEREAS, Ontario CC, LLC (hereinafter referred to as "Applicant") has filed an Application for the approval of a has filed an Application for the approval of a General Plan Amendment, Specific Plan Amendment, Tentative Parcel Map, Development Agreement and Development Plan, File Nos. PGPA18-002, PSPA18-003, PMTT18-009, PDA18-006, and PDEV18-031, which consists of: 1) A General Plan Amendment (File No. PGPA18-002) to modify the Policy Plan (General Plan) Land Use Plan (Exhibit LU-01) component of The Ontario Plan, changing the land use designation of approximately 46 acres of land from General Commercial and Business Park, to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park and 39 acres of Industrial; 2) Modify the Future Buildout Table (Exhibit LU-03) to be consistent with the land use designation changes; and 3) An amendment (File No. PSPA18-003) to the Edenglen Specific Plan to change the land use designation from Community Commercial, Commercial/Business Park Flex Zone, and Business Park/Light Industrial to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Light Industrial, including updates to the development standards, exhibits and text changes to reflect the proposed land uses; 4) A Tentative Parcel Map (File No. PMTT18-009/TPM 20027) to subdivide 46.64 acres of land into 7 numbered parcels and 1 lettered lot; 5) A Development Agreement (File No. PDA18-006) between the City of Ontario and Ontario CC, LLC, to establish the terms and conditions for the development of Tentative Parcel Map 20027; and 6) A Development Plan (File No. PDEV18-031) to construct 5 industrial buildings totaling 968,092 square feet. The Project site is located on the southwest corner of Riverside Drive and Hamner Avenue, in the City of Ontario, California (hereinafter referred to as "Application" or "Project"); and

WHEREAS, The Ontario Plan (File No. PGPA06-001) Environmental Impact Report (State Clearinghouse No. 2008101140) was certified on January 27, 2010 (hereinafter referred to as "Certified EIR"), in which development and use of the Project site was discussed; and

WHEREAS, the Planning Director of the City of Ontario has prepared and approved for attachment to the certified Environmental Impact Report, an Addendum to the Certified EIR (hereinafter referred to as "EIR Addendum") in accordance with the requirements of the California Environmental Quality Act of 1970, together with State and local guidelines implementing said Act, all as amended to date (collectively referred to as "CEQA"); and

WHEREAS, the EIR Addendum concluded that implementation of the Project could result in a number of significant effects on the environment that were previously analyzed in the Certified EIR, and that the Certified EIR identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

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

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

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

WHEREAS, on August 25, 2020, the Planning Commission of the City of Ontario conducted a hearing to consider the Addendum and concluded said hearing on that date, voting to issue Resolution No. PC20-052, recommending the City Council approve the Application; and

WHEREAS, the City Council has reviewed and considered the EIR Addendum for the Project, has concluded that none of the conditions requiring preparation of a subsequent of supplemental EIR have occurred, and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

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

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

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

**SECTION 1. Environmental Determination and Findings.** As the decision-making authority for the Project, The City Council has reviewed and considered the information contained in the administrative record for 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:

(1) The environmental impacts of this project were reviewed in conjunction with an Addendum to The Ontario Plan Environmental Impact Report Environmental Impact Report (State Clearinghouse No. 2008101140), certified by the Ontario City Council on January 27, 2010, in conjunction with File No. PGPA06-001; and

(2) The EIR Addendum and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

(3) The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This Application introduces no new significant environmental impacts; and

(4) All previously adopted mitigation measures shall be a condition of project approval, as they are applicable to the Project, and are incorporated herein by this reference; and

(5) The EIR Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the City Council; and

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

**SECTION 2. Additional Environmental Review Not Required.** Based on the Addendum, all related information presented to the City Council, and the specific findings set forth in Section 1, above, the City Council finds that the preparation of a subsequent or supplemental Environmental Impact Report is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and.

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

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

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

**SECTION 3. City Council Action.** Based upon the findings and conclusions set forth in Sections 1 and 2, above, the City Council hereby finds that based upon the entire record of proceedings before it, and all information received, that there is no substantial evidence that the Project will constitute substantial changes to the Certified EIR, and does hereby approve the EIR Addendum, attached hereto as "Attachment A," and incorporated herein by this reference.

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

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

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST AND KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-    was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020, by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:            COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2020-    duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

**ATTACHMENT A:**

**Addendum to The Ontario Plan  
Environmental Impact Report**

*(Addendum to follow this page)*



ATTACHMENT A

Ontario Commerce Center  
*Screencheck*  
2020 Addendum  
to  
The Ontario Plan Certified EIR  
(SCH No. 2008101140)

Prepared for:  
City of Ontario  
303 East "B" Street  
Ontario, CA 91764

July 2020

Supporting documents are available for public review during normal business hours at the City Clerk's Department

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PGPA18-002, AN AMENDMENT TO THE LAND USE ELEMENT OF THE POLICY PLAN (GENERAL PLAN), REVISING EXHIBIT LU-01 (OFFICIAL LAND USE PLAN) AND EXHIBIT LU-03 (FUTURE BUILDOUT), AFFECTING PROPERTY LOCATED AT THE SOUTHWEST CORNER OF RIVERSIDE DRIVE AND HAMNER AVENUE, FROM GENERAL COMMERCIAL (20 ACRES) AND BUSINESS PARK (26.64 ACRES) TO 4.13 ACRES OF NEIGHBORHOOD COMMERCIAL, 3.51 ACRES OF BUSINESS PARK, AND 39 ACRES OF INDUSTRIAL, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0218-171-21 AND 0218-171-27. (SEE EXHIBITS A AND B) (PART OF CYCLE 2 FOR THE 2020 CALENDAR YEAR).

WHEREAS, Ontario CC, LLC ("Applicant") has filed an Application for the approval of a General Plan Amendment, File No. PGPA18-002, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the City of Ontario adopted the Policy Plan (General Plan) as part of The Ontario Plan in January 2010. Since the adoption of The Ontario Plan, the City has evaluated Exhibits LU-01: Official Land Use Plan and LU-03: Future Buildout further and is proposing modifications; and

WHEREAS, the proposed changes to Exhibit LU-01 Official Land Use Plan include changes to land use designations of certain properties shown on Exhibit A to accommodate an industrial Development Plan (File No. PDEV18-031) and Tentative Parcel Map (File No. PMTT18-009); and

WHEREAS, Policy Plan Exhibit LU-03 (Future Buildout) specifies the expected buildout for the City of Ontario, incorporating the adopted land use designations. The proposed changes to Exhibit LU-01 (Official Land Use Plan) will require that Exhibit LU-03 (Future Buildout) is modified to be consistent with Exhibit LU-01 (Official Land Use Plan), as depicted on Exhibit B, attached; and

WHEREAS, the City of Ontario conducted two community meetings to discuss the proposed subject application. The first community meeting was in-person and held on December 12, 2018, at the Colony High Branch Library. The second meeting was a virtual presentation that was available on the on the City Website from June 1, 2020, through July 21, 2020; and

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

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to review and act on the subject Application; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan (“ALUCP”), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on August 25, 2020, the Planning Commission of the City of Ontario conducted a hearing to consider the Addendum and the Project, and concluded said hearing on that date, voting to issue Resolution No. PC20-053, recommending the City Council approve the Application; and

WHEREAS, as the first action on the Project, on September 15, 2020, the City Council approved a Resolution to adopt an Addendum to the Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010 for File No. PGPA06-001. 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 September 15, 2020 the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

**SECTION 1. Environmental Determination and Findings.** As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the administrative record for 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:

(1) The environmental impacts of this project were reviewed in conjunction with an Addendum to The Ontario Plan Environmental Impact Report — State Clearinghouse No. 2008101140 (“Certified EIR”), which was certified by the Ontario City Council on January 27, 2010, in conjunction with File No. PGPA06-001; and

(2) The Addendum and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

(3) The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This Application introduces no new significant environmental impacts; and

(4) All previously adopted mitigation measures shall be a condition of project approval, as they are applicable to the Project, and are incorporated herein by this reference; and

(5) The Addendum contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the City Council; and

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

**SECTION 2. Additional Environmental Review Not Required.** Based on the Addendum, all related information presented to the City Council, and the specific findings set forth in Section 1, above, the City Council finds that the preparation of a subsequent or supplemental environmental impact report is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the "Certified EIR" that will require major revisions to the "Certified EIR" due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the "Certified EIR" was prepared, that will require major revisions to the "Certified EIR" due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and.

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the "Certified EIR" was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the "Certified EIR"; or

(b) Significant effects previously examined will be substantially more severe than shown in the "Certified EIR"; or

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

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

**SECTION 3. *Ontario International Airport Land Use Compatibility Plan (“ALUCP”) Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan (“ALUCP”), establishing the Airport Influence Area for Ontario International Airport (“ONT”), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the City Council, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 4. *Concluding Facts and Reasons.*** Based upon the substantial evidence presented to the City Council during the above-referenced hearing, and upon the specific findings set forth in Sections 1 through 3, above, the City Council hereby concludes as follows:

(1) The proposed General Plan Amendment is consistent with the goals and policies of The Ontario Plan as follows:

(a) **CE1-1 - Jobs-Housing Balance.** We pursue improvement to the Inland Empire’s balance between jobs and housing by promoting job growth that reduces the regional economy’s reliance on out-commuting.

Compliance: The proposed land use designation changes from 20 acres of General Commercial and 26.64 acres of Business Park to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Industrial will facilitate the construction of a proposed industrial development. The proposed industrial development will assist towards promoting local/regional job growth and furthering the goal of jobs and housing balance within the Inland Empire.

(b) **CE1-2 - Jobs and Workforce Skills.** We use our economic development resources to: 1) attract jobs suited for the skills and education of current and future City residents; 2) work with regional partners to provide opportunities for the labor force to improve its skills and education; and 3) attract businesses that increase Ontario’s stake and participation in growing sectors of the regional and global economy.

Compliance: The proposed land use designation changes from 20 acres of General Commercial and 26.64 acres of Business Park, to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Industrial will facilitate the construction of a proposed an industrial development. The proposed industrial development will assist towards creating jobs suited for the skills and education of current and future City residents and provide jobs in growing sectors of the regional and global economy.

(c) **CE1-11 - Socioeconomic Trends.** We continuously monitor, plan for, and respond to changing socioeconomic trends.

Compliance: The proposed land use designation changes from 20 acres of General Commercial and 26.64 acres of Business Park, to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Industrial will facilitate the construction of a proposed industrial development. The project site was initially intended to be developed with small industrial buildings and a larger commercial center. In responding to changing socioeconomic trends, larger industrial/business park complexes have grown in demand and commercial/retail space demand has declined. The proposed General Plan Amendment is in response to changing socioeconomic trends which has shifted to on-line shopping resulting in greater demands for warehouse industrial uses.

(2) The proposed General Plan Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City;

(3) The Land Use Element is a mandatory element allowed four general plan amendments per calendar year and this general plan amendment is the second amendment to the Land Use Element of the 2020 calendar year consistent with Government Code Section 65358;

(4) The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project the Project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The Edenglen Specific Plan was listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. However, the eastern half of the Edenglen Specific Plan (Project site) was not included as one of the properties in the Available Land Inventory since the eastern half of the Specific Plan did not include any residential land use designations.

(5) During the amendment of the General Plan, opportunities for the involvement of citizens, California Native American Indian tribes (Government Code Section 65352.3.), public agencies, public utility companies, and civic, education, and other community groups, through public hearings or other means were implemented consistent with Government Code Section 65351.

**SECTION 5. City Council Action.** Based upon the findings and conclusions set forth in Sections 1 through 4, above, the City Council hereby APPROVES the proposed General Plan Amendment, as depicted in Attachment 1 (Policy Plan Land Use Plan (Exhibit LU-01) Revision) and Attachment 2 (Future Buildout (Exhibit LU-03) Revision) of this Resolution.

**SECTION 6. *Indemnification.*** 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 7. *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 8. *Certification to Adoption.*** The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020, by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:            COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)



The foregoing is the original of Resolution No. 2020 -        duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)



## EXHIBIT A: Policy Plan Land Use Plan (Exhibit LU-01) Revision

Existing Policy Plan Land Use	Assessor Parcel Number(s) Involved	Proposed Policy Plan Land Use
 <p style="text-align: center;"><b>Project Site</b></p> <p style="text-align: center;">General Commercial (20 acres) Business Park (26.64 acres)</p>	<p>0218-171-21 and 0218-171-27</p> <p>(1 of 2 properties)</p>	 <p style="text-align: center;"><b>Project Site</b></p> <p style="text-align: center;">Neighborhood Commercial (4.13 acres) Business Park (3.51 acres) Industrial (39 acres)</p>

## EXHIBIT B: Future Buildout (Exhibit LU-03) Revision



### LU-03 Future Buildout<sup>1</sup>

Land Use	Acres <sup>2</sup>	Assumed Density/Intensity <sup>3</sup>	Units	Population <sup>4</sup>	Non-Residential Square Feet	Jobs <sup>5</sup>
<b>Retail/Service</b>						
Neighborhood Commercial <sup>6</sup>	<del>281</del> 285	0.30 FAR			3,671,585	8,884
General Commercial	<del>477</del> 457	0.30 FAR			3,725,556	9,015
Office/Commercial	490	0.75 FAR			6,229,385	5,787
Hospitality	142	1.00 FAR			5,968,025	5,544
<b>Subtotal</b>	<del>1,390</del> <b>1,374</b>				16,018,428	35,523
					6,177,679	7,082
					<del>32,097,077</del> <b>31,889,668</b>	<del>57,276</del> <b>57,164</b>
<b>Employment</b>						
Business Park	<del>1,531</del> 1,508	0.40 FAR			26,676,301	46,803
Industrial	<del>6,446</del> 6,485	0.55 FAR			26,273,284	46,096
<b>Subtotal</b>	<del>7,977</del> <b>7,993</b>				154,428,405	135,684
					155,362,767	136,505
					<del>181,104,705</del> <b>181,636,050</b>	<del>182,487</del> <b>182,601</b>
<b>Other</b>						
Open Space-Non-Recreation	1,232	Not applicable				
Open Space-Parkland <sup>6</sup>	950	Not applicable				
Open Space-Water	59	Not applicable				
Public Facility	97	Not applicable				
Public School	632	Not applicable				
LA/Ontario International Airport	1,677	Not applicable				
Landfill	137	Not applicable				
Railroad	251	Not applicable				
Roadways	4,871	Not applicable				
<b>Subtotal</b>	<b>9,906</b>					
<b>Total</b>	<b>31,786</b>		<b>100,654</b>	<b>347,190</b>	<b>247,784,328</b>	<b>311,659</b>
					<b>248,108,284</b>	<b>311,661</b>

**Notes**

- 1 Historically, citywide buildout levels do not achieve the maximum allowable density/intensity on every parcel and are, on average, lower than allowed by the Policy Plan. Accordingly, the buildout projections in this Policy Plan do not assume buildout at the maximum density or intensity and instead are adjusted downward. To view the buildout assumptions, access the Methodology report.
- 2 Acres are given as adjusted gross acreages, which do not include the right-of-way for roadways, flood control facilities, or railroads.
- 3 Assumed Density/Intensity includes both residential density, expressed as units per acre, and non-residential intensity, expressed as floor area ratio (FAR), which is the amount of building square feet in relation to the size of the lot.
- 4 Projections of population by residential designation are based on a persons-per-household factor that varies by housing type. For more information, access the Methodology report.
- 5 To view the factors used to generate the number of employees by land use category, access the Methodology report.
- 6 Acreages and corresponding buildout estimates for these designations do not reflect underlying land uses within the Business Park, Industrial and Commercial Overlays. Estimates for these areas are included within the corresponding Business Park, Industrial and General Commercial categories.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSPA18-003, AN AMENDMENT TO THE EDENGLLEN SPECIFIC PLAN TO: (1) CHANGE THE LAND USE DESIGNATION ON 46.64 ACRES OF LAND FROM COMMUNITY COMMERCIAL, COMMERCIAL/BUSINESS PARK FLEX ZONE, AND BUSINESS PARK/LIGHT INDUSTRIAL TO 4.13 ACRES OF NEIGHBORHOOD COMMERCIAL, 3.51 ACRES OF BUSINESS PARK, AND 39 ACRES OF LIGHT INDUSTRIAL ON TWO PROPERTIES LOCATED AT THE SOUTHWEST CORNER OF RIVERSIDE DRIVE AND HAMNER AVENUE; AND (2) AMEND THE SPECIFIC PLAN TO UPDATE THE DEVELOPMENT STANDARDS, EXHIBITS, AND TEXT CHANGES TO REFLECT THE PROPOSED LAND USES, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0218-171-21 AND 0218-171-27.

WHEREAS, Ontario CC, LLC, (hereinafter referred to as "Applicant") has filed an Application for the approval of a Specific Plan Amendment, File No. PSPA18-003, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 46.64 acres of land generally located at the southwest corner of Riverside Drive and Hamner Avenue, within the proposed Neighborhood Commercial, Business Park, and Light Industrial land use districts of the Edenglen Specific Plan, and is presently vacant to the north and to the south the property is improved with several shade structures, concrete block material bays, and greenhouses that were utilized by a commercial nursery (Sunshine Growers) formerly on the Project site; and

WHEREAS, the property to the north of the Project site is within the Commercial and Residential district of the Tuscana Village Specific Plan and is vacant. The property to the east is within the C-1/C-P (General Commercial) and IP (Industrial Park) zoning district of the City of Eastvale and is developed with a gas station and Industrial uses. The property to the south is within the Light Industrial district of the Edenglen Specific Plan and is developed with an SCE Substation. The property to the west is within the SCE Corridor district of the Edenglen Specific Plan and is developed with power lines and transmission towers; and

WHEREAS, the Edenglen Specific Plan Amendment includes changes to the Edenglen Land Use Plan and Land Use Summary Table. The amendment proposes a land use designation change, from Community Commercial, Commercial/Business Park Flex Zone, and Business Park/Light Industrial to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Light Industrial; and

WHEREAS, the proposed 4.13-acre Neighborhood Commercial land use district is located at the southwest corner of Hamner Avenue and Riverside Drive, and allows for up to 40,000 square feet of commercial land uses; and

WHEREAS, the proposed 3.51-acre Business Park land use district is located along Riverside Drive, at the northwest corner of the Project site. The Business Park land use designation allows commercial land uses to accommodate flexibility in land uses along Riverside Drive; and

WHEREAS, the proposed 39-acre Light Industrial land use district is located on the southern portion of the project site. The proposed buildings are envisioned for warehouse, distribution, and light manufacturing uses. Heavy manufacturing uses will not be allowed; and

WHEREAS, the Edenglen Specific Plan Amendment includes updates to development standards, the land use matrix, and various exhibits, along with text/map changes to reflect the proposed land use changes and infrastructure requirements (see Attachment A: Edenglen Specific Plan Amendment Document). The development regulations and land use matrix have been amended to include standards for the Neighborhood Commercial, Business Park, and Light Industrial land use districts; and

WHEREAS, a General Plan Amendment, Tentative Parcel Map, Development Agreement and Development Plan, File Nos. PGPA18-002, PMTT18-009, PDA18-006, and PDEV18-031, respectively, were filed in conjunction with the proposed Edenglen Specific Plan Amendment. The four applications consist of: 1) a General Plan Amendment (File No. PGPA18-002) to modify the Policy Plan (General Plan) Land Use Plan (Exhibit LU-01) component of The Ontario Plan, changing the land use designation of approximately 46 acres of land from General Commercial and Business Park, to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Industrial; 2) modify the Future Buildout Table (Exhibit LU-03) to be consistent with the land use designation changes; 3) a Tentative Parcel Map (File No. PMTT18-009/TPM 20027) to subdivide 46.64 acres of land into 7 numbered parcels and one lettered lot; 4) a Development Agreement (File No. PDA18-006) between the City of Ontario and Ontario CC, LLC, to establish the terms and conditions for the development of Tentative Parcel Map No. 20027; and 5) a Development Plan (File No. PDEV18-031) to construct 5 industrial buildings totaling 968,092 square feet; and

WHEREAS, The Ontario Plan (File No. PGPA06-001) Environmental Impact Report (State Clearinghouse No. SCH# 2008101140) was certified on January 27, 2010 (hereinafter referred to as "Certified EIR"), in which development and use of the Project site was discussed; and

WHEREAS, the Planning Director of the City of Ontario prepared and approved for attachment to the certified Environmental Impact Report, an Addendum to the Certified EIR (hereinafter referred to as "EIR Addendum") in accordance with the requirements of the California Environmental Quality Act of 1970, together with State and local guidelines implementing said Act, all as amended to date (collectively referred to as "CEQA"); and

WHEREAS, the environmental impacts of this project were thoroughly analyzed in the EIR Addendum, which concluded that implementation of the Project could result in a number of significant effects on the environment that were previously analyzed in the

Certified EIR, and that the Certified EIR identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

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

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

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to review and act on the subject Application; and

WHEREAS, the Project has been reviewed for consistency with the Housing Element of the Policy Plan component of The Ontario Plan, as State Housing Element law (as prescribed in Government Code Sections 65580 through 65589.8) requires that development projects must be consistent with the Housing Element, if upon consideration of all its aspects, it is found to further the purposes, principals, goals, and policies of the Housing Element; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan (hereinafter referred to as "ALUCP"), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on August 17, 2020, the Development Advisory Board of the City of Ontario conducted a hearing to consider the Addendum and the Project and concluded said hearing on that date, voting to issue Decision Nos. DAB20-045, DAB20-046 and DAB20-047, respectively, recommending that the Planning Commission recommend the City Council approve the Application; and

WHEREAS, on August 25, 2020, the Planning Commission of the City of Ontario conducted a hearing to consider the EIR Addendum and the Project and concluded said hearing on that date, voting to issue Resolution No. PC20-052, recommending the City Council adopt the EIR Addendum, and voting to issue Resolution No. PC20-054, recommending the City Council approve the Application; and

WHEREAS, as the first action on the Project, on September 15, 2020, the City Council issued a Resolution adopting the EIR Addendum, finding that the proposed Project introduces no new significant environmental impacts and applying all previously adopted mitigation measures to the Project, which were incorporated by reference; and

WHEREAS, on September 15, 2020, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

**SECTION 1. *Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the City Council finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the Project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The Edenglen Specific Plan was listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. However, the eastern half of the Edenglen Specific Plan (Project site) was not included as one of the properties in the Available Land Inventory since the eastern half of the Specific Plan did not include any residential land use designations.

**SECTION 2. *Ontario International Airport Land Use Compatibility Plan (“ALUCP”) Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan (“ALUCP”), establishing the Airport Influence Area for Ontario International Airport (“ONT”), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the City Council, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 3. Concluding Facts and Reasons.** Based upon the substantial evidence presented to the City Council during the above-referenced hearing, and upon the specific findings set forth in Sections 1 and 2, above, the City Council hereby concludes as follows:

(1) ***The proposed Specific Plan, or amendment thereto, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.*** The proposed Edenglen Specific Plan amendment will provide land use consistency with the related proposed General Plan Amendment (File No. PGPA18-002) that will change the land use on 46.64 acres of land from General Commercial and Business Park, to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park, and 39 acres of Industrial. The proposed amendments will accommodate a proposed industrial development on the subject site that are consistent with goals, policies, plans and City Council priorities of The Ontario Plan.

(2) ***The proposed Specific Plan, or amendment thereto, would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.*** The proposed amendments to the Edenglen Specific Plan will establish consistency with the related proposed General Plan Amendment (File No. PGPA18-002). The proposed Specific Plan Amendment will not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The land use changes will continue to provide commercial, business park and industrial uses within the Edenglen Specific Plan, which is consistent with the type and intensity of development specified in The Ontario Plan and evaluated by The Ontario Plan Environmental Impact Report.

(3) ***In the case of an application affecting specific property(ies), the proposed Specific Plan, or amendment thereto, will not adversely affect the harmonious relationship with adjacent properties and land uses.*** The Project site is located near sensitive land uses to the west. The associated Development Plan application (File No. PDEV18-031) incorporates design features within the site plan, including, but not limited to, building orientation and landscape buffers, to mitigate any impacts to a less than significant level, providing a project that is complimentary to and harmonious with the surrounding area.

(4) ***In the case of an application affecting specific property(ies), the subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development.*** The subject site is physically suitable to accommodate the proposed industrial, business park and future commercial land uses. The Edenglen Specific Plan amendment includes development standards to facilitate the proposed land uses, which will be developed with adequate lot sizes, access, and utilities to serve the project site.

**SECTION 4. City Council Action.** Based upon the findings and conclusions set forth in Sections 1 through 3, above, the City Council hereby APPROVES the herein described Edenglen Specific Plan Amendment, attached hereto as Attachment A and incorporated herein by this reference.

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

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

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY



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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-     was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020, by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2020-     duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

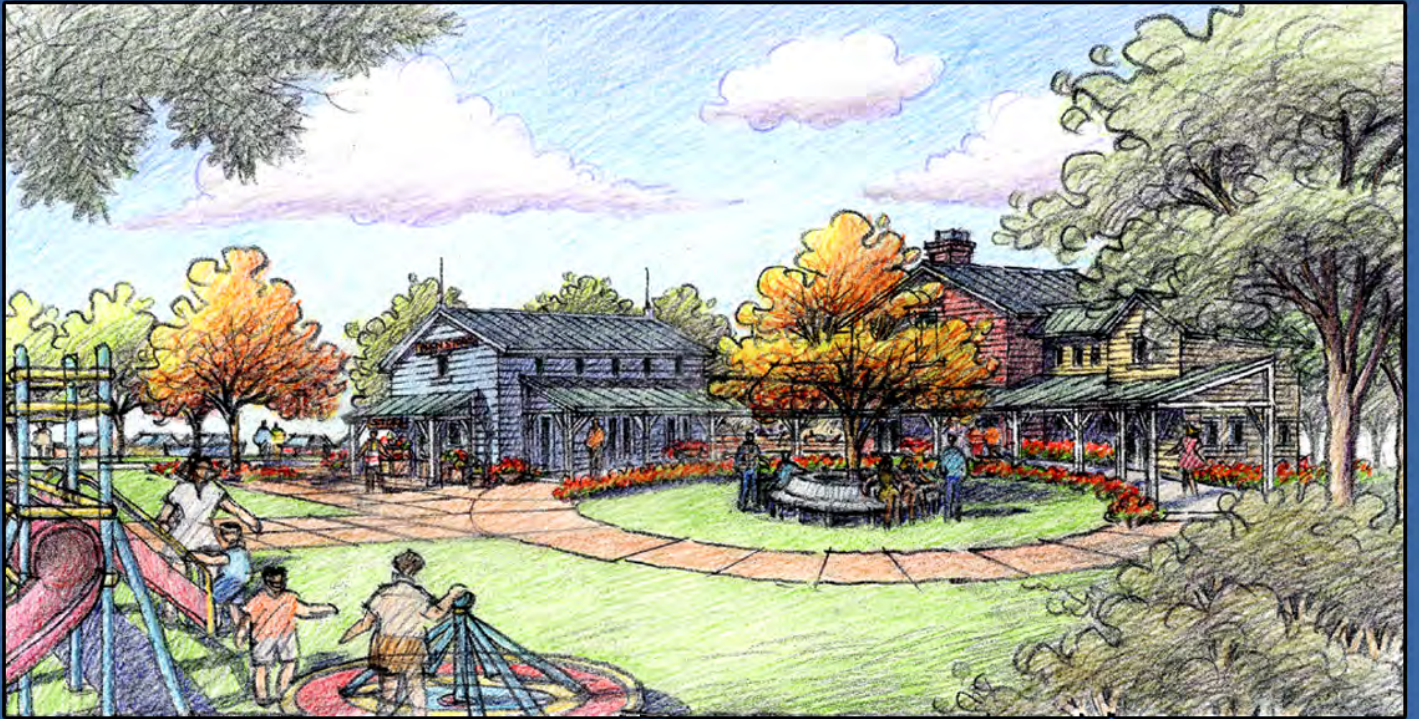
**ATTACHMENT A:**

**File No. PSPA18-003;  
Edenglen Specific Plan Amendment Document**

*(Document follows this page)*

# EDENGLLEN

ONTARIO, CALIFORNIA



## SPECIFIC PLAN

Edited Version August 2020

Supporting documents are available for public review during normal business hours at the City Clerk's Department



# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
PUBLIC HEARINGS


**SUBJECT:** A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT (FILE NO. PDA18-006) BETWEEN THE CITY OF ONTARIO AND ONTARIO CC, LLC., TO ESTABLISH THE TERMS AND CONDITIONS FOR THE DEVELOPMENT OF TENTATIVE PARCEL MAP 20027 (FILE NO. PMTT18-009), FOR A 46.64-ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF RIVERSIDE DRIVE AND HAMNER AVENUE, WITHIN THE PROPOSED NEIGHBORHOOD COMMERCIAL, BUSINESS PARK AND LIGHT INDUSTRIAL LAND USE DESIGNATIONS OF THE EDENGLLEN SPECIFIC PLAN (APNS: 0218-171-21 AND 0218-171-27)

**RECOMMENDATION:** That the City Council introduce and waive further reading of an ordinance approving the Development Agreement (File No. PDA18-006) between the City of Ontario and Ontario CC, LLC., to establish the terms and conditions for the development of Tentative Parcel Map 20027 (File No. PMTT18-009), for a 46.64-acre property located at the southwest corner of Riverside Drive and Hamner Avenue, within the proposed Neighborhood Commercial, Business Park and Light Industrial land use designations of the Edenglen Specific Plan (APNs: 0218-171-21 and 0218-171-27).

**COUNCIL GOALS:** 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 Ontario Ranch

**FISCAL IMPACT:** The proposed Development Agreement will not have an immediate impact on the City's budget. The Development Agreement will provide funding from the formation of a Community Facilities District (CFD) for City services and facilities required to support the Edenglen Specific Plan development, thereby mitigating the increased costs associated with such services. In addition, the City

**STAFF MEMBER PRESENTING:** Scott Murphy, AICP, Executive Director Development Agency

Prepared by: Derrick Womble  
Department: Development  
City Manager Approval: 

Submitted to Council/O.H.A. 09/15/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

12

will receive public service funding fees plus development impact, compliance processing, licensing, and permitting fees. No General City revenue will be used to support the Ontario Ranch development.

**BACKGROUND:** On November 1, 2005, the City Council approved the Environmental Impact Report (EIR) and Edenglen Specific Plan, File No. PSP03-005 (the “Specific Plan”) which addressed the development of approximately 160.6 acres for residential, pocket parks, public trails, commercial and business park/light industrial uses. On January 27, 2010, the City Council adopted a comprehensive update to The Ontario Plan (File No. PGPA06-001).

Subsequently, the Applicant has applied to develop the easterly 46 acres of the Edenglen Specific Plan. The entitlements include the following: 1) a General Plan Amendment (File No. PGPA18-002) to modify the Policy Plan (General Plan) Land Use Plan (Exhibit LU-01) component of The Ontario Plan, changing the land use designation of approximately 46 acres of land from General Commercial and Business Park to 4.13 acres of Community Commercial, 3.51 acres of Business Park and 39 acres of Industrial; 2) modify the Future Buildout Table (Exhibit LU-03) to be consistent with the land use designation changes; and 3) An amendment (File No. PSPA18-003) to the Edenglen Specific Plan to change the land use designation from Community Commercial, Commercial/Business Park Flex Zone and Business Park/Light Industrial to 4.13 acres of Neighborhood Commercial, 3.51 acres of Business Park and 39 acres of Light Industrial including updates to the development standards, exhibits and text changes to reflect the proposed land uses.

The Ontario Ranch financial commitments required for construction of properties within a specific plan are substantial. Therefore, in order to adequately forecast these costs and gain assurance that the project may proceed under the existing policies, rules and regulations, Ontario CC, LLC (“Owner”) has requested that the City enter into negotiations to create a Development Agreement (“Agreement”).

In accordance with California Government Code Section 65865, which in part states that that “[a]ny 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...” and California Government Code Section 65865.52, which in part states that “a Development Agreement shall specify the duration of the Agreement, the permitted uses of the property... and may include conditions, terms, restrictions...,” the City of Ontario adopted Resolution No. 2002-100 setting forth the procedures and requirements for consideration of Development Agreements. Furthermore, the Financing and Construction Agreement with the NMC Builders, LLC (NMC Builders), requires those developments wishing to use the infrastructure it created to enter into Development Agreements with the City of Ontario. Pursuant to these procedures and requirements, staff entered into negotiations with the Owner to create a Development Agreement for consideration by the Planning Commission and City Council.

The proposed Development Agreement (File No. PDA18-006) is based upon the model Development Agreement that was developed in coordination with the City Attorney and legal counsel for NMC Builders. This model Development Agreement is consistent with the provisions of the Construction Agreement. The terms of the agreement between NMC Builders’ members requires that members of the LLC enter into Development Agreements that are consistent with the provisions of the Construction Agreement.

The Development Agreement proposes to include approximately 46.64 acres of land within the proposed Neighborhood Commercial, Business Park and Light Industrial land use designations of the Specific Plan. The Development Agreement grants the Owner a vested right to develop Tentative Parcel Map 20027 (File No. PMTT18-009), provided the Owner complies with the terms and conditions of the Specific Plan and EIR. The Tentative Parcel Map 20027 is located at the southwest corner of

Riverside Drive and Hamner Avenue and proposes to subdivide approximately 46.64 acres of land into seven (7) numbered parcels and one (1) lettered lot in conjunction with a Development Plan (File No. PDEV18-031).

The term of the Development Agreement is for ten (10) years, with a five (5) year option to renew. The main points of the agreement address funding for all new City expenses created by the project, which includes: Development Impact Fees (DIF) for construction of public improvements (i.e. streets and bridges, sewer, water, storm drain and fiber); Public Service Funding to ensure adequate provisions of public services (police, fire and other public services); the creation of a Community Facilities District (CFD) for the maintenance of public facilities.

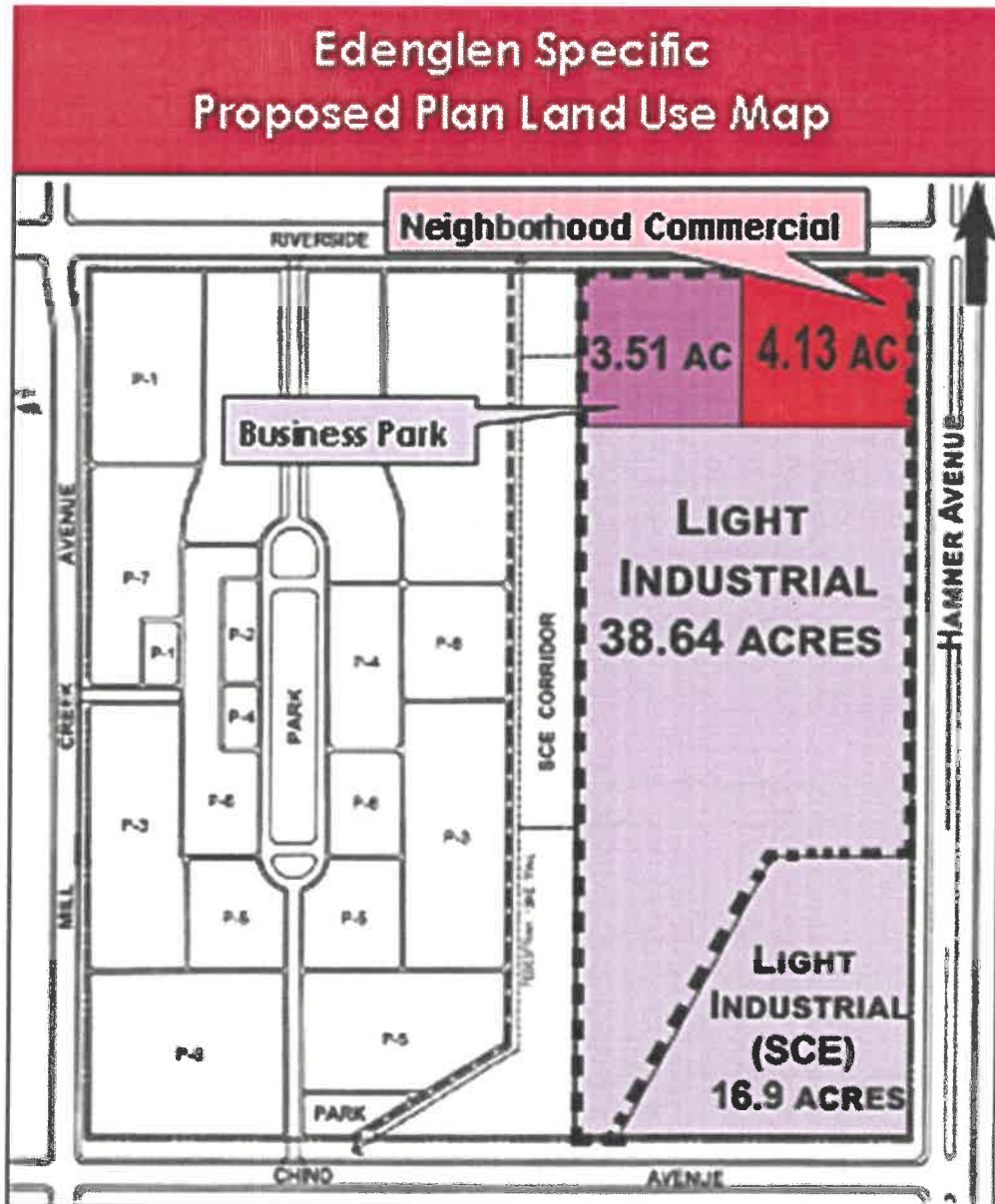
In considering the application at their meeting on August 25, 2020, the Planning Commission found that the Development Agreement was consistent with State law, The Ontario Plan, and the City's Development Agreement policies, previously approved for Ontario Ranch developments. As a result, the Planning Commission adopted Resolution No. PC20-055 recommending City Council approval of the Development Agreement with a 6-0 vote.

**HOUSING ELEMENT COMPLIANCE:** The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The Edenglen Specific Plan was listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. However, the eastern half of the Edenglen Specific Plan (project site) was not included as one of the properties in the Available Land Inventory since the eastern half of the Specific Plan did not include any residential land use designations.

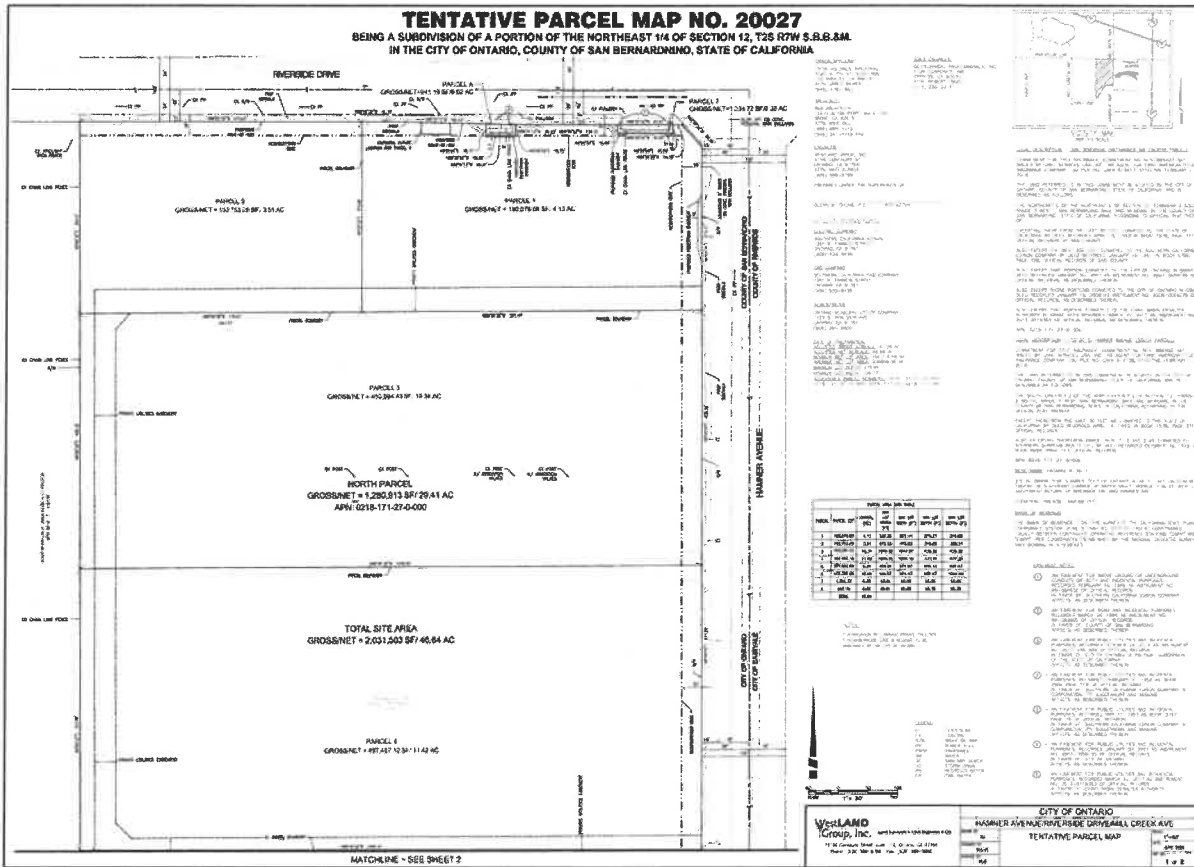
**AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE:** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan ("ALUCP"), establishing the Airport Influence Area for Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. The proposed project is located within the Airport Influence Area of Ontario International Airport and was evaluated and found to be consistent with the policies and criteria of the ALUCP.

**ENVIRONMENTAL REVIEW:** The environmental impacts of this Project were reviewed in conjunction with an Addendum to The Ontario Plan Environmental Impact Report (SCH# 2008101140) that was certified by City Council on January 27, 2010. This Application introduces no new significant environmental impacts and all previously adopted mitigation measures are a condition of project approval.

Exhibit A  
Proposed Edenglen Specific Plan Land Use Map



# Exhibit B Tentative Parcel Map 20027





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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDA18-006, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND ONTARIO CC, LLC., TO ESTABLISH THE TERMS AND CONDITIONS FOR THE DEVELOPMENT OF TENTATIVE PARCEL MAP 20027 (FILE NO. PMTT18-009), FOR A 46.64 ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF RIVERSIDE DRIVE AND HAMNER AVENUE, WITHIN THE PROPOSED NEIGHBORHOOD COMMERCIAL, BUSINESS PARK AND LIGHT INDUSTRIAL LAND USE DESIGNATIONS OF THE EDENGLLEN SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 0218-171-21 AND 0218-171-27.

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 April 4, 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; and

WHEREAS, on September 10, 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; and

WHEREAS, attached to this Ordinance marked Attachment “A” and incorporated herein by this reference, is the proposed Development Agreement (File No. PDA18-006) between the City of Ontario and Ontario CC, LLC., to establish the terms and conditions for the development of Tentative Parcel Map 20027 (File No. PMTT18-009) located at the southwest corner of Riverside Drive and Hamner Avenue, and as legally described in the attached Development Agreement. Hereinafter in this Ordinance, the Development Agreement is referred to as the “Development Agreement”; and

WHEREAS, on November 1, 2005, the City Council adopted Ordinance No. 2817, approving the Edenglen Specific Plan (File No. PSP03-005), which addressed the development of approximately 160.6 acres for residential, pocket parks, public trails, commercial and business/park light industrial uses; and

WHEREAS, on January 27, 2010, the City Council adopted Resolution Nos. 2010-003, 2010-004, 2010-005, 2010-006, approving a comprehensive update to The Ontario Plan (File No. PGPA06-001); and

WHEREAS, a Tentative Parcel Map 20027 (File No. PMTT18-009) to subdivide approximately 46.64 acres of land into seven (7) numbered parcels and one (1) lettered lot within the proposed Neighborhood Commercial, Business Park and Light Industrial land use designations of the Edenglen Specific Plan, has been submitted in conjunction with the Development Agreement; and

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

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with File No. PGPA06-001, an Addendum to The Ontario Plan for which an Environmental Impact Report — State Clearinghouse No. 2008101140 — (hereinafter referred to as “Certified EIR”) was adopted by the City Council on January 27, 2010, and this Application introduces no new significant environmental impacts; and

WHEREAS, This Application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference; and

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to review and act on the subject Application; and

WHEREAS, the Project has been reviewed for consistency with the Housing Element of the Policy Plan component of The Ontario Plan, as State Housing Element law (as prescribed in Government Code Sections 65580 through 65589.8) requires that development projects must be consistent with the Housing Element, if upon consideration of all its aspects, it is found to further the purposes, principals, goals, and policies of the Housing Element; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on August 25, 2020, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting 6-0 to issue Resolution No. PC20-055 recommending the City Council approve the Application; and

WHEREAS, on September 15, 2020, the City Council of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date; and

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

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

**SECTION 1. *Environmental Determination and Findings.*** As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the previous Certified EIR and supporting documentation. Based upon the facts and information contained in the previous Certified EIR and supporting documentation, the City Council finds as follows:

(1) The environmental impacts of this project were previously reviewed in conjunction with File No. PGPA06-001, an Addendum to The Ontario Plan for which a Certified EIR was adopted by the City Council on January 27, 2010.

(2) The previous Certified EIR contains a complete and accurate reporting of the environmental impacts associated with the Project; and

(3) The previous Certified EIR was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

(4) The previous Certified EIR reflects the independent judgment of the City Council; and

(5) The proposed project will introduce no new significant environmental impacts beyond those previously analyzed in the previous Certified EIR, and all mitigation measures previously adopted with the Certified EIR, are incorporated herein by this reference.

**SECTION 2. *Subsequent or Supplemental Environmental Review Not Required.*** Based on the information presented to the City Council, and the specific findings set forth in Section 1, above, the City Council finds that the preparation of a subsequent or supplemental Certified EIR is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

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

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

**SECTION 3. *Housing Element Consistency.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the City Council finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The Edenglen Specific Plan was listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. However, the eastern half of the Edenglen Specific Plan (project site) was not included as one of the properties in the Available Land Inventory since the eastern half of the Specific Plan did not include any residential land use designations.

**SECTION 4. *Ontario International Airport Land Use Compatibility Plan (“ALUCP”) Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the ALUCP, establishing the Airport Influence Area for Ontario International Airport (hereinafter referred to as “ONT”), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the recommending authority for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the City Council, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 5. *Concluding Facts and Reasons.*** 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 through 4 above, the City Council hereby concludes as follows:

a. The Development Agreement applies to approximately 46.64 acres of land located at the southwest corner of Riverside Drive and Hamner Avenue, within the proposed Neighborhood Commercial, Business Park and Light Industrial land use designations of the Edenglen Specific Plan; and

b. The Development Agreement establishes parameters for the development of the proposed Neighborhood Commercial, Business Park and Light Industrial land use designations of the Edenglen Specific Plan. The Development Agreement also grants the Owner, 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 proposed General Plan Amendment (File No. PGPA18-002) to The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the proposed amendment (File No. PSPA18-003) to the Edenglen Specific Plan; and

c. The Development Agreement grants the Owner a vested right to develop Tentative Parcel Map 20027 as long as the Owner, complies with the terms and conditions of the Specific Plan and EIR. Tentative Parcel Map 20027 is located at the southwest corner of Riverside Drive and Hamner Avenue and proposes to subdivide approximately 46.64 acres of land into seven (7) numbered parcels and one (1) lettered lot in conjunction with a Development Plan (File No. PDEV18-031); and

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

e. The Development 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

f. This Development Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and

g. This Development 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. The environmental impacts of this project were previously analyzed in conjunction with File No. PGPA06-001, an Addendum to The Ontario Plan for which a Certified EIR was adopted by the City Council on January 27, 2010. All adopted mitigation measures of the related EIR shall be a condition of project approval and are incorporated herein by reference.

**SECTION 6. City Council Action.** Based upon the findings and conclusions set forth in Sections 1 through 5, above, the City Council hereby APPROVES the herein described Development Agreement, attached hereto as "Attachment A," and incorporated herein by this reference.

**SECTION 7. *Indemnification.*** 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 8. *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 9. *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 10. *Effective Date.*** This Ordinance shall become effective 30 days following its adoption.

**SECTION 11. *Publication and Posting.*** 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 15 days following 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 \_\_\_\_\_ 2020.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER, LLP  
CITY ATTORNEY



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

I, SHEILA MAUTZ, 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 September 15, 2020 and adopted at the regular meeting held \_\_\_\_\_, 2020 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, 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.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

**ATTACHMENT A:**

**File No. PDA18-006**

**Development Agreement**

**By and Between**

**City of Ontario,  
a California municipal corporation,**

**and**

**Ontario CC, LLC.,  
a Delaware limited liability company**

*(Document follows this page)*

**RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:**

CITY OF ONTARIO  
CITY CLERK / RECORDS MANAGEMENT  
303 EAST "B" STREET  
ONTARIO, CA 91764-4196

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Space above this line for Recorder's Use Only

Exempt from Fees Per Gov. Code § 6103

**File No. PDA18-006**

**DEVELOPMENT AGREEMENT**

**By and Between**

**City of Ontario  
a California municipal corporation**

**and**

**Ontario CC, LLC.,  
a Delaware limited liability company**

\_\_\_\_\_, 2020

**San Bernardino County, California**

## **DEVELOPMENT AGREEMENT NO. PDA18-006**

This Development Agreement (hereinafter "Agreement") is entered into effective as of the \_\_\_\_ day of \_\_\_\_\_, 2020 by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and Ontario CC, LLC., a Delaware limited liability company (hereinafter "OWNER"):

### **RECITALS**

WHEREAS, CITY is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, et seq. of the Government Code and Section 4.01.015 of the Ontario Development Code; and

WHEREAS, OWNER has requested CITY to enter into a development agreement and proceedings have been taken in accordance with the rules and regulations of CITY; and

WHEREAS, by electing to enter into this Agreement, CITY shall bind future City Councils of CITY by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of CITY; and

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by CITY and the City Council and have been found to be fair, just and reasonable; and

WHEREAS, the best interests of the citizens of the CITY and the public health, safety and welfare will be served by entering into this Agreement; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement in that Edenglen Specific Plan Environmental Impact Report (State Clearinghouse No. 2004051108 (the "FEIR")). The City Council found and determined that the FEIR was prepared in accordance with the requirements of the California Environmental Quality Act and adequately describes the impacts of the project described in the FEIR, which included consideration of this Agreement; and

WHEREAS, this Agreement and the Project are consistent with the CITY's Comprehensive General Plan and the Endenglen Specific Plan; and

WHEREAS, all actions taken and approvals given by CITY have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

WHEREAS, development of the Property in accordance with this Agreement will provide substantial benefits to CITY and will further important policies and goals of CITY; and

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property, ensure progressive installation of necessary improvements, provide for public services appropriate to the development of the Project, and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended; and

WHEREAS, OWNER has incurred and will in the future incur substantial costs in order to assure development of the Property in accordance with this Agreement; and

WHEREAS, OWNER has incurred and will in the future incur substantial costs in excess of the generally applicable requirements in order to assure vesting of legal rights to develop the Property in accordance with this Agreement.

WHEREAS, the Property is located in an area of the City of Ontario that has been known as the "New Model Colony" area and the New Model Colony area has now been renamed as "Ontario Ranch.

WHEREAS, Owner's Property is within the boundaries defined in Exhibit A of the Construction Agreement between the CITY and NMC Builders and the Property covered by this Agreement is what is known as a "Phase 2 Water Property" as such, shall be required to provide funding for CITY's future construction of the "Phase 2 Water Improvements" which will result in the availability of additional Net MDD Water Availability required for the development as shown on Exhibit "I-1"..

WHEREAS, the property developer/owner is made aware of the South Archibald Trichloroethylene (TCE) Plume "Disclosure Letter" (Exhibit "J"). Property owner may wish to provide the attached Letter as part of the Real Estate Transfer Disclosure requirements under California Civil Code Section 1102 et seq. This may include notifications in the Covenants, Conditions and Restrictions (CC&Rs) or other documents related to property transfer and disclosures. Additional information on the plume is available from the Santa Ana Regional Water Quality Control Board at [http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T10000004658](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000004658).

## **COVENANTS**

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### **1. DEFINITIONS AND EXHIBITS.**

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "Agreement" means this Development Agreement.

1.1.2 "CITY" means the City of Ontario, California, a California municipal corporation.

1.1.3 “Construction Agreement” means that certain Agreement for the Financing and Construction of Phases I and II Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony, entered into between the CITY and NMC Builders as of the 4th day of October, 2005, and all future amendments thereto and including the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony entered into between the CITY and NMC Builders as of the 21<sup>st</sup> day of August, 2012 and the Amendment to the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve and Easterly Portion of the New Model Colony entered into between the CITY and NMC Builders as of the 19<sup>th</sup> day of September 2017.

1.1.4 “Development” means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of public infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping. “Development” does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.5 “Development Approvals” means all permits and other entitlements for use subject to approval or issuance by CITY in connection with development of the Property including, but not limited to:

- (a) specific plans and specific plan amendments;
- (b) tentative and final subdivision and parcel maps;
- (c) development plan review.

1.1.6 “Development Exaction” means any requirement of CITY in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests.

1.1.7 “Development Impact Fee” means a monetary exaction, other than a tax or special assessment, whether characterized as a fee or a tax and whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, and, for purposes of this Agreement only, includes fees collected under development agreements adopted pursuant to Article 2.5 of the Government Code (commencing with Section 65864) of Chapter 4. For purposes of this Agreement only, "Development Impact Fee" shall not include processing fees and charges imposed by CITY to cover the estimated actual costs to CITY of processing applications for Development Approvals or for monitoring

compliance with any Development Approvals granted or issued, including, without limitation, fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code; the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code; or planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 of the Government Code, fees and charges as described in Sections 51287, 56383, 57004, 65104, 65456, 65863.7, 65909.5, 66013, 66014, and 66451.2 of the Government Code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code, as such codes may be amended or superseded, including by amendment or replacement.

1.1.8 “Development Plan” means the Existing Development Approvals and the Existing Land Use Regulations applicable to development of the Property.

1.1.9 “Effective Date” means the date that the ordinance approving this Agreement goes into effect.

1.1.10 “Existing Development Approvals” means all Development Approvals approved or issued on or prior to the Effective Date. Existing Development Approvals includes the Approvals incorporated herein as Exhibit “C” and all other Approvals which are a matter of public record on the Effective Date.

1.1.11 “Existing Land Use Regulations” means all Land Use Regulations in effect on the date of the first reading of the Ordinance adopting and approving this Agreement. Existing Land Use Regulations includes the Regulations incorporated herein as Exhibit “D” and all other Land Use Regulations that are in effect and a matter of public record on such date.

1.1.12 “General Plan” means the The Ontario Plan adopted on January 26, 2010.

1.1.13 “Improvement” or “Improvements” means those public improvements required to support the development of the Project as described in the Parcel Map conditions for Parcel Map No. 20027 as further described in Exhibit “F” (the “Infrastructure Improvements Exhibit”).

1.1.14 “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of CITY governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. “Land Use Regulations” does not include any CITY ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) the conduct of businesses, professions, and occupations;
- (b) taxes and assessments;
- (c) the control and abatement of nuisances;
- (d) the granting of encroachment permits and the conveyance of similar rights and interests that provide for the use of or the entry upon public property;
- (e) the exercise of the power of eminent domain.

1.1.15 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns.

1.1.16 "Net MDD" means net maximum daily water demand.

1.1.17 "NMC Builders" means the consortium of investors and developers responsible for the construction of infrastructure within the New Model Colony incorporated as NMC Builders, LLC.

1.1.18 "OWNER" means the persons and entities listed as owner on page 1 of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.19 "Phase 2 Water EDUs" means the number of equivalent dwelling units or non-residential square footage assigned to OWNER upon payment to City of the Phase 2 Water Participation Fee for the Project and evidenced by the issuance by CITY of a Certificate of Phase 2 Net MDD Availability in the form attached as Exhibit G.

1.1.20 "Phase 2 Water Improvements" means the future water infrastructure Improvements required for the issuance by CITY of the "Water Availability Equivalents" (WAE) for the Project.

1.1.21 "Phase 2 Water Participation Fee" means the fee paid to City upon City approval of the first Development Entitlement for the Project, to fund the Property's respective share of the projected costs of the design and construction of the Phase 2 Water Improvements by City. The Phase 2 Water Participation Fee shall be the calculated amount of the Regional Water DIF for the Project based upon the number of units, and land use category for residential units or the number of square feet, and land use category for non-residential square footage of the Project.

1.1.22 "Project" means the development of the Property contemplated by the Development Plan, as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.1.23 "Property" means the real property described on Exhibit "A" and shown on Exhibit "B" to this Agreement.



1.1.24 “Reservations of Authority” means the rights and authority excepted from the assurances and rights provided to OWNER under this Agreement and reserved to CITY under Section 3.6 of this Agreement.

1.1.25 “Amendment to the Construction Agreement” means the amendment to the Construction Agreement modifying the boundaries of the property in Exhibit A of such Construction Agreement to include the Property covered by this Agreement and to provide for the additional funds required for CITY’s future construction of the “Phase 2 Water Improvements” described in a modification to Exhibit C-3 of the Construction Agreement.

1.1.26 “Specific Plan” means that certain specific plan adopted by the City Council, and entitled, “Edenglen Specific Plan.”

1.1.27 “Subsequent Development Approvals” means all discretionary Development Approvals required subsequent to the Effective Date in connection with development of the Property.

1.1.28 “Subsequent Land Use Regulations” means any discretionary Land Use Regulations adopted and effective after the Effective Date of this Agreement.

1.1.29 “Water Availability Equivalent (WAE)” means a designated portion of the total Net MDD made available through the construction of each Phase described in the Water Phasing Plan of the Construction Agreement. The number of Water Availability Equivalents (of portions thereof) required for the approval of a Tract or Subdivision Map 20027 shall be based upon water demand factors and assumptions listed in the Construction Agreement and shown in Exhibit “I-2”.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit “A” — Legal Description of the Property.

Exhibit “B” — Map showing Property and its location.

Exhibit “C” — Existing Development Approvals.

Exhibit “D” — Existing Land Use Regulations.

Exhibit “E” — Description of Required Infrastructure Improvements

Exhibit “F” — Depiction of Infrastructure Improvements Exhibit

Exhibit “G” – Form of Certificate of Net MDD to be issued by CITY

Exhibit “H” – Form of Certificate of DIF Credit to be issued by CITY

Exhibit “I-1” – Ontario Ranch Water Supply Phasing Plan

Exhibit "I-2" – Water Demand Equivalents by Land Use

Exhibit "J" - Form of Disclosure letter

## 2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out only in accordance with the terms of this Agreement.

2.2 Ownership of Property. OWNER represents and covenants that it is the owner of the fee simple title to the Property or a portion thereof, or has the right to acquire fee simple title to the Property or a portion thereof from the current owner(s) thereof. To the extent OWNER does not own fee simple title to the Property, OWNER shall obtain written consent from the current fee owner of the Property agreeing to the terms of this Agreement and the recordation thereof.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for an initial term of ten (10) years thereafter unless this term is modified or extended pursuant to the provisions of this Agreement. The term of this Agreement may be extended for an additional five (5) years following expiration of the initial ten (10) year term, provided the following have occurred:

- (a) OWNER provides at least 180 days written notice to CITY prior to expiration of the initial term; and
- (b) OWNER is not then in uncured default of this Agreement.

## 2.4 Assignment.

2.4.1 Right to Assign. OWNER shall have the right to sell, transfer or assign the Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410, et seq.), to any person, partnership, limited liability company, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement with respect to the portion of the Property sold and be made in strict compliance with the following:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the Property. OWNER may be required to provide disclosure that the Property is within the South Archibald Trichloroethylene (TCE) Plume (Exhibit "J"). OWNER may wish to provide the attached Disclosure Letter (Exhibit I) as part of the Real Estate Transfer Disclosure requirements under California Civil Code Section 1102 et seq.

(b) Concurrent with any such sale, transfer or assignment, or within fifteen (15) business days thereafter, OWNER shall notify CITY's City Manager, in writing, of such

sale, transfer or assignment and shall provide CITY with: (1) an executed agreement, in a form reasonably acceptable to CITY, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of OWNER under this Agreement with respect to the portion of the Property so sold, transferred or assigned.

(c) Any sale, transfer or assignment not made in strict compliance with the foregoing conditions shall constitute a default by OWNER under this Agreement. Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by Paragraph (b) of this Subsection 2.4.1, the burdens of this Agreement shall be binding upon such purchaser, transferee or assignee, but the benefits of this Agreement shall not inure to such purchaser, transferee or assignee until and unless such agreement is executed. The City Manager shall have the authority to review, consider and either approve, conditionally approve, or deny any proposed sale, transfer or assignment that is not made in compliance with this section 2.4.

2.4.2 Release of Transferring Owner. Notwithstanding any sale, transfer or assignment, a transferring OWNER shall continue to be obligated under this Agreement unless such transferring owner is given a release in writing by CITY, which release shall be provided by CITY upon the full satisfaction by such transferring owner of the following conditions:

(a) OWNER no longer has a legal or equitable interest in all or any part of the portion of the Property sold, transferred or assigned.

(b) OWNER is not then in default under this Agreement.

(c) OWNER has provided CITY with the notice and executed an agreement as required under Paragraph (b) of Subsection 2.4.1 above. .

(d) The purchaser, transferee or assignee provides CITY with security equivalent to any security previously provided by OWNER (if any) to secure performance of its obligations hereunder which are to be performed upon portion of the Property sold, transferred or assigned .

2.4.3 Effect of Assignment and Release of Obligations. In the event of a sale, transfer or assignment pursuant to the provisions of Section 2.4.2 above:

(a) The assignee shall be liable for the performance of all obligations of OWNER with respect to transferred property, but shall have no obligations with respect to the portions of the Property, if any, not transferred (the "Retained Property").

(b) The owner of the Retained Property shall be liable for the performance of all obligations of OWNER with respect to Retained Property, but shall have no further obligations with respect to the transferred property.

(c) The assignee's exercise, use and enjoyment of the Property or portion thereof shall be subject to the terms of this Agreement to the same extent as if the assignee were the OWNER.

2.4.4 Subsequent Assignment. Any subsequent sale, transfer or assignment after an initial sale, transfer or assignment shall be made only in accordance with and subject to the terms and conditions of this Section 2.4.

2.4.5 Termination of Agreement With Respect to Individual Lots Upon Sale to Public and Completion of Construction. The provisions of Subsection 2.4.1 shall not apply to the sale or lease (for a period longer than one year) of any parcel which has been finally subdivided and is individually (and not in "bulk") sold or leased to a member of the public or other ultimate user of the parcel. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any lot and such lot shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

(a) The lot has been finally subdivided and individually (and not in "bulk") sold or leased (for a period longer than one year) to a member of the public or other ultimate user; and,

(b) A certificate of occupancy has been issued for a building on the parcel, and the fees set forth under Section 4 of this Agreement have been paid.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section 65868.1. Any amendment of this Agreement, which amendment has been requested by OWNER, shall be considered by the CITY only upon the payment of the applicable processing charge. This provision shall not limit any remedy of CITY or OWNER as provided by this Agreement. Either Party or successor in interest, may propose an amendment to or cancellation, in whole or in part, of this Agreement. Any amendment or cancellation shall be by mutual consent of the parties or their successors in interest except as provided otherwise in this Agreement or in Government Code Section 65865.1. For purposes of this section, the term "successor in interest" shall mean any person having a legal or equitable interest in the whole of the Property, or any portion thereof as to which such person wishes to amend or cancel this Agreement. The procedure for proposing and adopting an amendment to, or cancellation of, in whole or in part, this Agreement shall be the same as the procedure for adopting and entering into this Agreement in the first instance. Notwithstanding the foregoing sentence, if the CITY initiates the proposed amendment to, or cancellation of, in whole or in part, this Agreement, CITY shall first give notice to the OWNER of its intention to initiate such proceedings at least sixty (60) days in advance of the giving the public notice of intention to consider the amendment or cancellation.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the stated term of this Agreement as set forth in Section 2.3.

(b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.

(c) The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement.

(d) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by CITY or applicable public agency of all required dedications.

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination or with respect to any obligations which are specifically set forth as surviving this Agreement. Upon such termination, any public facilities and services mitigation fees paid pursuant to Section 4.2 of this Agreement by OWNER to CITY on which construction has not yet begun shall be refunded to OWNER by CITY within ten (10) business days.

## 2.7 Notices.

(a) As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person, including, without limitation, by courier, to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below. All notices shall be addressed as follows:

### **If to CITY:**

Scott Ochoa, City Manager  
City of Ontario  
303 East "B" Street  
Ontario, CA 91764

### **with a copy to:**

Scott Huber, City Attorney  
Cole Huber, LLP  
2261 Lava Ride Court  
Roseville, CA 95661  
Email: [shuber@cohuber.com](mailto:shuber@cohuber.com)  
Phone: (916) 787-7511

**If to OWNER:**

Ontario CC, LLC  
527 West 7<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90014  
Attn: Jared Riemer  
Email: jriemer@chindustrial.com  
Phone: (949) 478-1883

**With a copy to:**

Rutan & Tucker, LLP  
611 Anton Boulevard, 14<sup>th</sup> Floor  
Costa Mesa, CA 92626  
Attn: John A. Ramirez  
Email: jramirez@rutan.com  
Phone: 714-654-2177

(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority in Section 3.4, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. The Project shall remain subject to all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land for public purposes shall be those set forth in the Development Plan.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority in Section 3.4, the rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to development of the Property shall be the Existing Land Use Regulations. In connection with any Subsequent Development Approval, CITY shall exercise discretion in accordance with the same manner as it exercises its discretion under its police powers, including the Reservations of Authority set forth herein; provided however, that such discretion shall not prevent development of the Property for the uses and to the density or intensity of development set forth in this Agreement.

3.3 Timing of Development. The parties acknowledge that OWNER cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of OWNER,

such as market orientation and demand, interest rates, absorption, completion and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Cal. 3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that OWNER shall have the right to develop the Property in such order and at such rate and at such times as OWNER deems appropriate within the exercise of its subjective business judgment.

3.3.1 Infrastructure Improvement Exhibit. Attached hereto as Exhibit "F" are a description of the Infrastructure Improvements needed for the development of the Property ("the Infrastructure Improvement Exhibits").

### 3.4 Reservations of Authority.

3.4.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the CITY shall not be prevented from applying new rules, regulations and policies upon the OWNER, nor shall a development agreement prevent the CITY from denying or conditionally approving any subsequent development project application on the basis of such new rules, regulations and policies where the new rules, regulations and policies consist of the following:

(a) Processing fees by CITY to cover costs of processing applications for development approvals or for monitoring compliance with any development approvals;

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records and any other matter of procedure;

(c) Regulations, policies and rules governing engineering and construction standards and specifications applicable to public and private improvements, including all uniform codes adopted by the CITY and any local amendments to those codes adopted by the CITY; provided however that, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the standards and specifications that are expressly identified in the Specific Plan and the building codes in effect as of the Effective Date;

(d) Regulations that may conflict with this Agreement and the Development Plan but that are reasonably necessary to protect the occupants of the Project and/or of the immediate community from a condition perilous to their health or safety;

(e) Regulations that do not conflict with those rules, regulations and policies set forth in this Agreement or the Development Plan and which do not impose additional obligations, costs, and expenses on Owner or the Project;

(f) Regulations that may conflict but to which the OWNER consents.

3.4.2 Subsequent Development Approvals. This Agreement shall not prevent CITY, in acting on Subsequent Development Approvals, from applying Subsequent Land

Use Regulations that do not conflict with the Development Plan and/or the Existing Development Approvals, nor shall this Agreement prevent CITY from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan and/or the Existing Development Approvals.

3.4.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce. In the event OWNER alleges that such State or Federal laws or regulations preclude or prevent compliance with one or more provisions of this Agreement, and the CITY does not agree, the OWNER may, at its sole cost and expense, seek declaratory relief (or other similar non-monetary remedies); provided however, that nothing contained in this Section 3.6.3 shall impose on CITY any monetary liability for contesting such declaratory relief (or other similar non-monetary relief).

3.4.4 Intent. The parties acknowledge and agree that CITY is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to CITY all of its police power which cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to CITY all such power and authority which cannot be restricted by contract.

3.5 Public Works; Utilities. If OWNER is required by this Agreement or a condition of project approval to construct any public works facilities which will be dedicated to CITY or any other public agency upon completion, and if required by applicable laws to do so, OWNER shall perform such work in the same manner and subject to the same requirements as would be applicable to CITY or such other public agency should it have undertaken such construction. As a condition of development approval, OWNER shall connect the Project to all utilities necessary to provide adequate water, recycled water, sewer, gas, electric, and other utility service to the Project. As a further condition of development approval, OWNER shall to the extent possible contract with the CITY for CITY-owned or operated utilities for this purpose, for such price and on such terms as may be available to similarly situated customers in the CITY.

3.5.1 OWNER agrees that development of the Project shall require the construction of storm drain Improvements from the Property to the connection with the San Bernardino County Line Channel as described in Exhibit E and depicted in Exhibit F. OWNER and CITY agree that CITY may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings prior to completion of



the storm drain Improvements described in Exhibit E and depicted in Exhibit F. CITY agrees that OWNER may request that CITY issue temporary certificates of occupancy on a building-by-building basis prior to completion of the storm drain improvements.

3.5.2 OWNER agrees that development of the Project shall require the design and construction of street improvements along the Property as described in Exhibit E and depicted in Exhibit F. OWNER and CITY agree that CITY may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings on the Property prior to Substantial Completion of the street Improvements as described in Exhibits E and F. For purposes of the foregoing, street improvements shall be deemed Substantially Complete even if the final lift of pavement has not been completed (i.e., Owner may install the final lift after completion of all other construction). CITY agrees that OWNER may request that CITY issue temporary certificates of occupancy on a building-by-building basis prior to completion and subject to final acceptance by CITY of the street improvements. OWNER agrees that the street improvements shall be completed and subject to final acceptance by CITY prior to the release of any security for the construction of the street improvements.

3.5.3 OWNER agrees that development of the Property shall require the extension of permanent master planned water utility Improvements as described in Exhibit E and depicted in Exhibit F consisting generally of the construction of the extension of permanent master planned water utility Improvements from two (2) points of connection to serve the Property. OWNER and CITY agree that CITY may issue grading, building and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY upon completion of sufficient water and recycled water improvements to serve the Property from at least one point of connection and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings on the Property until the completion of the water and recycled water improvements described in Exhibit E and depicted in Exhibit F. City agrees that OWNER may request that CITY issue temporary certificates of occupancy on a building-by-building basis prior to completion of the water and recycled water improvements if there is available permanent water and recycled water service from a minimum of one point of connection and sufficient water is available for fire protection purposes for any buildings while under construction.

3.5.4 OWNER agrees that development of the Property shall require the construction of permanent master planned sewer Improvements to serve the Property as described in Exhibit E and depicted in Exhibit F. OWNER and CITY agree that CITY may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings prior to completion of the sewer improvements described in Exhibit E and depicted in Exhibit F. CITY agrees that OWNER may request that CITY issue temporary certificates of occupancy on a building-by-building basis prior to the completion of the sewer improvements described in Exhibit E and depicted in Exhibit F.

3.5.5 OWNER agrees that development of the Property shall require the extension of permanent master planned recycled water utility improvements to serve the Property as described in Exhibit E and depicted in Exhibit F. OWNER and CITY agree that the City may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY upon completion of sufficient water and recycled water improvements to serve the Property from at least one point of connection and OWNER agrees that OWNER shall not request and CITY shall not issue any occupancy permit for any buildings on the Property until the completion of the water improvements described in Exhibit E and depicted in Exhibit F. CITY agrees that OWNER may request a temporary occupancy permit for a building and, if OWNER requests that a temporary certificate of occupancy be issued for a building prior to the completion of the extension of permanent master planned recycled water utility Improvements to serve the Property that CITY may consider such request and may issue temporary certificates of occupancy on a building-by-building basis prior to completion of recycled water improvements if there is available permanent recycled water service connection and sufficient recycled water is available. OWNER and CITY agree that all, or a portion of, the permanent master planned recycled water utility Improvements described in Exhibit E and depicted in Exhibit F may be constructed by others. If such recycled water utility Improvements are constructed by others and completed and accepted by CITY prior to OWNER'S request to CITY of the required grading, building, or other required permits for OWNER to initiate construction of structures for the Property, then OWNER shall not be required to construct those permanent master planned recycled water utility Improvements.

3.5.6 OWNER agrees that development of the Property shall require the extension of permanent master planned fiber optic communications infrastructure, at OWNER'S sole cost and expense, as described in the attached Exhibit E and depicted in Exhibit F consisting generally of the construction of the extension of fiber optic communications infrastructure to serve the Property. OWNER and CITY agree that CITY may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings prior to completion of the fiber optic communications infrastructure, as described in Exhibit E and depicted in Exhibit F. CITY agrees that OWNER may request that CITY issue temporary certificates of occupancy on a building-by-building basis prior to the completion of the fiber optic communications infrastructure, as described in Exhibit E and depicted in Exhibit F.

3.6 Acquisition of Offsite Provision of Real Property Interests. In any instance where OWNER is required by any Development Approval or Land Use Regulation and the Construction Agreement to construct any public improvement on land not owned by OWNER ("Offsite Improvements"), the CITY and OWNER shall cooperate in acquiring the necessary legal interest ("Offsite Property") in accordance with the procedures set forth in Section 2.4 of the Construction Agreement. This section 3.6 is not intended by the parties to impose upon the OWNER an enforceable duty to acquire land or construct any public improvements on land not owned by OWNER, except to the extent that the OWNER elects to proceed with the development of the Project, and then only in

accordance with valid conditions imposed by the CITY upon the development of the Project under the Subdivision Map Act or other legal authority.

3.6.1 CITY Acquisition of Non-Construction Agreement Offsite Property. In the event OWNER is required to construct any public improvements on land not owned by OWNER, but such requirement is not based upon the Construction Agreement, Sections 3.6.1 and 3.6.2 shall control the acquisition of the necessary property interest(s) ("Non-Construction Agreement Offsite Property"). If the OWNER is unable to acquire such Non-Construction Agreement Offsite Property, and following the written request from the OWNER to CITY, CITY agrees to use reasonable and diligent good faith efforts to acquire the Non-Construction Agreement Offsite Property from the owner or owners of record by negotiation to the extent permitted by law and consistent with this Agreement. If CITY is unable to acquire the Non-Construction Agreement Offsite Property by negotiation within thirty (30) days after OWNER'S written request, CITY shall, initiate proceedings utilizing its power of eminent domain to acquire that Non-Construction Agreement Subject Property at a public hearing noticed and conducted in accordance with California Code of Civil Procedure Section 1245.235 for the purpose of considering the adoption of a resolution of necessity concerning the Non-Construction Agreement Offsite Property, subject to the conditions set forth in this Section 3.6.1. The CITY and OWNER acknowledge that the timelines set forth in this Section 3.6.1 represent the maximum time periods which CITY and OWNER reasonably believe will be necessary to complete the acquisition of any Non-Construction Agreement Offsite Property. CITY agrees to use reasonable good faith efforts to complete the actions described within lesser time periods, to the extent that it is reasonably able to do so, consistent with the legal constraints imposed upon CITY.

3.6.2 Owner's Option to Terminate Proceedings. CITY shall provide written notice to OWNER no later than fifteen (15) days prior to making an offer to the owner of the Non-Construction Agreement Offsite Property. At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease all acquisition proceedings with respect to that Non-Construction Agreement Offsite Property, whereupon CITY shall cease such proceedings. CITY shall provide written notice to OWNER no later than fifteen (15) days prior to the date of the hearing on CITY'S intent to consider the adoption of a resolution of necessity as to any Non-Construction Agreement Offsite Property. At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease condemnation proceedings, whereupon CITY shall cease such proceedings. If OWNER does not notify CITY to cease condemnation proceedings within said fifteen (15) day period, then the CITY may proceed to consider and act upon the Non-Construction Agreement Offsite Property resolution of necessity. If CITY adopts such resolution of necessity, then CITY shall diligently institute condemnation proceedings and file a complaint in condemnation and seek an order of immediate possession with respect to the Non-Construction Agreement Offsite Property.

3.7 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of CITY possess authority to regulate aspects of the development of the Property separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies. CITY agrees to cooperate fully, at

no cost to CITY, with OWNER in obtaining any required permits or compliance with the regulations of other public agencies provided such cooperation is not in conflict with any laws, regulations or policies of the CITY.

3.8 Tentative Parcel Maps; Extension. With respect to applications by OWNER for tentative parcel maps for portions of the Property, CITY agrees that OWNER may file and process tentative maps in accordance with Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the California Government Code and the applicable provisions of CITY's subdivision ordinance, as the same may be amended from time to time. In accordance with the provisions of Section 66452.6 of the Government Code, each tentative subdivision map or tentative parcel map, heretofore or hereafter approved in connection with development of the Property, shall be deemed to have been granted an extension of time to and until the expiration, cancellation, or termination of this Agreement.

3.9 Specific Plan Charge. Pursuant to Government Code section 65456, the City Council may consider adopting a specific plan charge upon persons seeking CITY approvals that are required to be consistent with the Specific Plan. Any such charges shall, in the aggregate, defray, but not exceed, the estimated cost of preparation, adoption, and administration of the Specific Plan, including costs incurred pursuant to the California Environmental Quality Act (Pub. Resources Code, §§ 21000 et seq.). As nearly as can be estimated, the charges shall be a prorated amount in accordance with the applicant's relative benefit derived from the Specific Plan. If such charges are adopted, the CITY shall use such charges to reimburse the OWNER who originally paid the cost of preparing the Specific Plan, including costs incurred pursuant to the California Environmental Quality Act (Pub. Resources Code, §§ 21000 et seq.) to the extent the OWNER paid more than its relative benefit from the Specific Plan. Such charges, if adopted, shall be imposed on persons seeking CITY approvals that are required to be consistent with the Specific Plan, to the extent such person(s) has/have not entered into a reimbursement agreement with, and satisfactory to, the person(s) originally responsible for the cost of preparing the Specific Plan, including costs incurred pursuant to CEQA.

#### 4. PUBLIC BENEFITS.

4.1 Intent. The parties acknowledge and agree that development of the Property will result in substantial public needs that will not be fully met by the Development Plan and further acknowledge and agree that this Agreement confers substantial private benefits on OWNER that should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on OWNER by providing more fully for the satisfaction of the public needs resulting from the Project.

#### 4.2 Development Impact Fees.

4.2.1 Amount of Development Impact Fee. Development Impact Fees (DIF) shall be paid by OWNER. The Development Impact Fee amounts to be paid by OWNER shall be the amounts that are in effect at the time such amounts are due. Nothing contained

in this Agreement shall affect the ability of the CITY to impose new Development Impact Fees or amend the amounts of existing Development Impact Fees. Additionally, nothing contained in this Agreement shall affect the ability of other public agencies that are not controlled by CITY to impose and amend, from time to time, Development Impact Fees established or imposed by such other public agencies, even though such Development Impact Fees may be collected by CITY.

4.2.2 Time of Payment. The Development Impact Fees required pursuant to Subsection 4.2.1 shall be paid to CITY prior to the issuance of building permit for each applicable building (subject to the application/use of available fee deferrals or credits), except for the Open Space and Habitat Acquisition Development Impact fee, which shall be paid by OWNER to CITY prior to the issuance of a grading permit.

#### 4.3 Responsibility for Construction of Public Improvements.

4.3.1 Timely Construction of Public Infrastructure. The phasing of the area wide infrastructure construction within the Ontario Ranch area shall be as approved by the CITY. OWNER shall be responsible for the timely construction and completion of all public infrastructure required for the Project as shown on the attached Exhibit "F" and any and all parcel map conditions. Unless otherwise specified in the Parcel Map conditions, and subject to the provisions of Section 3.5 and 3.6, all other required Improvements for each Parcel Map, shall be completed and operational prior to, and as a condition precedent to, OWNER requesting and CITY's granting of a final occupancy permit for any buildings to be constructed on the Property. All Infrastructure and Improvements shall be completed as required by the Subdivision Agreement/Parcel Map conditions for Parcel Map 20027.

4.3.2 Construction of Public Infrastructure by Third Parties. CITY and OWNER acknowledge that a portion of the Improvements described in Exhibit E and depicted in Exhibit F are necessary for the development of surrounding properties within the Ontario Ranch and the other property owners are also obligated to construct the Improvements or portions thereof. As such, CITY agrees that OWNER's obligation to construct the Improvements may be satisfied by third party owners pursuant to separate written agreements between OWNER and said third party undertaking the construction of the Improvements. Nothing in this Agreement shall be construed to prohibit the coordination of the construction of the Improvements between private parties, including the allocation of costs for the construction of the Improvements. Notwithstanding anything to the contrary herein, any applicable DIF Credits may be transferred and assigned from one (1) party to another with respect to the construction of the Improvements and such transfer or assignment shall not require the conveyance of any real property.

4.3.3 Availability and Use of Recycled Water. OWNER agrees that recycled water shall be available and utilized by OWNER for all construction-related water uses including prior to, and during, any grading of the Property.

4.3.4 Construction of DIF Program Infrastructure. To the extent OWNER is required to construct and completes construction of public improvements that are

included in CITY's Development Impact Fee Program CITY agrees that CITY shall issue DIF Credit in accordance with the provisions of a separate Fee Credit Agreement between CITY and OWNER. Limitations on the use of DIF Credit issued to OWNER to offset OWNER's DIF payment obligations shall also be subject to the provisions of a separate Fee Credit Agreement. OWNER may also be eligible to receive DIF Credit from OWNER's construction of DIF Program Infrastructure. Any such DIF Credit shall be subject to a Fee Credit Agreement between CITY and OWNER. CITY and OWNER agree that the Fee Credit Agreement between CITY and OWNER shall comply with CITY's adopted policies applicable to such agreements.

#### 4.4 Public Services Funding Fee.

4.4.1 Requirement for Payment of Public Services Funding Fee. In order to ensure that the adequate provision of public services, including without limitation, police, fire and other public safety services, are available to each Project in a timely manner, OWNER shall pay to CITY a "Public Services Funding Fee." The Public Services Funding Fee shall apply to residential and non-residential uses as set forth below.

4.4.2 Public Services Funding Fee Amount. OWNER shall pay a Public Services Funding fee in a single installment payment in the amount of Sixty-Three Cents (\$.63) per square foot of each non-residential building. The single installment for non-residential uses shall be due and payable on a building-by-building basis prior to the issuance of the building permit for a non-residential building. The amount of the Single Installment for non-residential uses shall automatically increase by percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year on January 1<sup>st</sup> of each year, beginning on January 1, 2021. OWNER may exercise the option to pay any single installment amounts for the remainder of the non-residential square footage within the Project on or before December 31<sup>st</sup>, before the Single Installment amount is automatically increased

#### 4.5 Net MDD/Water Availability Equivalents.

4.5.1 Effectiveness of Agreement. Notwithstanding anything else set forth in this Agreement, CITY and OWNER each acknowledge, confirm, and agree, that (i) the City approval of this Agreement and (ii) the effectiveness of this Agreement, in each case, is conditioned upon OWNER's admission to NMC Builders as a "Member" thereof pursuant to the terms and conditions of the operating agreement of NMC Builders. OWNER and CITY agree that OWNER shall become a Member of NMC Builders within 30 days of the effective date of this Agreement.

4.5.2 Assigned Net MDD/Water Availability Equivalents. OWNER acknowledges that the City has agreed with NMC Builders to reserve exclusively for Members of NMC Builders, including OWNER, Net MDD made available through the construction of water system improvements funded by NMC Builders and/or OWNER. OWNER acknowledges that the provisions of the Construction Agreement Amendment require that the City shall not issue building permits or certificates of occupancy for the area of development within

the New Model Colony served by the water system improvements funded by NMC Builders, except to the bearer of a Certificate of Net MDD Water Availability.

4.5.3 Requirement for NMC Builders LLC Membership as a Phase 2 Water Member. OWNER and CITY agree that OWNER's payment to CITY required by Section 4.5.4 below represents OWNER's contribution to the funding required for the future construction of the Phase 2 Water Improvements and the availability of additional Net MDD Water Availability required for the development of the Property described in Exhibit A of this Agreement.

4.5.4 CITY issuance of Water Availability Equivalents. Within 30 days after the effectiveness of this Development Agreement OWNER shall pay or have paid to City the applicable Phase 2 Water Participation Fee. The Phase 2 Water Participation Fee shall be calculated based on the amount of the Regional Water DIF for the applicable land use category and the square footage of the applicable buildings. The calculated amount of the Phase 2 Water Participation Fee shall be paid to City within 30 days after the effective date of this Agreement or, at OWNER's option, the Phase 2 Water Participation Fee may be paid to City in two (2) installments. The first installment shall be fifty percent (50%) of the total Phase 2 Water Participation Fee and such first installment shall be due and payable to City within 30 days after the effective date of this Development Agreement. The second installment shall be the remaining amount of the Phase 2 Water Participation Fee and such second installment shall be due and payable to City within one (1) year after the payment of the first installment, or prior to, and as a condition precedent to, the recording of any final Parcel Map for the Project, whichever occurs first. Upon OWNER's complete payment to CITY of the Phase 2 Water Participation Fee CITY shall issue a Certificate of Water Availability Equivalents in the form attached hereto as Exhibit G. Such Water Availability Equivalents Certificate shall be issued by CITY within thirty (30) days of the receipt of such required payment. CITY and OWNER agree that the amount of Water Availability Equivalents issued to OWNER shall be based on the maximum projected need for Water Availability Equivalents required for the Property based upon water demand factors and assumptions listed in Exhibit C-2R of the Phase 2 Water Amendment to the Construction Agreement "Water Demand Equivalents by Land Use" for each land use category. Additionally, within five (5) business days of CITY's receipt of OWNER's payment as required under this Section 4.5.2, CITY shall issue a certificate of DIF Credit against OWNER's DIF obligations in the Regional Water DIF Category.

4.5.5 Requirement for other Water System Improvements. A Certificate of Net MDD Availability is evidence only of available water capacity and does not satisfy any other conditions applicable to OWNER's Project, including those relating to design and construction of master-planned potable water and recycled water transmission and distribution system for the respective pressure zone and other public infrastructure requirements.

#### 4.6 Compliance with Public Benefits Requirements.

4.6.1 Failure to Provide Public Benefits. In the event OWNER fails or refuses to comply with any condition referenced in Section 4.1 through 4.6, or challenges (whether

administratively or through legal proceedings) the imposition of such conditions, OWNER shall be deemed in default of this Agreement pursuant to Section 8 hereof, thereby entitling the City to any and all remedies available to it, including, without limitation, the right of the City to withhold OWNER's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability. Nothing herein shall waive Owner's right to assert a default (or failure to perform) by the City has excused Owner's performance under this Agreement.

## 5. FINANCING OF PUBLIC IMPROVEMENTS.

5.1 Financing Mechanism(s). OWNER agrees that, prior to the recordation of any Parcel Map, the property subject to such Parcel Map shall be included in a CFD to finance City services through annual special taxes that will initially be thirty-one cents (\$.31) per square foot for non-residential buildings. These amounts shall be subject to an automatic increase at a rate not to exceed four (4%) percent per year. Depending on the fiscal year that the CFD is formed and the CFD tax is levied, the annual special taxes may be higher. CITY shall be the sole and exclusive lead agency in the formation of any CFD, assessment district or other public financing mechanism within the Property; provided however, that the proceeds of any such CFD, assessment district, or financing mechanism may be used, subject to restrictions that may be imposed by applicable law, for the purposes of acquiring, constructing or maintaining public facilities to be owned or operated by other public agencies, including, without limitation those facilities owned or operated by a school district. In addition to the rights of the CITY pursuant to section 5.1 hereof, CITY shall have the right, but not the obligation, to condition the formation of any CFD, assessment district or other public financing mechanism within the Property on the OWNER mitigating all Project-related impacts to the applicable school district(s) as required by such school district(s). Written evidence by such school district(s) may be required by the CITY as the condition to the formation of any CFD, assessment district or other public financing mechanism within the Property, or any steps preliminary thereto, including, without limitation, the adoption of any resolution of intention to form such CFD, assessment district or other public financing mechanism within the Property. It is not the intent of the parties hereto, by this provision, to prohibit or otherwise limit the City's ability to take any and all necessary steps requisite to the formation of the CFD to finance City services through annual special taxes as set forth in this Section 5.1. Formation of any CFD, assessment district or other public financing mechanism within the Property, shall be subject to CITY's ability to make all findings required by applicable law and complying with all applicable legal procedures and requirements including, without limitation, CITY's public financing district policies as such policies may be amended from time to time. Notwithstanding the foregoing, it is acknowledged and agreed by the parties that nothing contained in this Agreement shall be construed as requiring CITY or the City Council to form any such district.

## 6. REVIEW FOR COMPLIANCE.

### 6.1 Periodic and Special Reviews.



6.1.1 Time for and Initiation of Periodic Review. The CITY shall review this Agreement every twelve (12) months from the Effective Date in order to ascertain the good faith compliance by the OWNER with the terms of this Agreement. The OWNER shall submit an Annual Monitoring Report to CITY, in a form acceptable to the City Manager, along with any applicable processing charge within ten (10) days after each anniversary date of the Effective Date of this Agreement. Within fifteen (15) days after the receipt of the Annual Monitoring Report, CITY shall review the Annual Monitoring Report. Prior to the expiration of the fifteen (15) day review period, CITY shall either issue a notice of continuing compliance or a notice of non-compliance and a notice of CITY's intent to conduct a Special Review pursuant to Sections 6.1.2 through 6.1.6. Issuance of a notice of continuing compliance may be issued by the City Manager or his designee.

6.1.2 Initiation of Special Review. A special review may be called either by agreement between the parties or by initiation in one or more of the following ways:

- (a) Recommendation of the Planning staff;
- (b) Affirmative vote of at least four (4) members of the Planning Commission; or
- (c) Affirmative vote of at least three (3) members of the City Council.

6.1.3 Notice of Special Review. The City Manager shall begin the special review proceeding by giving notice that the CITY intends to undertake a special review of this Agreement to the OWNER. Such notice shall be given at least ten (10) days in advance of the time at which the matter will be considered by the Planning Commission.

6.1.4 Public Hearing. The Planning Commission shall conduct a hearing at which the OWNER must demonstrate good faith compliance with the terms of this Agreement. The burden of proof on this issue is upon the OWNER.

6.1.5 Findings Upon Public Hearing. The Planning Commission shall determine upon the basis of substantial evidence whether or not the OWNER has, for the period under review, complied in good faith with the terms and conditions of this Agreement.

6.1.6 Procedure Upon Findings.

(a) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has complied in good faith with the terms and conditions of this Agreement during the period under review, the review for that period is concluded.

(b) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has not complied in good faith with the terms and conditions of this Agreement during the period under review, the Planning Commission may recommend to the City Council to modify or terminate this Agreement.

(c) The OWNER may appeal a determination pursuant to paragraph (b) to the City Council in accordance with the CITY's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Modification or Termination. If, upon a finding under Section 6.1.6(b), the CITY determines to proceed with modification or termination of this Agreement, the CITY shall give notice to the property OWNER of its intention so to do. The notice shall contain:

- (a) The time and place of the hearing;
- (b) A statement as to whether or not the CITY proposes to terminate or to modify this Agreement; and
- (c) Other information that the CITY considers necessary to inform the OWNER of the nature of the proceeding.

6.3 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, the OWNER shall be given an opportunity to be heard. The OWNER shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on the OWNER. If the City Council finds, based upon substantial evidence in the administrative record, that the OWNER has not complied in good faith with the terms and conditions of the agreement, the City Council may terminate this Agreement or modify this Agreement and impose those conditions to the action it takes as it considers necessary to protect the interests of the CITY. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

6.4 Certificate of Agreement Compliance. If, at the conclusion of a Periodic or Special Review, OWNER is found to be in compliance with this Agreement, CITY shall, upon written request by OWNER, issue a Certificate of Agreement Compliance ("Certificate") to OWNER stating that after the most recent Periodic or Special Review and based upon the information known or made known to the Planning Director and City Council that (1) this Agreement remains in effect and (2) OWNER is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a Periodic or Special Review and shall state the anticipated date of commencement of the next Periodic Review. OWNER may record the Certificate with the County Recorder. Whether or not the Certificate is relied upon by assignees or other transferees or OWNER, CITY shall not be bound by a Certificate if a default existed at the time of the Periodic or Special Review, but was concealed from or otherwise not known to the Planning Director or City Council.

7. [RESERVED]

8. DEFAULT AND REMEDIES.

8.1 Remedies in General. It is acknowledged by the parties that CITY would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof. In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that CITY shall not be liable in damages to OWNER, or to any

successor in interest of OWNER, or to any other person, and OWNER covenants not to sue for damages or claim any damages:

- (a) For any breach of this Agreement or for any cause of action which arises out of this Agreement; or
- (b) For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or
- (c) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.2 Specific Performance. The parties acknowledge that money damages and remedies at law generally are inadequate and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Agreement and should be available to all parties for the following reasons:

- (a) Money damages are unavailable against CITY as provided in Section 8.1 above.
- (b) Due to the size, nature and scope of the project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, OWNER may be foreclosed from other choices it may have had to utilize the Property or portions thereof. OWNER has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate OWNER for such efforts.

8.3 Release. Except for nondamage remedies, including the remedy of specific performance and judicial review as provided for in Section 6.5, OWNER, for itself, its successors and assignees, hereby releases the CITY, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the CITY because it entered into this Agreement or because of the terms of this Agreement.

8.4 Termination or Modification of Agreement for Default of OWNER. Subject to the provisions contained in Subsection 6.3 herein, CITY may terminate or modify this Agreement for any failure of OWNER to perform any material duty or obligation of OWNER under this Agreement, or to comply in good faith with the terms of this Agreement (hereinafter referred to as "default"); provided, however, CITY may terminate or modify this Agreement pursuant to this Section only after providing written notice to OWNER of default setting forth the nature of the default and the actions, if any, required by OWNER

to cure such default and, where the default can be cured, OWNER has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

8.5 Termination of Agreement for Default of CITY. OWNER may terminate this Agreement only in the event of a default by CITY in the performance of a material term of this Agreement and only after providing written notice to CITY of default setting forth the nature of the default and the actions, if any, required by CITY to cure such default and, where the default can be cured, CITY has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

## 9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. CITY has determined that this Agreement is consistent with its Comprehensive General Plan, as such General Plan exists as of the Effective Date ("General Plan"), and that the General Plan meets all requirements of law. OWNER has reviewed the General Plan and concurs with CITY's determination. CITY shall have no liability in damages under this Agreement for any failure of CITY to perform under this Agreement or the inability of OWNER to develop the Property as contemplated by the Development Plan of this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

9.2 Third Party Litigation Concerning Agreement. OWNER shall defend, at its expense, including attorneys' fees, indemnify, and hold harmless CITY, its agents, officers and employees from any claim, action or proceeding against CITY, its agents, officers, or employees to attack, set aside, void, or annul the approval of this Agreement or the approval of any permit granted pursuant to this Agreement. CITY shall promptly notify OWNER of any such claim, action or proceeding, and CITY shall cooperate in the defense. If CITY fails to promptly notify OWNER of any such claim, action or proceeding, or if CITY fails to cooperate in the defense, OWNER shall not thereafter be responsible to defend, indemnify, or hold harmless CITY. CITY may in its discretion participate in the defense of any such claim, action or proceeding.

9.3 Indemnity. In addition to the provisions of 9.2 above, OWNER shall indemnify and hold CITY, its officers, agents, employees and independent contractors free and harmless from any liability whatsoever, based or asserted upon any act or omission of OWNER, its officers, agents, employees, subcontractors and independent contractors, for property damage, bodily injury, or death (OWNER's employees included) or any other element of damage of any kind or nature, to the extent relating to or in any way connected with or arising from the activities contemplated hereunder, including, but not limited to, the study,

design, engineering, construction, completion, failure and conveyance of the public improvements, save and except claims for damages arising through the sole active negligence or sole willful misconduct of CITY. OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. CITY may in its discretion participate in the defense of any such legal action.

9.4 Environment Assurances. OWNER shall indemnify and hold CITY, its officers, agents, and employees free and harmless from any liability, to the extent based or asserted, upon any act or omission of OWNER, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns and independent contractors for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property during OWNER'S period of ownership of the Property, including, but not limited to, soil and groundwater conditions caused by OWNER, and OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents and employees in any action based or asserted upon any such alleged act or omission. CITY may in its discretion participate in the defense of any such action.

9.5 Reservation of Rights. With respect to Sections 9.2, 9.3 and 9.4 herein, CITY reserves the right to either (1) approve the attorney(s) which OWNER selects, hires or otherwise engages to defend CITY hereunder, which approval shall not be unreasonably withheld, or (2) conduct its own defense, provided, however, that OWNER shall reimburse CITY forthwith for any and all reasonable expenses incurred for such defense, including attorneys' fees, upon billing and accounting therefor.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement.

## 10. MORTGAGEE PROTECTION.

10.1 Mortgagee Protection. The parties hereto agree that this Agreement shall not prevent or limit OWNER, in any manner, at OWNER's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. CITY acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with OWNER and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. CITY will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the CITY in the manner specified herein for giving notices, shall be entitled to receive written notification from CITY of any default by OWNER in the performance of OWNER's obligations under this Agreement.

(c) If CITY timely receives a request from a Mortgagee requesting a copy of any notice of default given to OWNER under the terms of this Agreement, CITY shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to OWNER. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of OWNER's obligations or other affirmative covenants of OWNER hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by OWNER is a condition precedent to the performance of a covenant by CITY, the performance thereof shall continue to be a condition precedent to CITY's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 2.4 of this Agreement

(e) In the event of a default by Owner, any Mortgagee shall have the right to remedy, or cause to be remedied, such default within sixty (60) days following the later to occur of (i) the date of Mortgagee's receipt of the notice referred to in Section 10.1(b) above, or (ii) the expiration of the period provided herein for Owner to remedy or cure such default, and City shall accept such performance by or at the insistence of the Mortgagee as if the same had been timely made by Owner; provided, however, that (i) if such default is not capable of being cured within the timeframes set forth in this Section and Mortgagee commences to cure the default within such timeframes, then Mortgagee shall have such additional time as is required to cure the default so long as Mortgagee diligently prosecutes the cure to completion and (ii) if possession of the Property (or portion thereof) is required to effectuate such cure or remedy, the Mortgagee shall be deemed to have timely cured or remedied if it commences the proceedings necessary to obtain possession thereof within sixty (60) days after receipt of the copy of the notice, diligently pursues such proceedings to completion, and, after obtaining possession, diligently completes such cure or remedy.

## 11. MISCELLANEOUS PROVISIONS.

11.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the San Bernardino County Recorder by the City Clerk within the ten (10) days after the CITY executes this Agreement, as required by Section 65868.5 of the Government Code. If the parties to this Agreement or their successors in interest amend or cancel this Agreement as provided for herein and in Government Code

Section 65868, or if the CITY terminates or modifies the agreement as provided for herein and in Government Code Section 65865.1 for failure of the applicant to comply in good faith with the terms or conditions of this Agreement, the City Clerk shall have notice of such action recorded with the San Bernardino County Recorder.

11.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

11.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provision of the Public Benefits set forth in Section 4 of this Agreement, including the payment of the fees set forth therein, are essential elements of this Agreement and CITY would not have entered into this Agreement but for such provisions, and therefore in the event such provisions are determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

11.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

11.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

11.6 Singular and Plural. As used herein, the singular of any word includes the plural.

11.7 Joint and Several Obligations. Subject to Section 2.4, if at any time during the term of this Agreement the Property is owned, in whole or in part, by more than one owner, all obligations of such owners under this Agreement shall be joint and several, and the default of any such owner shall be the default of all such owners. Notwithstanding the foregoing, no owner of a single lot which has been finally subdivided and sold to such owner as a member of the general public or otherwise as an ultimate user shall have any obligation under this Agreement except as provided under Section 4 hereof.

11.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

11.9 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

11.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

11.11 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control, (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

11.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

11.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

11.14 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

11.15 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

11.16 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that



each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between CITY and OWNER is that of a government entity regulating the development of private property and the owner of such property.

11.17 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement. The City Manager may delegate his powers and duties under this Agreement to an Assistant City Manager or other management level employee of the CITY.

11.18 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by CITY of its power of eminent domain.

11.19 Agent for Service of Process. In the event OWNER is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer resident of the State of California, or it is a foreign corporation, then in any such event, OWNER shall file with the Planning Director, upon its execution of this Agreement, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon OWNER. If for any reason service of such process upon such agent is not feasible, then in such event OWNER may be personally served with such process out of this County and such service shall constitute valid service upon OWNER. OWNER is amenable to the process so served, submits to the jurisdiction of the Court so obtained and waives any and all objections and protests thereto.

11.20 Estoppel Certificate. Within thirty (30) business days following a written request by any of the parties, the other party shall execute and deliver to the requesting party a statement certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the Agreement, but it remains in full force and effect as modified; and (ii) either there are no known current uncured defaults under this Agreement or that the responding party alleges that specified (date and nature) defaults exist. The statement shall also provide any other reasonable information requested. The failure to timely deliver this statement shall constitute a conclusive presumption that this Agreement is in full force and effect without modification except as may be represented by the requesting party and that there are no uncured defaults in the performance of the requesting party, except as may be represented by the requesting party. OWNER shall pay to CITY all costs incurred by CITY in connection with

the issuance of estoppel certificates requested by Owner under this Section 11.20 prior to CITY's issuance of such certificates.

11.21 Authority to Execute. The person or persons executing this Agreement on behalf of OWNER warrants and represents that he or she/they have the authority to execute this Agreement on behalf of his or her/their corporation, partnership or business entity and warrants and represents that he or she/they has/have the authority to bind OWNER to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

**[SIGNATURES CONTAINED ON FOLLOWING PAGE]**

**SIGNATURE PAGE  
TO DEVELOPMENT AGREEMENT**

**“OWNER”**

Ontario CC, LLC.  
a Delaware limited liability company

By: CHI West 111 Ontario CC, L.P.,  
a Delaware limited partnership,  
its managing member

By: CHI Development GP, L.L.C.,  
a Delaware limited liability company,  
its general partner

By: \_\_\_\_\_  
Name: Philip J. Prassas  
Title: Vice President  
Date: \_\_\_\_\_

**“CITY”**

CITY OF ONTARIO

By: \_\_\_\_\_  
Scott Ochoa  
City Manager

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk, Ontario

**APPROVED AS TO FORM:**

COLE HUBER, LLP

\_\_\_\_\_  
City Attorney

**ACKNOWLEDGEMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_,  
*Date* *Insert Name and Title of the Officer*

personally appeared \_\_\_\_\_  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_  
*Signature of Notary Public*

*Place Notary Seal Above*

**ACKNOWLEDGEMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_,  
*Date* *Insert Name and Title of the Officer*

personally appeared \_\_\_\_\_  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_  
*Signature of Notary Public*

*Place Notary Seal Above*

**EXHIBIT "A"**  
**TO DEVELOPMENT AGREEMENT**

**Legal Description of Property**

Real property in the City of Chino, County of San Bernardino, State of California, described as follows:

THE SOUTHEASTERLY 1/4 OF THE NORTHEASTERLY 1/4 OF SECTION 12, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPT THEREFROM THE EAST 30 FEET AS CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED APRIL 16, 1943, IN BOOK 1578, PAGE 371, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM PARCEL NOS. 1, 2 AND 3 AS CONVEYED TO SOUTHERN SURPLUS REALTY CO., BY DEED RECORDED OCTOBER 10, 1973, IN BOOK 8284, PAGE 113, OFFICIAL RECORDS.

APN: 0218-171-21-0-000

Real property in the City of Ontario, County of San Bernardino, State of California, described as follows:

THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPT THEREFROM THE EAST 30 FEET CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED APRIL 16, 1943 IN BOOK 1578, PAGE 371, OFFICIAL RECORDS OF SAID COUNTY.

ALSO EXCEPT THE WEST 200 FEET CONVEYED TO THE SOUTHERN CALIFORNIA EDISON COMPANY BY DEED RECORDED JANUARY 19, 1967 IN BOOK 6759, PAGE 770, OFFICIAL RECORDS OF SAID COUNTY.

ALSO EXCEPT THAT PORTION CONVEYED TO THE CITY OF ONTARIO IN GRANT DEED RECORDED JANUARY 30, 2007 AS INSTRUMENT NO. 2007-0059195 OF OFFICIAL RECORDS, AS DESCRIBED THEREIN.

ALSO EXCEPT THOSE PORTIONS CONVEYED TO THE CITY OF ONTARIO  
IN GRANT DEED RECORDED JANUARY 18, 2008 AS INSTRUMENT NO.  
2008-0026278 OF OFFICIAL RECORDS, AS DESCRIBED THEREIN.

ALSO EXCEPT THAT PORTION CONVEYED TO CHINO BASIN DESALTER  
AUTHORITY IN GRANT DEED RECORDED MARCH 22, 2013 AS  
INSTRUMENT NO. 2013-0119363 OF OFFICIAL RECORDS, AS DESCRIBED  
THEREIN.

APN: 0218-171-27-0-000

**EXHIBIT "B"  
TO DEVELOPMENT AGREEMENT**

**Map showing Property and its location**





**EXHIBIT "C"**  
**TO DEVELOPMENT AGREEMENT**

**Existing Development Approvals**

On September 13, 2005, the Planning Commission:

- a) Issued Resolution No. 2005-081, recommending City Council adopt and certify the Edenglen Environmental Impact Report (SCH#2004051108); and
- b) Issued Resolution No. 2005-082, recommending City Council approval of the General Plan Amendment (PGPA03-005); and
- c) Issued Resolution No. 2005-083, recommending City Council approval of the Edenglen Specific Plan (PSP03-005).

On October 4, 2005, the City Council:

- a) Approved the General Plan Amendment and issued Resolution No. 2005-100; and
- b) Adopted and certified the Edenglen Environmental Impact Report and issued Resolution No. 2005-101; and
- c) Approved the Edenglen Specific Plan and held it over for a second reading on November 1, 2005.

On November 1, 2005, the City Council:

- a) Approved the Edenglen Specific Plan and issued Ordinance No. 2817.

On July 14, 2009, the Planning Commission:

- a) Issued Resolution No. PC09-020, recommending the City Council certify the Program EIR for The Ontario Plan (SCH#2008101140).
- b) Issued Resolution No. PC09-021, recommending the City Council approve the Component Framework for The Ontario Plan (File No. PGPA06-001).
- c) Issued Resolution No. PC09-22, recommending City Council approval of a comprehensive update to The Ontario General Plan (File No. PGPA06-001).

**EXHIBIT "C" Continued  
TO DEVELOPMENT AGREEMENT**

On January 27, 2010, the City Council:

- a) Issued Resolution Nos. 2010-003, 2010-004, 2010-005, 2010-006, certifying the EIR (SCH#2008101140) for The Ontario Plan and adoption of an addendum to The Ontario Plan (File No. PGPA06-001).

**EXHIBIT "D"**  
**TO DEVELOPMENT AGREEMENT**

**Existing Land Use Regulations**

These documents are listed for reference only:

1. 2005 General Plan Amendment No. 4, Resolution No. 2005-100
2. Edenglen Specific Plan (File No. PSP03-005)
3. Edenglen EIR (SCH#2004051108), Resolution No. 2005-101
4. Addendum to The Ontario Plan (File No. PGPA06-001)
5. The Ontario Plan EIR (SCH#2008101140)
6. City of Ontario Municipal Code
  - a. Six – Sanitation & Health
  - b. Seven – Public Works
  - c. Eight – Building Regulations
  - d. Nine – Development Code
  - e. Ten – Parks & Recreation

**EXHIBIT “E”  
TO THE DEVELOPMENT AGREEMENT**

**Description of Required Infrastructure Improvements**

**STORM DRAIN (SD)**

1. SD along Mill Creek Avenue from Chino Avenue to connect to the San Bernardino County Line Channel in Bellegrave Avenue.
2. SD along Hamner Avenue between Riverside Drive and Chino Avenue.

**STREETS (ST)**

1. Full half-width street improvements on the south side and circulation lane improvements on the north side of Riverside Drive along the Property frontage.
2. Full half-width street improvements on Hamner Avenue between Riverside Drive and Chino Avenue.
  - a. Parkway improvements are not required along the frontage of the SCE substation at the NWC of Hamner and Chino.
3. Modifications to an existing traffic signal at Riverside Drive and Hamner Avenue
4. Traffic Signal at Riverside Drive and Project Driveway.
5. Traffic Signal at Hamner Avenue and Project Driveway.

**WATER (Potable [PW] & Recycled [RW])**

1. 12-inch 1010PZ PW on Hamner Ave between Riverside Drive and Chino Avenue.
2. 12-inch 1010PZ PW on Chino Ave between Hamner Ave and westerly project boundary.
3. 8-inch 1050PZ RW on Riverside Drive between westerly Project limit and Hamner Avenue.
4. 8-inch 1050PZ RW on Hamner Ave between Riverside Drive and Chino Avenue.

**EXHIBIT “E” Continued  
TO THE DEVELOPMENT AGREEMENT**

5. 8-inch 1050PZ RW on Chino Ave between Hamner Avenue and Edenglen Avenue with stubs north to connect to existing RW in Edenglen Avenue north of Chino Ave.
6. Relocate portions or all of the City of Ontario pressure reducing station on Riverside Drive as needed to accommodate required street improvements. Redundant or replacement facilities may need to be constructed in order to keep the facility operational during relocation. Any and/or all the improvements, shall be designed, constructed, and completed to the satisfaction of the City Engineer.
7. Relocate portions or all of the Chino Desalter Authority desalination station on Riverside Drive as needed to accommodate required street improvements. Redundant or replacement facilities may need to be constructed in order to keep the facility operational during relocation, if required by the Chino Desalter Authority. Any and/or all the improvements, shall be designed, constructed, and completed to the satisfaction of the City Engineer and Chino Desalter Authority.

**SEWER (SW)**

1. SW off-site improvements in Mill Creek Avenue and Chino Avenue, as identified in the Sewer Master Plan and the Edenglen Specific Plan.

**FIBER OPTIC COMMUNICATIONS (FO)**

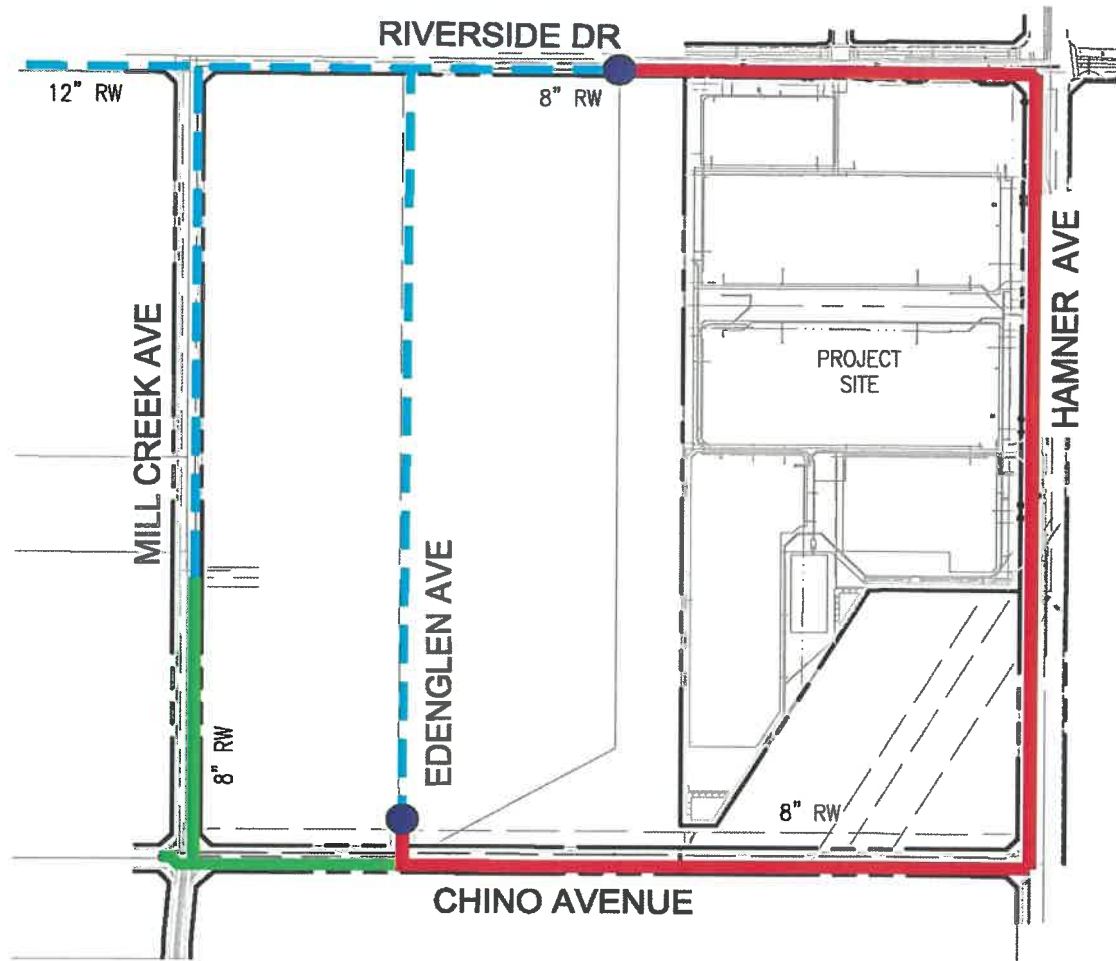
1. FO in Riverside Drive between along the Property frontage.
2. FO on Hamner between Riverside Drive and Chino Avenue.

**EXHIBIT “F”**

**Depiction of required Infrastructure Improvements**

**[SEE ATTACHMENTS]**

EXHIBIT F-1  
RECYCLED WATER IMPROVEMENTS



**LEGEND:**

- EXISTING RECYCLED WATER (CITY OF ONTARIO)
- NEW RECYCLED WATER (REQUIRED AND TO BE CONSTRUCTED BY PROJECT)
- FUTURE RECYCLED WATER (CITY OF ONTARIO)
- POINT OF CONNECTION

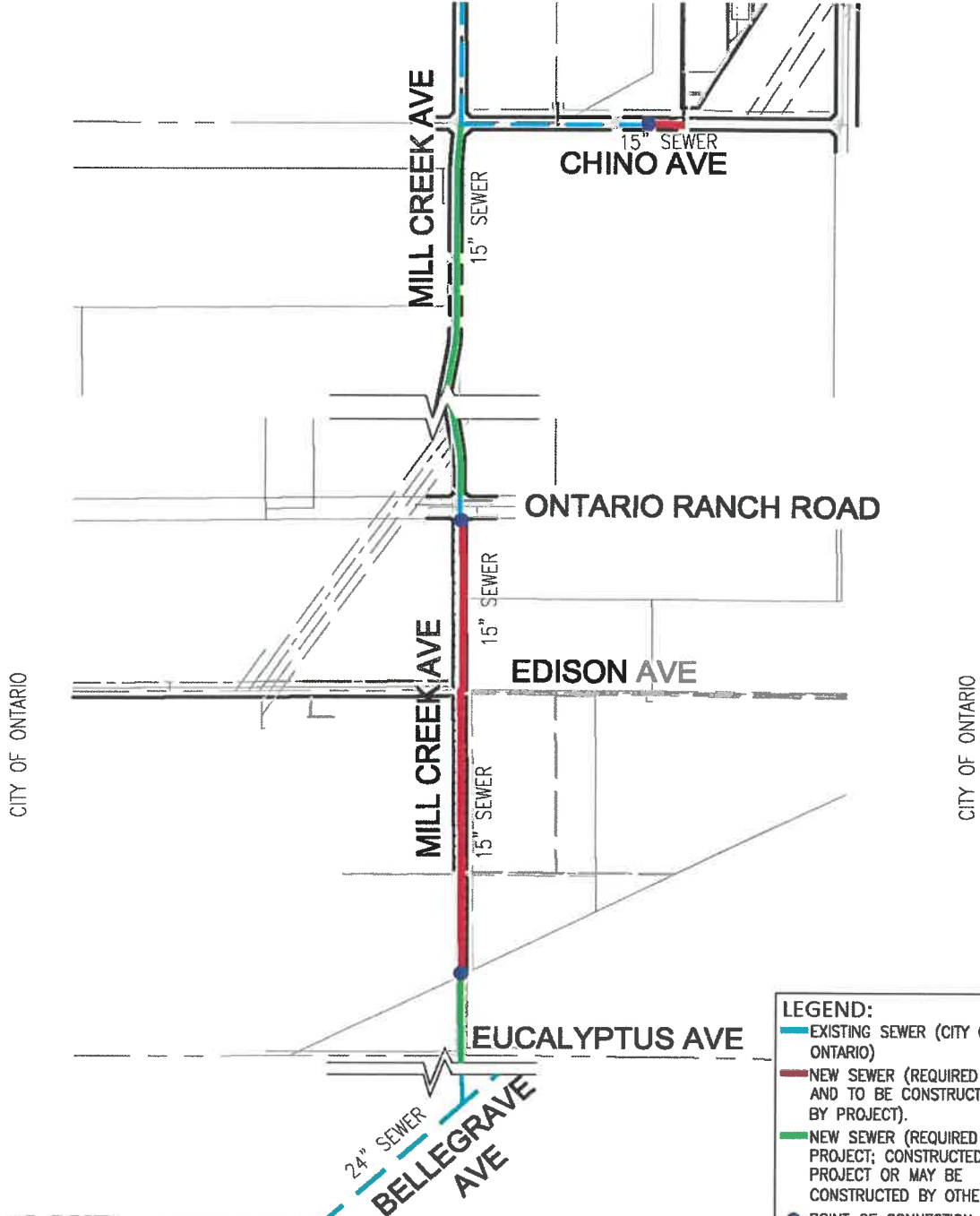
**WestLAND Group, Inc.**  
 4150 CONCOURS, ONTARIO, CA 91764  
 PHONE: (909) 989-9789 FAX: (909) 989-9660  
 Land Surveyors • Civil Engineers • GIS

⊕ N.T.S.

• Development Agreement • Parcel 20027

DATE: 07/08/2020

EXHIBIT F-2  
SEWER IMPROVEMENTS



**WestLAND**  
Group, Inc.

4150 CONCOURS, ONTARIO, CA 91764  
PHONE: (909) 989-9789 FAX: (909) 989-9660  
Land Surveyors • Civil Engineers • GIS

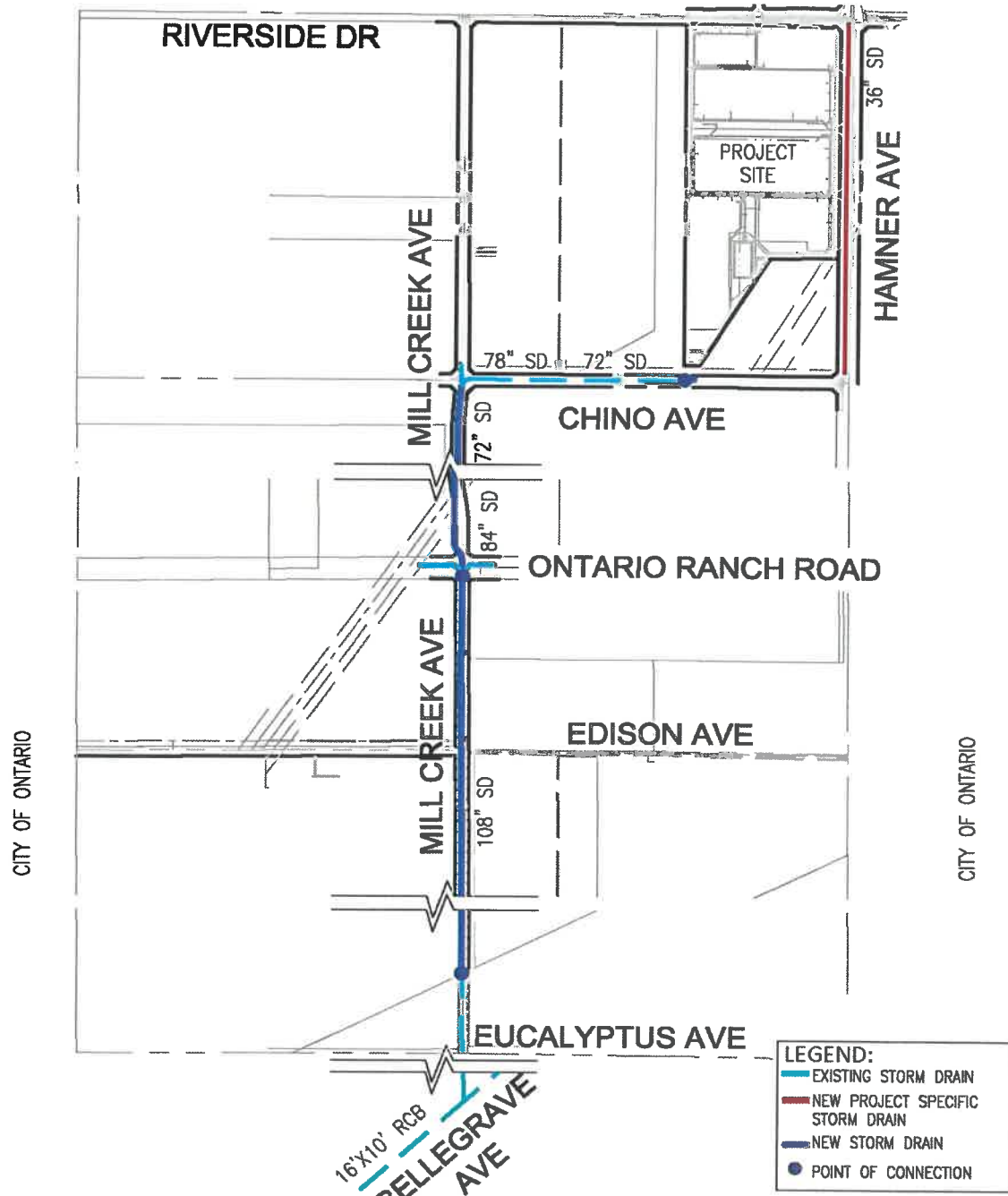
⊕ N.T.S.

• Development Agreement • Parcel 20027

DATE: 07/08/2020



EXHIBIT F-3  
STORM DRAIN IMPROVEMENTS



**WestLAND**  
Group, Inc.

4150 CONCOURS, ONTARIO, CA 91764  
PHONE: (909) 989-9789 FAX: (909) 989-9660  
Land Surveyors • Civil Engineers • GIS

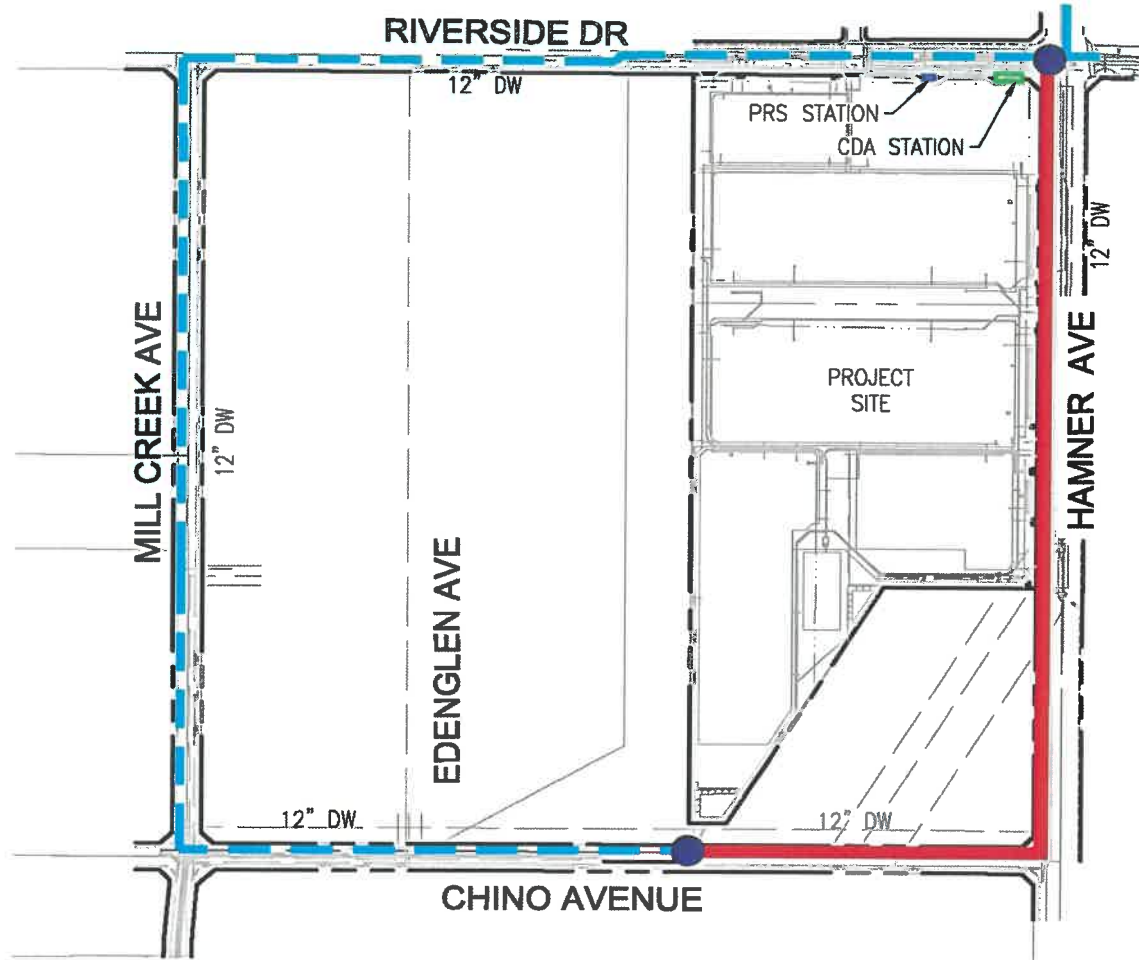
⊕ N.T.S.

• Development Agreement • Parcel 20027

**LEGEND:**  
 — EXISTING STORM DRAIN  
 — NEW PROJECT SPECIFIC STORM DRAIN  
 — NEW STORM DRAIN  
 ● POINT OF CONNECTION

DATE: 06/30/2020

EXHIBIT F-4  
POTABLE WATER IMPROVEMENTS



**LEGEND:**

- EXISTING DOMESTIC WATER (CITY OF ONTARIO)
- NEW PROJECT SPECIFIC DOMESTIC WATER (CITY OF ONTARIO)
- POINT OF CONNECTION
- RELOCATE PRESSURE REDUCING STATION AS NECESSARY (CITY OF ONTARIO)
- RELOCATE DESALTER AS NECESSARY (CHINO BASIN DESALTER AUTHORITY)

**WestLAND**  
Group, Inc.

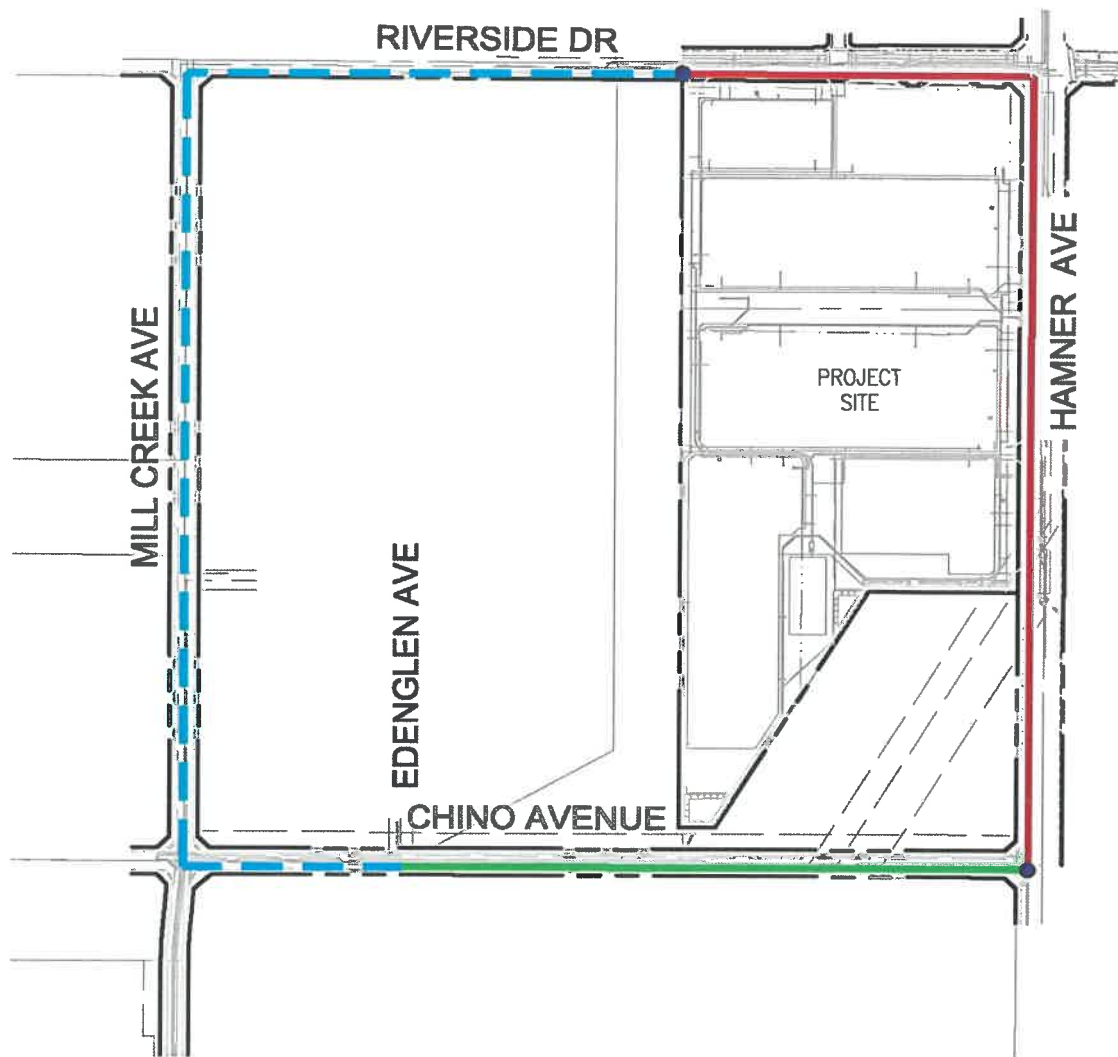
4150 CONCOURS, ONTARIO, CA 91764  
PHONE: (909) 989-8789 FAX: (909) 989-8660  
Land Surveyors • Civil Engineers • GIS

⊕ N.T.S.

• Development Agreement • Parcel 20027

DATE: 07/22/2020

EXHIBIT F-5  
FIBER OPTIC COMMUNICATIONS



**LEGEND:**

- NEW PRIMARY RING FIBER OPTIC (CITY OF ONTARIO)
- POINT OF CONNECTION
- FUTURE FIBER OPTIC (CITY OF ONTARIO)
- - - EXISTING FIBER OPTIC (CITY OF ONTARIO)

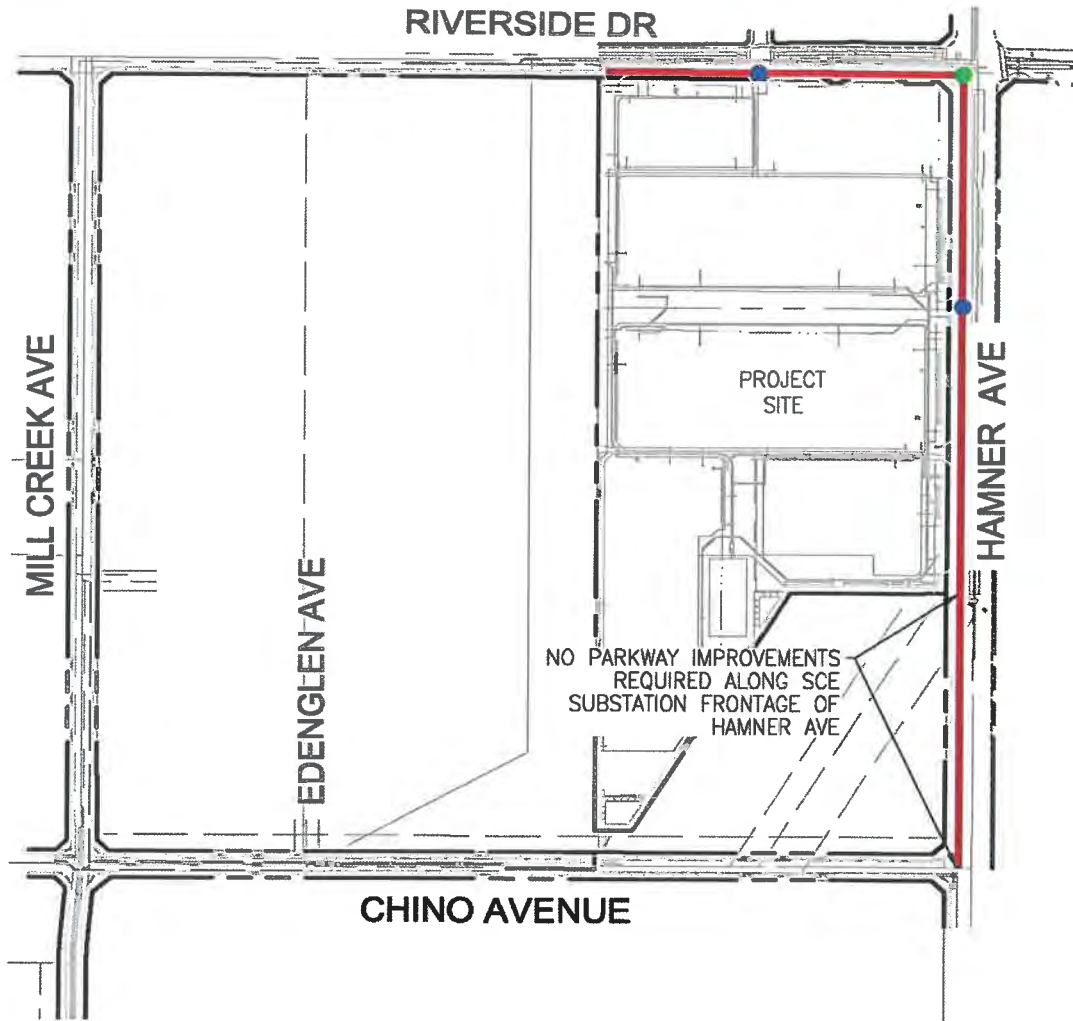
N.T.S.

**WestLAND Group, Inc.**  
 4150 CONCOURS, ONTARIO, CA 91764  
 PHONE: (909) 989-9789 FAX: (909) 989-9660  
 Land Surveyors • Civil Engineers • GIS

• Development Agreement • Parcel 20027

DATE: 07/02/2020

EXHIBIT F-6  
STREET IMPROVEMENTS



**LEGEND:**

- NEW STREET WIDENING (CITY OF ONTARIO)
- PROPOSED TRAFFIC SIGNAL
- EXISTING TRAFFIC SIGNAL TO BE MODIFIED

**WestLAND Group, Inc.**  
 4150 CONCOURS, ONTARIO, CA 91764  
 PHONE: (909) 889-9789 FAX: (909) 888-8860  
 Land Surveyors • Civil Engineers • GIS

N.T.S.

• Development Agreement • Parcel 20027

DATE: 07/10/2020

**EXHIBIT "G"**

**FORM OF CERTIFICATE OF NET MDD AVAILABILITY**

Pursuant to Section 4.5 of this Agreement between the City of Ontario, a California municipal corporation, and Ontario CC, LLC, a limited liability company, hereinafter called "OWNER", the terms and definitions of which are hereby incorporated herein by this reference and hereinafter called "Agreement", the City of Ontario hereby certifies based on CITY receipt of payment of OWNER's share of the funding for the Phase 2 Water Improvements, that OWNER is entitled to the following Net MDD Water Availability.

Amount of Net MDD \_\_\_\_\_ gpm

\_\_\_\_\_  
Scott Ochoa, City Manager

Dated: \_\_\_\_\_

**Exhibit "H"**

**FORM OF CERTIFICATE OF REGIONAL DIF CREDIT**

Pursuant to Section 4.5.2 of this Agreement by and between the City of Ontario and Ontario CC, LLC, dated \_\_\_\_\_, 20\_\_, the terms and definitions of which are hereby incorporated herein by this reference and hereinafter called the "Development Agreement", the City of Ontario hereby certifies that OWNER is entitled to the following amount and nature of DIF Credits in the Regional Water DIF Infrastructure Category:

Amount of Credit: \$ \_\_\_\_\_

\_\_\_\_\_  
Scott Ochoa, City Manager

Dated: \_\_\_\_\_

**Exhibit "I-1"**

**ONTARIO RANCH  
WATER SUPPLY PHASING PLAN**

<u>Phase 2</u>	<u>Water Availability Equivalency</u>	<u>Estimated Net MDD Available<sup>1</sup></u>
<b><u>Phase 2 A</u></b>		
<b><u>Supply &amp; Storage</u></b>		
1. 1 - Additional Ground Water Well and Collection lines - Design and Construction	8,250 gpm <sup>2</sup>	<b>7,750 gpm<sup>2</sup></b>
<b><u>Pipelines (Transmission &amp; Distribution)<sup>2</sup></u></b>		
2. 925 Zone Transmission lines – Design and Construction		
3. Temporary Pressure Reducing Station <sup>3</sup> – Design and Construction		
<b><u>Phase 2B</u></b>		
<b><u>Supply &amp; Storage</u></b>		
4. 1 – Additional Ground Water Well and Collection lines – Design and Construction	10,500 gpm <sup>2</sup>	<b>9,860 gpm<sup>2</sup></b>
5. 1 – 6 million gallon Reservoir – 925 Zone – Design and Construction		

(1) Upon Completion of the construction of all of the improvements described for each Phase a Certificate of Net MDD Availability shall be issued to Developer for the corresponding amount of Net MDD. Net MDD means the maximum daily demand on the potable water supply, net of the water requirements for public schools and parks. The Water Availability Equivalency includes the estimated requirements for public schools and parks. The amount of Net MDD specified is the cumulative amount for which building permits may be issued upon funding of the corresponding and all preceding Phases of improvements.

(2) The ability of a particular development to utilize Net MDD assigned to it by the Developer will require the completion of design and construction of Master-planned potable and recycled water transmission and distribution pipelines for the respective pressure zone. Other factors may include its location, the particular land use and Water Availability Equivalents assigned to it as specified in Exhibit C-2.

(3) Pressure reducing stations are a component of the pipeline transmission and distribution system.

## EXHIBIT "I-2"

**Available Water Supply - See Exhibit C-1R for Net MDD Available**

**Table A - Water Demand Equivalents By Land Use**

The Ontario Plan  Land Use	Potable Water			Recycled Water	
	Water Demand Factor (ADD)		Water Demand Equivalents (WDE) <sup>2</sup>	Recycled Water Demand Factor <sup>1</sup> (ADD)	Recycled Water Demand Of Total Water Demand
	(gpd/du)	(gpd/ac)	(gpm/unit)	(gpd/ac)	(%)
Detached Dwellings (less than 5 units per acre)	544		0.57	900	28%
Detached or Attached Dwellings (between 5 and 11 units per acre)	464		0.48	1,000	21%
Attached Dwellings (between 11 and 25 units per acre)	323		0.34	1,500	18%
High Density Dwellings (25+ units per acre)	152		0.16	1,500	27%
Commercial Lodging	150		0.16	1,700	50%
Retail/Services Uses		2,200	2.29	2,300	51%
Office Uses		3,400	3.54	2,300	40%
Business Park Uses		2,200	2.29	2,200	50%
Industrial Uses		2,000	2.08	2,200	52%
Institutional Use		2,200	2.29	1,600	42%
Parks		1,000	1.04	1,400	58%
Schools		3,500	3.65	1,600	31%

<sup>1</sup>Recycled Water Demands include irrigation for right-of-way (medians and parkways), neighborhood edge, pocket parks, and common areas.

<sup>2</sup> The WDE is based on the Maximum Day Demand (MDD) with a peaking factor of 1.5 in the NMC for all land use categories.

**Table B - Example Water Supply Calculation**

Land Use	Acres <sup>1</sup> (gross)	Residential Units	WDE Factor (gpm)	Potable MDD (gpm)	Recycled Water ADD (gpm)
<b>Development</b>					
Detached Dwellings (less than 5 units per acre)	1,284	5,061	0.57	2,868	803
Detached or Attached Dwellings (between 5 and 11 units per acre)	369	2,530	0.48	1,223	256
Attached Dwellings (between 11 and 25 units per acre)	194	3,410	0.34	1,147	202
Retail/Services Uses (per acre) <sup>2</sup>	104		2.29	239	166
<b>TOTAL</b>	<b>1,950</b>	<b>11,001</b>		<b>5,477</b>	<b>1,428</b>

Three (3) Wells Are required to Support this example, assuming each well produces 2,000 gpm and connection to the Recycled Water System maximizing Recycled Water Use.

<sup>1</sup> Residential Acres are estimated based on the weighted average derived from the average number of units per land use category.

<sup>2</sup> Commercial acreage is calculated from a total square footage of 1,361,000 SF with an average Floor to Area Ratio (FAR) of 0.30 for commercial services in The Ontario Plan.



Exhibit "J"

**FORM OF PLUME DISCLOSURE LETTER**

CITY OF



ONTARIO

ONTARIO MUNICIPAL UTILITIES COMPANY

PAUL S. LEON  
MAYOR

DEBRA DORST-PORADA  
MAYOR PRO TEM

ALAN D. WAPNER  
JIM W. BOWMAN  
RUBEN VALENCIA  
COUNCIL MEMBERS

March 2017

AL C. BOLING  
CITY MANAGER

SHEILA MAUTZ  
CITY CLERK

JAMES R. MILHISER  
TREASURER

SCOTT BURTON  
UTILITIES GENERAL MANAGER

**DISCLOSURE NOTICE  
SOUTH ARCHIBALD TRICHLOROETHYLENE PLUME**

Dear Property Owner/Developer/Applicant:

The City of Ontario ("City") has approved or will be approving development in the Ontario Ranch area in the next few years, subject to the appropriate and required statutory process. This letter is intended to serve as notice to all potential property owners of the existence of a groundwater plume, known as the South Archibald Trichloroethylene (TCE) Plume which may exist in, under or near owner's property.

The groundwater plume is in an area in the central Chino Basin south of the Pomona Freeway, west of Turner Avenue, east of Grove Avenue, and north of Kimball Avenue. The plume primarily consists of TCE, a discontinued industrial solvent, and is subject to a clean-up under the oversight and direction of the Santa Ana Regional Water Quality Control Board ("Regional Board").

The Regional Board's approved clean-up procedure involves the removal and treatment of groundwater containing TCE via groundwater wells to reduce the plume concentrations and control its migration. In addition, the City is providing potable water supplies for domestic purposes to residences with private domestic wells affected by the plume. Finally, the Regional Board will continue to monitor all impacted areas and private domestic wells to ensure that residents' health and the environment are properly safeguarded. These remedial actions are documented in a Remedial Action Plan approved by the Regional Board in September 2016.

Further and current information may be found on the Regional Board's Geotracker website at [https://geotracker.waterboards.ca.gov/profile\\_report?global\\_id=T10000004658](https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000004658).

Property owners may wish to include this letter as a part of a Real Estate Transfer Disclosure under California Civil Code Section 1102 *et seq.*

1425 SOUTH BON VIEW - ONTARIO, CALIFORNIA 91761-4406 - (909) 395-2605 - FAX (909) 395-2601

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

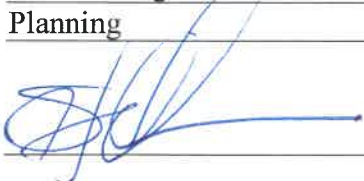
SECTION:  
PUBLIC HEARINGS

**SUBJECT: A PUBLIC HEARING TO CONSIDER CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT (SCH#2019050018), INCLUDING THE ADOPTION OF A MITIGATION MONITORING AND REPORTING PROGRAM AND A STATEMENT OF OVERRIDING CONSIDERATIONS, FOR THE FOLLOWING: 1) A GENERAL PLAN AMENDMENT (FILE NO. PGPA18-008) TO MODIFY THE LAND USE PLAN (EXHIBIT LU-01) OF THE POLICY PLAN (GENERAL PLAN) OF THE ONTARIO PLAN TO CHANGE THE LAND USE DESIGNATIONS FOR 85.6 ACRES OF LAND FROM GENERAL COMMERCIAL, OFFICE COMMERCIAL, AND LOW-MEDIUM DENSITY RESIDENTIAL (5.1-11 DWELLING UNITS PER ACRE) TO BUSINESS PARK AND GENERAL INDUSTRIAL, AND MODIFY THE FUTURE BUILDOUT TABLE (EXHIBIT LU-03) TO BE CONSISTENT WITH THE LAND USE DESIGNATION CHANGES; AND 2) A SPECIFIC PLAN (FILE NO. PSP18-002 - ONTARIO RANCH BUSINESS PARK) TO ESTABLISH THE LAND USE DISTRICTS, DEVELOPMENT STANDARDS, DESIGN GUIDELINES, AND INFRASTRUCTURE IMPROVEMENTS FOR THE POTENTIAL DEVELOPMENT OF UP TO 1,905,027 SQUARE FEET OF GENERAL INDUSTRIAL AND BUSINESS PARK LAND USES ON 85.6 ACRES OF LAND. THE PROJECT SITE IS BORDERED BY EUCALYPTUS AVENUE ON THE NORTH, MERRILL AVENUE ON THE SOUTH, SULTANA AVENUE ON THE EAST, AND EUCLID AVENUE ON THE WEST (APNS: 1054-011-01, 1054-011-02, 1054-011-04; 1054-021-01, 1054-021-02; 1054-271-01, 1054-271-02, 1054-271-03, 1054-281-01, 1054-281-02, and 1054-281-03**

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

- (A) Consider and adopt a resolution certifying the Environmental Impact Report (SCH#2019050018) prepared for Ontario Ranch Business Park Specific Plan, File No. PSP18-002, which includes the

**STAFF MEMBER PRESENTING:** Scott Murphy, AICP, Executive Director Development Agency

Prepared by: Alexis Vaughn  
Department: Planning  
City Manager Approval: 

Submitted to Council/O.H.A. 09/15/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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adoption of a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan;

- (B) Consider and adopt a resolution approving a General Plan Amendment (File No. PGPA18-008) to modify the Land Use Element of The Ontario Plan (General Plan) to change the land use designations shown on the Land Use Plan Map (Exhibit LU-1) for 85.6 acres of land from General Commercial, Office Commercial, and Low-Medium Density Residential (5.1-11 dwelling units per acre) to Business Park and General Industrial and modify the Future Buildout Table (Exhibit LU-03) to be consistent with the land use designation changes; and
- (C) Introduce and waive further reading of an ordinance approving the Ontario Ranch Business Park Specific Plan (File No. PSP18-002).

**COUNCIL GOALS: 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 Ontario Ranch**

**FISCAL IMPACT:** Adoption of the Ontario Ranch Business Park Specific Plan would result in both short and long-term fiscal impacts to the City. Short-term impacts include infrastructure improvements to serve the new Business Park and Industrial development. The cost of these improvements is included in the Nexus Study and Development Impact Fees previously adopted by the City Council. The developer will be required to install improvements or pay the Development Impact Fees (“DIF”) associated with the various improvements. Long-term fiscal impacts include the ongoing operations and maintenance services (police, fire, maintenance, etc.) necessary to serve the new development. While the development will result in increased property tax revenue, the increase is not sufficient to cover the cost of services associated with the project. To address this shortfall, the developer will be required to form and/or join a Community Facilities District (“CFD”) to cover the additional public service costs. No Original Model Colony dollars will be used to fund this Ontario Ranch development.

**BACKGROUND:** The Ontario Plan (TOP) Policy Plan (General Plan) provides the basic framework for development within the 8,200-acre area commonly referred to as Ontario Ranch. The Policy Plan requires City Council approval of a Specific Plan for new developments within Ontario Ranch. A Specific Plan is required to ensure that sufficient land area is included to achieve cohesive, unified districts and neighborhoods. Additionally, a Specific Plan is required to incorporate a development framework for detailed land use, circulation, infrastructure improvements (such as drainage, sewer, and water facilities), provision for public services, and urban design and landscape standards.

**GENERAL PLAN AMENDMENT:** The Ontario Ranch Business Park Specific Plan serves to implement the City's Policy Plan for the project site and provides zoning regulations for development of the project site by establishing permitted land use, development standards, infrastructure requirements, and implementation requirements for the development of 85.6 acres within the Specific Plan boundaries. In order to implement the Specific Plan land use plan (Exhibit C: Land Use Plan), the project includes a General Plan Amendment (GPA) to eliminate the General Commercial, Office Commercial, and Low-Medium Density Residential land use designations and convert them to Business Park and General Industrial designations. The General Plan Amendment will facilitate the potential development of up to 1,905,027 square feet of Industrial and Business Park development. The amendment includes changes to The Ontario Plan – Policy Plan Exhibit: LU-01 Official Land Use Plan (Exhibit A: General Plan Land

Use Plan Amendment) and Exhibit: LU-03 Future Buildout to reflect the proposed land use designation changes (Exhibit B - Amended LU-03: Future Buildout Table).

The General Plan Amendment will provide for a larger developable Industrial area, consistent with the current Industrial market demands, while maintaining a Business Park buffer, along the Eucalyptus Avenue frontage between the future Mixed-Use Area 10: NMC West land use designation to the north, and a Business Park buffer along the portion of Euclid that is currently developed with residential land uses to the west, within the City of Chino. The Business Park development is intended to accommodate less intense Industrial, commercial and office uses that will assist in transitioning to existing and future residential developments. The larger Industrial area will allow for development consistent with the Industrial uses east of the Specific Plan within the recently approved West Ontario Commerce Center Specific Plan, Colony Commerce Center West Specific Plan, the City of Chino, and the proposed South Ontario Logistics Center Specific Plan.

**ONTARIO RANCH BUSINESS PARK SPECIFIC PLAN:** The Ontario Ranch Business Park Specific Plan establishes a comprehensive set of design guidelines and development regulations to guide and regulate site planning, landscape, and architectural character, and ensuring that excellence in community design is achieved during project development. The Ontario Ranch Business Park Specific Plan establishes the procedures and requirements to approve new development within the project site to ensure that TOP Policy Plan goals and policies are achieved.

Land Use Plan — The Ontario Ranch Business Park Specific Plan consists of two Planning Areas that will accommodate a variety of commercial, office, technology, light manufacturing, and warehouse/distribution uses. The Land Use Plan implements the vision of TOP by providing opportunities for employment in manufacturing, distribution, research and development, service, and supporting retail at intensities designed to meet the demand of current and future market conditions.

The Specific Plan identifies the land use intensity anticipated in two proposed planning areas (Exhibit C: Land Use Plan). The Specific Plan is proposing a maximum 0.45 Floor Area Ratio (FAR) within the Business Park land use designation (Planning Area 1) and 0.54 FAR within the General Industrial land use designation (Planning Area 2). The proposed FARs for each of the Planning Areas are consistent with the Policy Plan Land Use designations for Business Park and Industrial. The project, as currently proposed, was analyzed at a slightly lower FAR for both land use designations than allowed by the Policy Plan.

The Specific Plan proposes the potential development of up to 1,905,027 square feet of Industrial and Business Park development. Planning area 1, located along the northern portion of the Specific Plan area, is 23.8 acres in size and can potentially be developed with 457,905 square feet of Business Park development. In addition, buildings within the Business Park land use area that front onto a public right-of-way shall not exceed a building footprint of 125,000 square feet. Planning Area 2, located along the southern portion of the Specific Plan, is 61.8 acres in size and can potentially be developed with 1,447,123 square feet of Industrial development (Exhibit D: Land Use Summary Table).

Design Guidelines — The design theme and concept for the Ontario Ranch Business Park Specific Plan was created to ensure a high-quality, attractive, and cohesive design structure for the Specific Plan that meet the following objectives:

1. Demonstrates high-quality development that complements and integrates into the community and adds value to the City.
2. Creates a functional and sustainable place that ensures Ontario Ranch Business Park is competitive regionally and appropriate in the Ontario Ranch community.
3. Illustrates the distinctive characteristics of the two land use plan zoning districts: Business Park District (Planning Area 1) and Industrial – General District (Planning Area 2).
4. Establishes criteria for building design and materials, landscape design, and site design that provide guidance to developers, builders, architects, landscape architects, and other professionals preparing plans for construction.
5. Provides guidance to City staff and the Planning Commission in the review and evaluation of future development projects in the Ontario Ranch Business Park Specific Plan area.
6. Incorporates construction and landscape design standards that promote energy and water conservation strategies.
7. Implements the goals and policies of The Ontario Plan and the intent of the Ontario Development Code.

The Design Guidelines have been established to promote high-quality architecture as required by the Ontario Development Code and TOP. The proposed architectural theme of the Specific Plan incorporates a Contemporary Architectural style and the two planning areas will be required to be designed to be compatible with and complement one another. The design guidelines of the Specific Plan will require all buildings to provide a recognizable base, body, roofline and entry. The Specific Plan provides examples of the type of Industrial and Business Park concepts that are envisioned to be constructed within the Specific Plan.

All buildings will be required to be designed to highlight the primary entryways by incorporating special materials, visual relief, massing, and shading. Additionally, the facades that front onto a public street will incorporate vertical and horizontal articulation and material changes that will assist in enhancing these elevations and providing visual interest from the public view.

Circulation Concept — The circulation plan for the Specific Plan reinforces the objective of moving vehicles, pedestrians, cyclists, and public transit safely and efficiently through and around the project. The Specific Plan establishes the hierarchy and general location of roadways within the Ontario Ranch Business Park Specific Plan. Traffic signals will be constructed or modified at the following four major intersections:

1. Euclid Avenue and Eucalyptus Avenue;
2. Sultana Avenue and Eucalyptus Avenue;
3. Sultana Avenue and Merrill Avenue; and
4. Euclid Avenue and Merrill Avenue.

Additionally, primary access into the Business Park development will be provided along Eucalyptus Avenue to the north and Euclid Avenue to the west. Primary access into the Industrial development will be provided along Merrill Avenue to the south and Sultana Avenue to the east.

Landscape Design — The landscape design theme for the Ontario Ranch Business Park Specific Plan encourages landscape materials and designs that enhance the aesthetics of the structure, create and define public and private spaces, and provide shade and environmental benefits. Table 5.1 of the Ontario Ranch Business Park Specific Plan identifies the plant material and trees to be used within parking lots, along street parkways, within sign monument areas, and adjacent to buildings. Additionally, the Specific Plan establishes the overall landscape coverage for the project and the landscape setbacks along the perimeter streets and interior property lines.

Infrastructure and Services — The backbone infrastructure to serve all areas of the Specific Plan will be installed by the developers in accordance with the Ontario Ranch (New Model Colony) Master Plans for streets, water (including recycled water), sewer, storm drain, and fiber optic facilities. Natural gas will be provided by The Gas Company and electricity by SCE. Development of the project requires the installation by the developer of all infrastructure necessary to serve the project as a standalone development, with phasing and ultimate details to be reviewed and approved via a Development Agreement with the project site's final map.

Specific Plan Phasing — Development phasing within the Specific Plan will be determined by the developers, based upon the real estate market conditions. The Specific Plan outlines development phase one as Planning Area 2, and development phase two as Planning Area 1 (Figure 5: Conceptual Site Plan). The phases may be developed as sub-phases and may occur either sequentially or concurrently with one another. Specific infrastructure, community facilities, and open space dedications will be provided/conditioned with future individual tract map(s) and/or development plan(s) that will be presented to the Planning Commission at a future date.

**COMPLIANCE WITH THE ONTARIO PLAN:** The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of TOP.

California Government Code (Title 7, Division 1, Chapter 3, Article 8, Section 65450-65457) permits the adoption and administration of specific plans as an implementation tool for elements contained in the local general plan. Specific plans must demonstrate consistency in regulations, guidelines, and programs with the goals and policies set forth in the general plan. The Ontario Ranch Business Park Specific Plan has been prepared in conformance with the goals and policies of the City of Ontario Policy Plan (General Plan). The policy analysis in Chapter 7.0 "General Plan Consistency" of the Specific Plan describes the manner in which the Ontario Ranch Business Park Specific Plan complies with the Policy Plan goals and policies.

**HOUSING ELEMENT COMPLIANCE:** The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

Senate Bill 330 – Housing Accountability Act (Govt. Code § 65589.5 et seq.) (SB 330) was passed by the California Legislature, signed by the Governor and became effective on January 1, 2020. The bill is the result of the Legislature’s extensive findings regarding the California “housing supply crisis” with “housing demand far outstripping supply.”

SB 330 amends Govt. Code Sections 65589.5, adds Govt. Code Sections 65940, 65943 and 65950, and repeals and readopts Sections 65906.5, 65913.10 and 65941.1. To summarize, no city may disapprove a residential housing development project for low- to moderate-income households (as defined therein) unless it makes a finding that the housing development project “would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households...” such as where the housing development project is proposed on land “which does not have adequate water or wastewater facilities to serve the project.” (Govt. Code § 65589.5(d)(2), (4)).

In addition, the legislation adds Chapter 12 to Division 1 of Title 7 of the Government Code (Section 66300 et seq.) that applies to “affected cities,” which are identified as cities in urbanized areas as determined by the most recent census. In accordance with SB 330, the Department of Community Development and Housing (“HCD”) has prepared a list of affected cities and has determined that Ontario is an “affected city.” Therefore, pursuant to Government Code section 66300(b)(1)(A) and (b):

*(b) (1) Notwithstanding any other law except as provided in subdivision (i), with respect to land where housing is an allowable use, an \ affected city shall not enact a development policy, standard, or condition that would have any of the following effects:*

*(A) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018...”*

except when approved by HCD or when the following exception is set out in Govt. Code § 66300(i)(1) applies:

*(i) (1) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.*

As discussed in Section 2 of this staff report, the General Plan Amendment (GPA) is proposed to change the site’s land use designations from General Commercial, Office Commercial and Low-Medium Density Residential to approximately 23.8 acres of Business Park and 61.8 acres of Industrial. The General Plan Amendment will allow development of up to 236,000 square feet of Business Park and 1,669,027 square feet of Industrial, for a maximum development of 1,905,027 square feet. The GPA would eliminate the low-moderate density housing designation, thereby theoretically eliminating 159 units (as determined by the City’s density determinations to be 8.5 dwelling units per acre [du/ac.]). In compliance with SB330, the EIR evaluated the elimination of 159 units and determined that based on SB 330 exceptions for lack of water and sewer to serve a residential project and the no net loss of residential capacity, the project is consistent with HCD exception findings. The proposed project site

does not have sufficient water or wastewater facilities to serve a residential project. As explained in Section 3.4.1.2, of the DEIR, at present there is no water or sewer infrastructure that could serve residential units because the land has been used for agricultural purposes with water provided by on-site wells and sewer provided by septic systems. The total estimated cost of the proposed water and sewer infrastructure is \$13.1 million and \$9.4 million, respectively (Murow 2020; Appendix N of this DEIR). This cost would be financially infeasible for the 159 units presently allowed under the current residential General Plan designation and, therefore, the cost of such improvements would make residential development on the site financially infeasible (see Govt. Code § 66589.5(d)(2) cited above).

To address the removal of 159 low-moderate residential units at a density of 8.5 dwelling units per acre and demonstrate a “no net loss”, the project is in compliance with provisions of Section 66300(i)(1) have been met and there is no net loss of residential capacity. On December 17, 2019, the City Council approved an Amendment to the Meredith International Centre Specific Plan (File No. PSPA19-002) to establish a Mixed-Use Overlay district on 22.39 acres of land within a portion of Planning Area 2 (Urban Commercial) land use district, located at the southeast corner of Vineyard Avenue and Inland Empire Boulevard. The Meredith International Centre Specific Plan is listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The Specific Plan allowed 800 dwelling units at a density of 37 dwelling units per acre, which have all been constructed. The Specific Plan amendment approved in December 2019 provides for an additional 925 residential units at a density of 41 dwelling units per acre, which will add 925 units to the Available Land Inventory Table. The Addendum to the Meredith International Centre Specific Plan Amendment Environmental Impact Report (SCH# 2014051020) approved on December 17, 2019, supports that change in the Specific Plan that results in 925 additional residential units within the City. On March 30, 2020, the City Council approved a General Plan Amendment to TOP Policy Plan Future Buildout Table (Exhibit LU-03) to reflect the addition of 975 residential units, assumed density and intensity for the Mixed-Use/Meredith section of the Buildout Table. The loss of 159 units under the current Policy Plan designation will be directly offset by the addition of 925 units, resulting in a no net loss of residential units.

**AIRPORT LAND USE COMPATIBILITY:** The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT. The project site is located within the Chino Airport’s airport influence area (AIA) but outside the Chino Airport zoning overlay. Land use compatibility assessments are part of the Chino Airport Master Plan. The project site is within Safety Zone 6, Traffic Pattern Zone of the Chino Airport Overlay (Generic Safety Zones for General Aviation Airports from the Caltrans Division of Aeronautics – California Airport Land Use Planning Handbook). Zone 6 compatibility criteria prohibit people intensive uses such as stadiums, large day care centers, hospitals, and nursing homes. In the San Bernardino County Chino Airport Comprehensive Land Use Plan, the site is within Safety Zone III, Traffic Pattern/Overflight Zone. Light industrial and manufacturing uses are acceptable within this zone, provided they do not generate any visual, electronic or physical hazards to aircraft (Vidal 1991). The Airport Land Use Compatibility Plan (ALUCP) for Chino Airport completed by the County of Riverside in 2008 provides additional guidance for development around Chino Airport. The project site is not within an existing or current airport noise hazard zone and is in Zone D as designated in the ALUCP (Mead and Hunt 2004a).

**ENVIRONMENTAL REVIEW:** The Specific Plan is located within the City of Ontario in what was formally the approximate 8,200-acre City of Ontario Sphere of Influence (SOI). On January 7, 1998, the



City of Ontario adopted the New Model Colony (NMC) General Plan Amendment (GPA) setting forth a comprehensive strategy for the future development of the SOI. The NMC is bound by Riverside Drive to the north, Milliken/Hamner Avenue to the east, Euclid Avenue to the West and Merrell Avenue/Bellgrave to the south.

On January 27, 2010, the city adopted TOP and certified the accompanying EIR. TOP serves as the City's new General Plan for the entire City, including the NMC (now referred to as Ontario Ranch). TOP identified many areas that might have a potentially significant impact on the environment. These areas included: 1) Aesthetics; 2) Biological Resources; 3) Geology and Soils; 4) Hazards and Hazardous Materials; 5) Hydrology and Water Quality; 6) Land Use and Planning; 7) Mineral Resources; 8) Population and Housing; 9) Public Services; 10) Recreation; and 11) Utilities and Service Systems. Through the EIR process these potential impacts were analyzed, revisions were incorporated into the plan and/or mitigation measures were identified that reduced the potential environmental impacts to a level that was less than significant.

Even though an EIR was prepared for TOP, the analyses focused on the program or "big picture" impacts associated with development. With the submittal of the Ontario Ranch Business Park Specific Plan, staff is charged with evaluating the potential impacts of development at the project level. Staff completed an Initial Study for the project and determined that an EIR should be prepared for the Ontario Ranch Business Park Specific Plan. As noted in the Planning Commission staff report, dated July 28, 2020, an EIR was prepared for the Ontario Ranch Business Park Specific Plan addressing the following key areas:

- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Population/Housing
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems

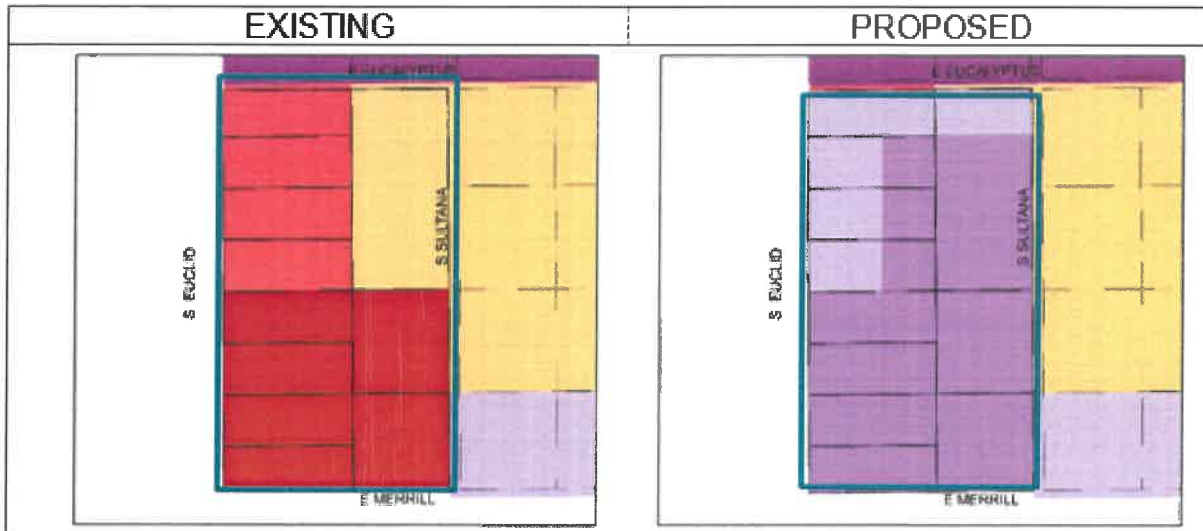
The Ontario Ranch Business Park Specific Plan EIR (SCH# 2019050018) evaluates each of these areas and identifies mitigation measures and/or revisions to the plan to lessen the impacts of the project. Of the 15 areas considered by the EIR, all but three (3) of the impact areas were mitigated a level of less than significant. Even with the mitigation measures, the impacts to air quality, agriculture resources and transportation/traffic could not be reduced to less than significant, resulting in some impacts remaining

potentially significant and unavoidable. While mitigation of all potential impacts to a level of less than significant is desirable, the fact that three areas will remain significant and unavoidable is not unexpected. The identification of these areas as significant and unavoidable validates the work previously completed for TOP. Staff continues to believe that the benefits of the proposed development outweigh the potential impacts associated with it. Therefore, staff recommends the City Council certify the EIR, including the adoption of the Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan for the project

**PLANNING COMMISSION REVIEW:** On July 28, 2020, the Planning Commission conducted a public hearing and voted (6-0) to recommend City Council certification of the Ontario Ranch Business Park Specific Plan Environmental Impact Report (SCH#2019050018), including the adoption of a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan; approval of the General Plan Amendment (File No. PGPA18-008); and approval of the Ontario Ranch Business Park Specific Plan (File No. PSP18-002).

## Exhibit "A" General Plan Land Use Map Amendment

### TOP Legend:



**Exhibit "B"**  
**Amended LU-03: Future Buildout Table**

Land Use	Acres <sup>2</sup>	Assumed Density/Intensity <sup>3</sup>	Units	Population <sup>4</sup>	Non-Residential Square Feet	Jobs <sup>5</sup>
<b>Residential</b>						
Rural	529	2.0 du/ac	1,059	4,232		
Low Density <sup>6</sup>	7,255	4.0 du/ac (OMC) 4.5 du/ac (NMC)	30,584	122,244		
Low-Medium Density <sup>6</sup>	<del>1,000</del> 981	8.5 du/ac	<del>8,500</del> 8,339	<del>33,976</del> 33,331		
Medium Density	1,897	18.0 du/ac (OMC) 22.0 du/ac (NMC)	38,200	133,791		
High Density	183	35.0 du/ac	6,415	21,470		
<i>Subtotal</i>	<del>10,865</del> 10,845		<del>84,758</del> 84,597	<del>315,713</del> 315,068		
<b>Mixed Use</b>						
• Downtown	113	• 60% of the area at 35 du/ac • 40% of the area at 0.80 FAR for office and retail	2,365	4,729	1,569,554	2,808
• East Holt Boulevard	57	• 25% of the area at 30 du/ac • 50% of the area at 1.00 FAR office • 25% of area at 0.80 FAR retail	428	856	1,740,483	3,913
• Meredith	93	• 23% of the area at 37.4 du/ac • 72% at 0.35 FAR for office and retail uses • 5% at 0.75 FAR for Lodging	800	1,600	1,172,788	1,462
• Transit Center	76	• 10% of the area at 60 du/ac • 90% of the area at 1.00 FAR office and retail	457	913	2,983,424	5,337
• Inland Empire Corridor	37	• 50% of the area at 20 du/ac • 30% of area at 0.50 FAR office • 20% of area t 0.35 FAR retail	368	736	352,662	768
• Guasti	77	• 20% of the area at 30 du/ac • 30% of area at 1.00 FAR retail • 50% of area at 0.70 FAR office	465	929	2,192,636	4,103
• Ontario Center	345	• 30% of area at 40 du/ac • 50% of area at 1.00 FAR office • 20% of area at 0.50 FAR retail	4,139	8,278	9,014,306	22,563
• Ontario Mills	240	• 5% of area at 40 du/ac • 20% of area at 0.75 FAR office • 75% of area at 0.50 FAR retail	479	958	5,477,126	7,285
• NMC West/South	315	• 30% of area at 35 du/ac • 70% of area at 0.70 FAR office and retail	3,311	6,621	6,729,889	17,188
• NMC East	264	• 30% of area at 25 du/ac • 30% of area at 0.35 FAR for office • 40% of area at 0.3 FAR for retail uses	1,978	3,956	2,584,524	4,439
• Euclid/Francis	10	• 50% of the area at 30 du/ac • 50% of area at 0.80 FAR retail	156	312	181,210	419
• SR-60/Hamner Tuscana Village	41	• 18% of the area at 25 du/ac • 57% of the area at 0.25 FAR retail • 25% of the area at 1.50 FAR office	185	369	924,234	2,098
<i>Subtotal</i>	<del>1,668</del>		<del>15,129</del>	<del>30,257</del>	<del>34,922,836</del>	<del>72,383</del>

**Exhibit “B”**  
**Amended LU-03: Future Buildout Table – Cont’d**



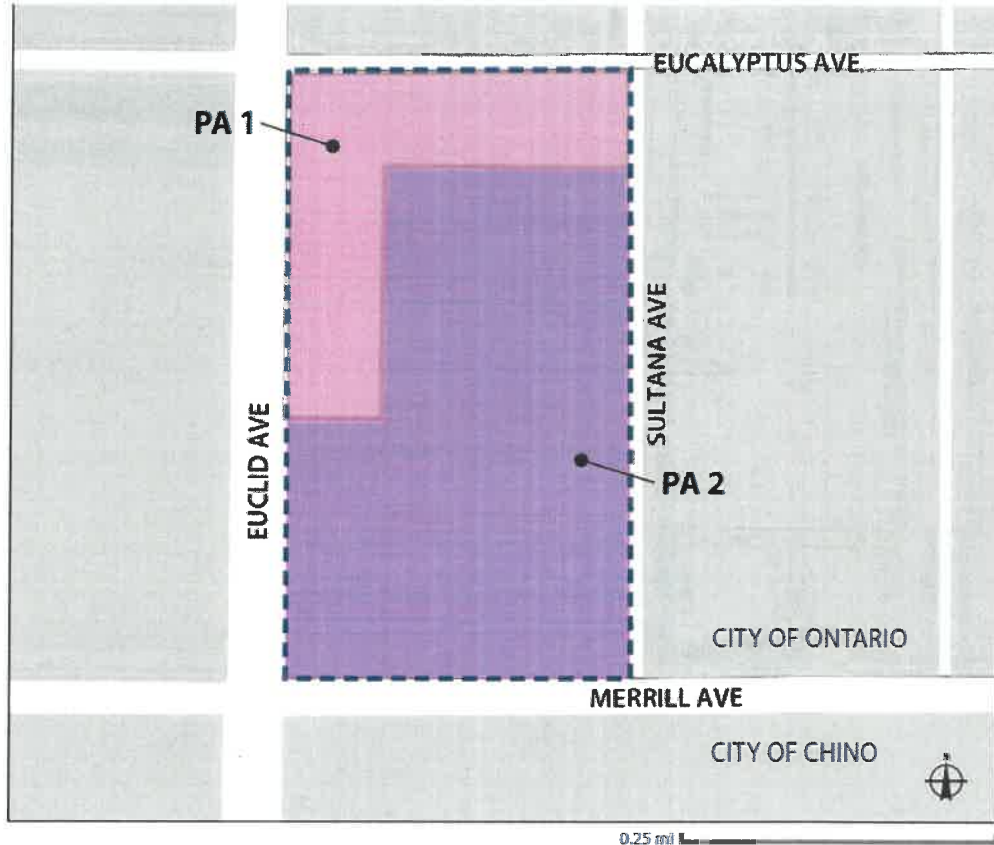
**LU-03 Future Buildout<sup>1</sup>**

Land Use	Acres <sup>2</sup>	Assumed Density/Intensity <sup>3</sup>	Units	Population <sup>4</sup>	Non-Residential Square Feet	Jobs <sup>5</sup>
<b>Retail/Service</b>						
Neighborhood Commercial <sup>6</sup>	281	0.30 FAR			3,671,585	8,884
General Commercial	<del>519</del> 476	0.30 FAR			6,798,695 6,220,368	6,307 5,799
Office/Commercial	<del>514</del> 490	0.75 FAR			16,885,775 16,008,300	37,269 35,497
Hospitality	142	1.00 FAR			6,177,679	7,082
<b>Subtotal</b>	<del>1,467</del> <b>1,389</b>				<del>33,443,735</del> <b>32,077,932</b>	<del>69,542</del> <b>57,262</b>
<b>Employment</b>						
Business Park	<del>1,507</del> 1,531	0.40 FAR			26,261,610 26,676,144	46,075 46,817
Industrial	<del>6,384</del> 6,446	0.55 FAR			152,947,888 154,433,268	134,383 134,511
<b>Subtotal</b>	<del>7,891</del> <b>7,977</b>				<del>179,209,410</del> <b>181,109,412</b>	<del>180,459</del> <b>181,328</b>
<b>Other</b>						
Open Space-Non-Recreation	1,232	Not applicable				
Open Space-Parkland <sup>6</sup>	950	Not applicable				
Open Space-Water	59	Not applicable				
Public Facility	97	Not applicable				
Public School	632	Not applicable				
LA/Ontario International Airport	1,677	Not applicable				
Landfill	137	Not applicable				
Railroad	251	Not applicable				
Roadways	4,871	Not applicable				
<b>Subtotal</b>	<b>9,906</b>					
<b>Total</b>	<b>31,786</b>		<del>99,887</del> <b>99,726</b>	<del>345,974</del> <b>345,325</b>	<del>247,575,989</del> <b>248,110,180</b>	<del>312,383</del> <b>310,973</b>

**Notes**

- Historically, citywide buildout levels do not achieve the maximum allowable density/intensity on every parcel and are, on average, lower than allowed by the Policy Plan. Accordingly, the buildout projections in this Policy Plan do not assume buildout at the maximum density or intensity and instead are adjusted downward. To view the buildout assumptions, access the Methodology report.
- Acres are given as adjusted gross acreages, which do not include the right-of-way for roadways, flood control facilities, or railroads.
- Assumed Density/Intensity includes both residential density, expressed as units per acre, and non-residential intensity, expressed as floor area ratio (FAR), which is the amount of building square feet in relation to the size of the lot.
- Projections of population by residential designation are based on a persons-per-household factor that varies by housing type. For more information, access the Methodology report.
- To view the factors used to generate the number of employees by land use category, access the Methodology report.
- Acres and corresponding buildout estimates for these designations do not reflect underlying land uses within the Business Park, Industrial and Commercial Overlays. Estimates for these areas are included within the corresponding Business Park, Industrial and General Commercial categories.

**Exhibit "C"**  
**Ontario Ranch Business Park Specific Plan Land Use Map**



**Exhibit “D”  
Land Use Summary Table**

Planning Area	Maximum Floor Area Ratio <sup>1,2</sup>	Site Acreage	Maximum Building Square Footage
Planning Area 1: Business Park	0.45	23.8	457,904
Planning Area 2: Industrial - General	0.54	61.8	1,447,123
<b>TOTAL</b>		<b>85.6</b>	<b>1,905,027 SF</b>
<p>Note:</p> <ol style="list-style-type: none"> <li>1. Provided the General Plan Amendment application submitted in conjunction with this Specific Plan to designate PA 1 as Business Park and PA 2 as Industrial - General is approved.</li> <li>2. The project EIR as proposed is reviewing square footages below the maximum TOP thresholds. The FAR may be increased to the TOP max levels of 0.60 and 0.55 for BP and IG respectively with a Specific Plan Amendment and appropriate CEQA analysis.</li> </ol>			

**File No. PSP18-002**  
**Ontario Ranch Business Park Specific Plan**  
**Environmental Impact Report**

(Provided under separate cover)



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH# 2019050018) PREPARED FOR THE ONTARIO RANCH BUSINESS PARK SPECIFIC PLAN (FILE NO. PGPA18-008 AND PSP18-002) AND ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING AND REPORTING PLAN (APNS 1054-011-01, 1054-011-02, 1054-011-04; 1054-021-01, 1054-021-02; 1054-271-01, 1054-271-02, 1054-271-03; AND 1054-281-01, 1054-281-02, 1054-281-03.)

WHEREAS, REDA, OLV. (the "Applicant") proposes the Ontario Ranch Business Park Specific Plan ("Project") on an 85.6-acre site in the southwestern portion of the City of Ontario ("City"); and

WHEREAS, the Project under review considered the following: (1) certification of the Ontario Ranch Business Park Specific Plan Final Environmental Impact Report ("Final EIR"), including adoption of a Mitigation Monitoring Program, Findings of Fact, and Statement of Overriding Considerations; (2) approval of a General Plan Amendment (File No. PGPA18-008); (3) approval and adoption of the Ontario Ranch Business Park Specific Plan (File No. PSP18-002); (4) approval of Development Plan Review; (5) approval of Tentative Parcel Maps; (6) approval of a Development Agreement; (7) any related discretionary approvals; and

WHEREAS, the purpose of the Project is to adopt a Specific Plan for an 85.6-acre project site, and develop the Specific Plan area with industrial warehouse/distribution and business park uses; and

WHEREAS, the Project site is located east of Euclid Avenue, north of Merrill Avenue, west of the unimproved right-of-way of Sultana Avenue, and south of Eucalyptus Avenue in the City of Ontario, within the County of San Bernardino, and consists of 85.6 acres located within that portion of the City commonly referred to as Ontario Ranch (formerly referred to as the New Model Colony), which was annexed into the City in November 1999; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA") (Public Res. Code, §§ 21000 *et seq.*), the State CEQA Guidelines (14 CCR §§ 15000 *et seq.*) and the City's Local CEQA Guidelines, the City of Ontario is the lead agency for the Project, as the public agency with the principle responsibility for approving the Project; and

WHEREAS, the City prepared The Ontario Plan Final Environmental Impact Report ("TOP EIR") (SCH # 2008101140) in association with the 2009 General Plan Update ("GPA") and certified the TOP EIR on January 26, 2010; and

WHEREAS, the TOP EIR is a Program EIR from which later specific plan EIRs, such as the EIR for this Project, are tiered; and

WHEREAS, the City originally issued a Notice of Preparation (“NOP”) for the Ontario Ranch Business Park Specific Plan for which the public review period ended June 24, 2019. The NOP was published on or about May 24, 2019, in the Inland Valley Daily Bulletin, a newspaper of general circulation in the Project area. The City received comments from multiple agencies on the NOP; and

WHEREAS, a public scoping meeting was held June 3, 2019, where comments were received; and

WHEREAS, after completing the Draft EIR (SCH# 2019050018), the City released the document for public review for a 45-day public comment period, beginning February 13, 2020, and ending on March 30, 2020, by filing a Notice of Availability with the County of San Bernardino Clerk’s Office; and

WHEREAS, pursuant to Public Resources Code section 21092, the City also provided a Notice of Availability to all organizations and individuals who had previously requested such notice, and published the Notice of Availability on or about February 13, 2020, in the Inland Valley Daily Bulletin, a newspaper of general circulation in the Project area; and

WHEREAS, pursuant to City of Ontario Local CEQA Guidelines, the Notice of Completion was mailed to all residents and property owners within 300 feet of the Project. Copies of the Draft EIR were provided to public agencies, organizations and individuals. In addition, the City placed copies of the Draft EIR at the City of Ontario Planning Department, the City’s website, and Ovitt Family Community Library; and

WHEREAS, during the 45-day comment period on the Draft EIR, the City consulted with and requested comments from all responsible and trustee agencies, other regulatory agencies and others pursuant to State CEQA Guidelines section 15086; and

WHEREAS, during the official public review period for the Draft EIR, the City received nine (9) written comment letters, all of which the City responded to in the Final EIR; and

WHEREAS, the City prepared the Final EIR and, pursuant to Public Resources Code section 21092.5, the City provided copies of the Final EIR to all commenting public agencies; and

WHEREAS, the City provided a Notice of Public Hearing and/or Intent to Certify an Environmental Impact Report to all organizations and individuals who had previously requested such notice, and published the Notice of Public Hearing on or about September 4, 2020, in the Inland Valley Daily Bulletin, a newspaper of general circulation in the Project area; and

WHEREAS, all potential significant adverse environmental impacts were sufficiently analyzed in the Final EIR; and

WHEREAS, the City of Ontario Planning Commission conducted a public hearing on July 28, 2020, and concluded said hearing on that date. After considering all public testimony, the Planning Commission issued Resolution No. PC20-048, recommending City Council certification of the Project EIR; and

WHEREAS, on September 15, 2020, the City Council of the City of Ontario conducted a hearing on the Project and concluded said hearing on that date; and

WHEREAS, as contained herein, the City has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, all the requirements of CEQA, the State CEQA Guidelines, and the City's Local Guidelines have been satisfied by the City in the EIR, which is sufficiently detailed so that all of the potentially significant environmental effects of the Project have been adequately evaluated; and

WHEREAS, the EIR prepared in connection with the Project sufficiently analyzes both the feasible mitigation measures necessary to avoid or substantially lessen the Project's potential environmental impacts and a range of feasible alternatives capable of eliminating or reducing these effects in accordance with CEQA, the State CEQA Guidelines and the City's Local Guidelines; and

WHEREAS, all of the findings and conclusions made by the City Council pursuant to this Resolution are based upon all oral and written evidence presented to it as a whole and are not based solely on the information provided in this Resolution; and

WHEREAS, environmental impacts identified in the Final EIR which the City finds are less than significant and do not require mitigation are described in Sections III, B and C hereof; and

WHEREAS, environmental impacts identified in the Final EIR as potentially significant but which the City finds can be mitigated to a level of less than significant, through the imposition of feasible mitigation measures identified in the Final EIR and set forth herein and in the Mitigation Monitoring and Reporting Plan, attached hereto as Exhibit A, are described in Section III, D hereof; and

WHEREAS, environmental impacts identified in the Final EIR as potentially significant and which the City finds cannot be fully mitigated to a level of less than significant, despite the imposition of all feasible mitigation measures identified in the Final EIR and set forth herein, are described in Section III, E hereof; and

WHEREAS, alternatives to the Project that might eliminate or reduce significant environmental impacts are described in Section IV hereof; and

WHEREAS, because some environmental impacts identified in the Final EIR as potentially significant cannot be fully mitigated to a level of less than significant, despite the imposition of all feasible mitigation measures identified in the Final EIR and set forth herein, the City Council has balanced the economic, legal, social, technological, and other benefits of the Project against its significant and unavoidable impacts, and has determined that the benefits of the Project outweigh the unavoidable adverse impacts,

and therefore, render those impacts “acceptable.” The City Council has documented its determination regarding significant and unavoidable impacts in the Statement of Overriding Considerations in Section V hereof; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including the Final EIR, and all oral and written evidence presented to it during all meetings and hearings on the Project; and

WHEREAS, the Final EIR reflects the independent judgment of the City Council and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, no comments made in the public hearings conducted by the City or any additional information submitted to the City have produced substantial new information requiring recirculation or additional environmental review under State CEQA Guidelines section 15088.5 as described in Section VI hereof; and

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

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO RESOLVES AS FOLLOWS:

## **I. INTRODUCTION**

The California Environmental Quality Act (CEQA) requires that a number of written findings be made by the lead agency in connection with certification of an environmental impact report (EIR) prior to approval of the project pursuant to Public Resources Code Section 21081 and Sections 15091 and 15093 of the CEQA Guidelines (14 Cal Code Regs 15091 et seq). This document provides the findings required by CEQA. The potential environmental effects of the proposed Ontario Ranch Business Park Specific Plan project (proposed project) have been analyzed in a Draft Environmental Impact Report (DEIR) (State Clearinghouse [SCH] 2019050018) dated February 2020. A Final EIR has also been prepared that incorporates the Draft EIR and contains comments received on the DEIR, responses to the individual comments, revisions to the DEIR including any clarifications based on the comments and the responses to the comments, and the Mitigation Monitoring and Reporting Program for the proposed project (MMRP). This document provides the findings required by CEQA for approval of the proposed project.

## **A. STATUTORY REQUIREMENTS FOR FINDINGS**

The CEQA (Pub. Res. Code §§ 21000, *et seq.*) and the State CEQA Guidelines (Guidelines) (14 Ca. Code Regs §§ 15000, *et seq.*) promulgated thereunder, require the environmental impacts of a project be examined before a project is approved. Specifically, regarding findings, Guidelines Section 15091 provides:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
  2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
  3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) The findings required by subsection (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

The “changes or alterations” referred to in Section 15091(a)(1) above, that are required in, or incorporated into, the project which mitigate or avoid the significant environmental effects of the project, may include a wide variety of measures or actions as set forth in Guidelines Section 15370, including:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.

Regarding a Statement of Overriding Considerations, Guidelines Section 15093 provides:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

## B. FINDINGS

Public Resources Code section 21002 states that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” Section 21002 further states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.”

Agencies demonstrate compliance with section 21002’s mandate by adopting findings before approving projects for which EIRs are required. (See Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines § 15091, subd. (a).) The approving agency must make written findings for each significant environmental effect identified in an EIR for a proposed project and must reach at least one of three permissible conclusions. The first possible finding is that “[c]hanges or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (State CEQA Guidelines § 15091, subd. (a)(1).) The second permissible finding is that “[s]uch changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding” and that “[s]uch changes have been adopted by such other agency or can and should be adopted by such other agency.” (State CEQA Guidelines § 15091, subd. (a)(2).) The third potential conclusion is that “[s]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.” (State CEQA Guidelines § 15091, subd. (a)(3).)

Agencies must not adopt a project with significant environmental impacts if feasible alternatives or mitigation measures would substantially lessen the significant impacts. Public Resources Code section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” State CEQA Guidelines section 15364 adds “legal” considerations as another indicium of feasibility. (See also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565.) Project objectives also inform the determination of “feasibility.” (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417.) Further, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (*Id.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) An agency need not, however, adopt infeasible mitigation measures or alternatives. (State CEQA Guidelines § 15091, subds. (a), (b).) Further, environmental impacts that are less than significant do not require the imposition of mitigation measures. (*Leonoff v. Monterey County Board of Supervisors* (1990) 222 Cal.App.3d 1337, 1347.)

Notably, section 21002 requires an agency to “substantially lessen or avoid” significant adverse environmental impacts. Thus, mitigation measures that “substantially lessen” significant environmental impacts, even if not completely avoided, satisfy section 21002’s mandate. (Laurel Hills Homeowners Assn. v. City Council (1978) 83 Cal.App.3d 515, 521 (“CEQA does not mandate the choice of the environmentally best feasible project if through the imposition of feasible mitigation measures alone the appropriate public agency has reduced environmental damage from a project to an acceptable level”); Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles (1986) 177 Cal.App.3d 300, 309 (“[t]here is no requirement that adverse impacts of a project be avoided completely or reduced to a level of insignificance . . . if such would render the project unfeasible”).)

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility for modifying the project lies with some other agency. (State CEQA Guidelines § 15091, subds. (a), (b).) The California Supreme Court has stated, “[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (Citizens of Goleta Valley v. Board of Supervisors, *supra*, 52 Cal.3d at p. 576.)

Having received, reviewed, and independently considered the EIR for the Ontario Ranch Business Park Specific Plan Project State Clearinghouse No. 2019050018, as well as other information in the record of proceedings on this matter, the City of Ontario City Council (City Council) adopts the following Findings (Findings) and Statement of Overriding Considerations, in its capacity as the legislative body for the City of Ontario (City), which is the CEQA Lead Agency. The Findings and Statements of Overriding Considerations set forth the environmental and other bases for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the proposed project.

### **C. PROJECT ENVIRONMENTAL REPORT AND DISCRETIONARY ACTIONS**

The Final EIR (FEIR) addresses the direct, indirect, and cumulative environmental effects of construction and operation activities associated with the proposed project. The FEIR provides the environmental information necessary for the City to make a final decision on the requested discretionary actions for all phases of this project. The FEIR was also intended to support discretionary reviews and decisions by other responsible agencies. Discretionary actions to be considered by the City may include, but are not limited to, the following:



- Certify that the FEIR for the proposed project has been completed in compliance with CEQA, and reflects the independent judgement and analysis of the City; find that the City Council has reviewed and considered the information contained in the FEIR prior to approving the project; adopt the Mitigation Monitoring and Reporting Program, finding that the Mitigation Monitoring and Reporting Program is adequately designed to ensure compliance with the mitigation measures during project implementation; and determine that the significant adverse effects of the project either have been reduced to an acceptable level, or are outweighed by the specific overriding considerations of the project as outlined in the CEQA Findings of Fact and Statement of Overriding Considerations, as set forth herein.
- Approve the proposed project and related discretionary actions needed for project construction and operation.

## **II. PROCEDURAL COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The City published a DEIR on February 13, 2020. A FEIR was prepared in August 2020 in compliance with CEQA requirements. The FEIR has been prepared in accordance with CEQA and the CEQA Guidelines, as amended. As authorized in State CEQA Guidelines Section 15084(d)(2), the City retained a consultant to assist with the preparation of the environmental documents. City staff from multiple departments, representing the Lead Agency, have directed, reviewed, and modified where appropriate all material prepared by the consultant. The FEIR reflects the City's independent analysis and judgement. The key milestones associated with the preparation of the EIR are summarized below. As presented below, an extensive public involvement and agency notification effort was conducted to solicit input on the scope and content of the EIR and to solicit comments on the results of the environmental analysis presented in the DEIR.

### **A. PUBLIC NOTIFICATION AND OUTREACH**

In conformance with CEQA, the State CEQA Guidelines, and the City of Ontario CEQA Guidelines, the City of Ontario conducted an extensive environmental review of the proposed project.

- Completion of a Notice of Preparation (NOP) on May 24, 2019. The public review period extended from May 24, 2019, to June 24, 2019. The NOP was published in the Inland Valley Daily Bulletin on May 24, 2019. The NOP was posted at the San Bernardino County Clerk's office on May 24, 2019. Copies of the NOP were made available for public review at the City of Ontario, the City's website, and at the Ovitt Family Community Library, 215 East "C" Street, Ontario, CA.
- Completion of the scoping process where the public was invited by the City to participate in a scoping meeting held Monday, June 3, 2019 at 6:00 PM at the Ontario Police Department Community Room, 2500 South Archibald Avenue, Ontario, CA 91761. The notice of a public scoping meeting was included in the NOP.

- Preparation of a DEIR, which was made available for a 45-day public review period beginning February 13, 2020, and ending March 30, 2020. The scope of the DEIR was determined based on the CEQA Guidelines Appendix G Checklist, comments received in response to the NOP, and comments received at the scoping meeting conducted by the City of Ontario. Section 2.3 of the DEIR describes the issues identified for analysis in the DEIR. The Notice of Availability (NOA) for the DEIR was posted at the San Bernardino County Clerk's office on February 11, 2020 and published in the Inland Valley Daily Bulletin on February 13, 2020. The NOA and DEIR were sent to interested persons and organizations, sent to the State Clearinghouse in Sacramento for distribution to public agencies, posted at the City of Ontario, made available on the City's website, and Ovitt Family Community Library, 215 East "C" Street, Ontario, CA.
- Preparation of a FEIR, including the responses to comments to the DEIR and revisions to the DEIR were prepared in August 2020. The FEIR was released for a 10-day agency review period prior to certification of the FEIR.
- Public hearings on the proposed project, including a Planning Commission hearing on July 28, 2020 and a City Council hearing on September 15, 2020.

In summary, the City conducted all required noticing and scoping for the proposed project in accordance with Section 15083 of the CEQA Guidelines, and conducted the public review for the EIR, which exceeded the requirements of Section 15087 of the CEQA Guidelines.

## **B. FINAL ENVIRONMENTAL IMPACT REPORT AND CITY COUNCIL PROCEEDINGS**

The City prepared a FEIR, including Responses to Comments to the DEIR. The FEIR/Response to Comments contains comments on the DEIR, responses to those comments, revisions to the DEIR, and appended documents. A total of nine comment letters were received. Of the nine comment letters received during the comment period, one was received after the comment period, and all nine letters were from public agencies.

The FEIR found that prior to mitigation, implementation of the proposed project will result in potentially significant impacts to Agriculture and Forestry Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emission, Hazards and Hazardous Materials, Noise, Transportation, and Tribal Cultural Resources. However, mitigation measures (MMs) have been developed to avoid or reduce all of these impacts to levels considered less than significant, with the exception of Agriculture and Forestry Resources, Air Quality, Greenhouse Gas Emissions, and Transportation.

Members of the public can view searchable agendas for scheduled City Council meetings and access agenda-related City information and services directly on the following website: <https://www.ontarioca.gov/Agendas/CityCouncil>.

The FEIR document will be posted for viewing and download with the previously posted DEIR prior to the City's consideration of the FEIR and project recommendations on the City's website.

A date for consideration of the FEIR and project recommendations at the City Council was set for the proposed project and notice of the meeting was provided consistent with the Brown Act (Government Code Sections 54950 et seq.). The City Council will take testimony on the proposed project and may continue on its calendar to a subsequent meeting date in its discretion.

### **C. RECORD OF PROCEEDINGS**

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- The NOP, NOA, and all other public notices issued by the City in conjunction with the proposed project.
- The DEIR and FEIR for the proposed project.
- All written comments submitted by agencies or members of the public during the public review comment period on the DEIR.
- All responses to written comments submitted by agencies or members of the public during the public review comment period on the DEIR.
- All written and verbal public testimony presented during noticed public hearings for the proposed project.
- The Mitigation Monitoring and Reporting Program.
- The reports and technical memoranda included or referenced in the FEIR.
- All documents, studies, EIRs, or other materials incorporated by reference in the DEIR and FEIR.
- The Resolutions adopted by the City in connection with the proposed project, and all documents incorporated by reference therein, including comments received after the close of the comment period and responses thereto.
- Matters of common knowledge to the City, including but not limited to federal, state, and local laws and regulations.
- Any documents expressly cited in these Findings.
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

## **D. CUSTODIAN AND LOCATION OF RECORDS**

The documents and other materials that constitute the administrative record for the City's actions related to the proposed project are at the City of Ontario – Planning Department, 303 East "B" Street, City of Ontario. The City Planning Department is the custodian of the administrative record for the project. Copies of these documents, which constitute the record of proceedings, are and at all relevant times have been and will be available upon request at the offices of the Planning Department. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and Guidelines Section 15091(e).

## **E. PROJECT LOCATION**

The Ontario Ranch Business Park project site (project site) encompasses eleven parcels totaling 85.6 acres in the City of Ontario. The City of Ontario is located approximately 40 miles east of downtown Los Angeles, 20 miles west of downtown San Bernardino, and 30 miles east from the Orange County line.

Regional access to the project site is provided by State Route 83 (SR-83; Euclid Avenue), which connects to State Route 60 (SR-60) and Interstate (I-10) to the north, I-15 approximately 5.5 miles to the east, and State Route 71 (SR-71) approximately 3 miles to the southwest. SR-71 connects the project to Interstate 91 (I-91) in unincorporated Riverside County.

The project site is in the southwestern portion of Ontario, immediately north of the City of Chino in San Bernardino County. The project site is located east of Euclid Avenue, north of Merrill Avenue, west of the unimproved right-of-way of Sultana Avenue, and south of Eucalyptus Avenue.

## **F. PROJECT OBJECTIVES**

The following objectives have been established for the proposed Ontario Ranch Business Park Specific Plan project and will aid decision makers in their review of the proposed project and associated environmental impacts:

- Create a professional, well-maintained and attractive environment for the development of a multi-purpose business park, light industrial and warehousing/logistics complex that is compatible with nearby residential neighborhoods.
- Provide the entitlements and framework for the development of approximately 1.9 million square feet (sf) of business park and light industrial uses.
- Provide employment opportunities for community residents.

- Facilitate the construction of utilities, roads, and other major infrastructure investments that will be sufficiently sized to adequately serve the Specific Plan area.
- Expand Ontario's industrial uses in proximity to local airports and regional transportation networks.
- Create an economic engine to drive future growth in Ontario Ranch, spur infrastructure improvements in the area and implement the Specific Plan vision.

## **G. PROJECT DESCRIPTION**

The project includes a general plan amendment, specific plan, development plan review, tentative parcel map, and development agreement to develop a warehouse facility on 85.6 acres of land. The general plan amendment is proposed to change the site's land use designation from general commercial, office commercial, and low-medium density residential to approximately 24 acres of business park (0.6 FAR) and 62 acres of industrial (0.55 FAR). The facility would be comprised of eight warehouse buildings with areas ranging from 46,900 square feet to 618,353 square feet, for a maximum development of 1,905,027 square feet of warehouse and office uses. Office uses are ancillary to the warehouses and are included in each of the eight buildings. The Specific Plan will provide zoning regulations for development of the project. It will establish permitted land use, development standards, infrastructure requirements, and implementation requirements for development consistency.

## **III. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

### **A. FORMAT**

Section 15091 of the CEQA Guidelines requires that a Lead Agency make a finding for each significant effect for the project. This section summarizes the significant environmental impacts of the project, describes how these impacts are to be mitigated, and discusses various alternatives to the proposed project, which were developed in an effort to reduce the remaining significant environmental impacts. All impacts are considered potentially significant prior to mitigation unless otherwise stated in the findings.

This remainder of this section is divided into the following subsections:

**Section B, Issues Deemed “No Impact” or “Less Than Significant Impact,”** presents topical areas that would result in no impact or less than significant impacts, as detailed in Chapter 8 of the DEIR.

**Section C, Findings on “No Impact” and “Less Than Significant Impacts,”** presents environmental issues, as identified in Chapter 5 of the DEIR, which would result in no impact or less than significant impacts.

**Section D, Findings on Impacts Mitigated to Less Than Significant**, presents significant impacts of the proposed project that were identified in the FEIR, the mitigation measures identified in the Mitigation Monitoring Program, and the rationales for the findings.

**Section E, Significant and Unavoidable Impacts that Cannot be Mitigated to Below the Level of Significance**, presents significant impacts of the proposed project that were identified in the FEIR, the mitigation measures identified in the Mitigation Monitoring Program, the findings for significant impacts, and the rationales for the findings.

**Section IV, Alternatives to the Proposed Project**, presents alternatives to the project and evaluates them in relation to the findings set forth in Section 15091(a)(3) of the State CEQA Guidelines, which allows a public agency to approve a project that would result in one or more significant environmental effects if the project alternatives are found to be infeasible because of specific economic, social, or other considerations.

**Section V, Growth-inducing Impacts and Commitment of Resources**, presents a description of the proposed project's growth-inducing impacts and commitment of resources.

**Section VI, Statement of Overriding Considerations**, presents a description of the proposed project's significant and unavoidable adverse impacts and the justification for adopting a statement of overriding considerations.

**Section VII, Findings on Responses to Comments on the DEIR and Revisions to the FEIR**, presents the City's findings on the response to comments and revisions to FEIR, and decision on whether a recirculated DEIR is necessary or not.

**Section VIII, Certification of the EIR**, certifies that the City Council finds that it has reviewed and considered the Final EIR in evaluating the proposed Specific Plan, that the Final EIR is an accurate and objective statement that fully complies with CEQA, State CEQA Guidelines and the City's local CEQA Guidelines and that the Final EIR reflects the independent judgment of the City Council.

**Section IX, Mitigation Monitoring and Reporting Program**, presents the Mitigation Monitoring and Reporting Program attached to this Resolution as Exhibit A.

**Section X, Staff Direction**, provides staff direction to post the Notice of Determination.

## **B. ISSUES DEEMED NO IMPACT OR LESS THAN SIGNIFICANT IMPACT**

In accordance with Section 15128 of the CEQA Guidelines, as described in Chapter 8 and Appendix A of the DEIR, the City concluded that project impacts related to the following topical environmental issues would result in no impact or would be less than significant: Aesthetics, Agriculture and Forestry Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Population

and Housing, Public Services, Recreation, Transportation, Utilities and Service Systems, and Wildfire. Since the following environmental issue areas were determined to have no impact or a less than significant impact, no findings for these issues are required.

### **1. Aesthetics**

As substantiated in the Initial Study, there are no scenic vistas within the project site, nor would the Project otherwise adversely affect a designated scenic vista. There are no highways designated as scenic within the project site vicinity. The Project is in an urbanized area and is subject to the provisions of the City of Ontario Policy Plan; conformance with the Specific Plan would minimize the potential for the Project to adversely affect scenic resources or result in development that would conflict with applicable zoning and other regulations governing scenic quality. Additionally, although the proposed project would introduce new sources of light and glare, the Specific Plan includes design guidelines and standards for lighting of onsite areas and the proposed project would be subject to the City's Development Code. Therefore, aesthetic impacts would be less than significant.

**Finding.** The proposed project would have a less than significant direct, indirect, and cumulative impacts relating to aesthetics. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

### **2. Agricultural Resources**

The City does not identify the project site as one of the parcels with a Williamson Act contract. The project site is identified as SP/AG and is not zoned for forest land, timberland, or TPZ. There is no land in the City that qualifies as forest land as defined in Public Resources Code section 12220(g). Therefore, impacts would be less than significant.

**Finding.** The proposed project would have a less than significant direct, indirect, and cumulative impacts relating to agricultural and forestry resources. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

### **3. Air Quality**

The proposed project would not emit odors that would affect a substantial number of people. The types of facilities that are considered to have objectionable odors include wastewater treatment plants, compost facilities, landfills, solid waste transfer stations, fiberglass manufacturing facilities, paint/coating operations (e.g., auto body shops), dairy farms, petroleum refineries, asphalt batch plants, chemical manufacturing, and food manufacturing facilities. Operations of the proposed office and industrial uses are not expected to be significant or highly objectionable and would be in compliance with SCAQMD Rule 402. Therefore, impacts would be less than significant.

**Finding.** The proposed project would have a less than significant direct, indirect, and cumulative impacts relating to air quality. Accordingly, no changes or alterations to the

proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

#### **4. Biological Resources**

The project site contains some trees which would be removed under the proposed project. The proposed project would be required to comply with the City's tree preservation policy. Moreover, the project site does not fall within the boundaries of any Habitat Conservation Plan, Natural Community Conservation Plan, or other local or regional conservation plans. Therefore, no impacts would occur.

**Finding.** The proposed project would have a less than significant direct, indirect, and cumulative impacts relating to biological resources. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

#### **5. Cultural Resources**

The proposed project would comply with California Health and Safety Code Section 7050.5 CEQA Section 15064.5, and Public Resources Code Section 5097.98 which mandate the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery. Therefore, impacts would be less than significant.

**Finding.** The proposed project would have a less than significant direct, indirect, and cumulative impacts relating to cultural resources. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

#### **6. Geology and Soils**

There are no active faults known on the site and the project site is located outside the Fault Rupture Hazard Zone (formerly Alquist-Priolo Zone). All project construction would also be developed in compliance with the Ontario Municipal Code, the recommendations of a geotechnical investigation and all other ordinances adopted by the City related to construction and safety. Additionally, construction would comply with the California Building Code. Moreover, the project site is located in the southern portion of the City where largely flat agricultural fields dominate the topography; the flat topography of the site does not present any potential risks related to landslides or other slope failure. The proposed project would not result in significant soil erosion or loss of topsoil because of the previously disturbed and developed nature of the project site. Furthermore, the project site is not located on expansive soils. The proposed project would be served by the City sewer utilities and would not include the use of septic tanks or alternative wastewater disposal. Therefore, impacts would be less than significant.

**Finding.** The proposed project would have a less than significant direct, indirect, and cumulative impacts relating to geology and soils. Accordingly, no changes or alterations



to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **7. Hazards and Hazardous Materials**

The proposed project site is not located within a quarter mile of an existing or proposed school. The nearest is Edwin Rhodes Elementary in the City of Chino, approximately one mile to the northwest of the project site. Edwin Rhodes Elementary is not located along a construction or operational truck route for the proposed project. Therefore, there would be no impact related to handling or hazardous materials in close proximity of a school. Furthermore, construction of the proposed project would be generally confined to the project site and would not physically impair access to the site or the project area. During both construction and long-term operation, the proposed project would be required to maintain adequate emergency access for emergency vehicles as required by the City and the Ontario Fire Department. Because the proposed project is required to comply with all applicable City codes, any emergency evacuation or emergency response plan impacts would be reduced to a less than significant level.

According to the California Department of Forestry and Fire Protection's fire hazard map for the City of Ontario, the project site is not within a Very High Fire Hazard Severity Zone (CAL FIRE 2011). Additionally, when using wildland-urban interface (WUI) as a measure of proximity, the proposed project site is also not near a Fire Hazard Severity Zone. WUI is defined as any area for which a Community Wildfire Protection Plan is not in effect but is within half mile of the boundary of an "at risk community". An "at risk community" is defined as a community where conditions are conducive to a large-scale wildland fire disturbance event, thereby posing a significant threat to human life or property (University of Wisconsin-Madison 2010). Adjacent areas to the project site are also urbanized; therefore, there are no wildlands adjacent to the site that may expose people or structures to wildland fire hazards and no impact would occur.

**Finding.** The proposed project would have a less than significant direct, indirect, and cumulative impacts relating to hazards and hazardous materials. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **8. Hydrology and Water Quality**

The project site is currently used for agricultural uses and groundwater for irrigation of crops and other agricultural-related uses would cease with implementation of the proposed project. In compliance with the Chino Basin Water Master's Well Procedure for Developers, a well use/destruction plan and schedule for all existing private/agricultural wells shall be submitted to the City of Ontario for approval prior to the issuance of permits for any construction activity. The project site is not a designated groundwater recharge area, nor does the proposed project propose or require facilities or operations that would

otherwise adversely affect groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. Impacts to groundwater are considered less than significant.

**Finding.** The proposed project would have a less than significant direct, indirect, and cumulative impacts relating to hydrology and water quality. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **9. Land Use and Planning**

The proposed project would change the current land uses of the site from agricultural uses including dairies and field crops into a business and industrial park with up to approximately 1.9 million square feet of total building space. The project site currently features two single-family residences that would be removed during demolition. The project site is currently surrounded by mixed uses to the north, high density residential to the west, agricultural uses to the east, and public uses to the south. There is a residential neighborhood located directly across Euclid Avenue to the west. The residential neighborhood to the west represents the southeastern most edge of residential uses in the City of Chino. The proposed project would not physically divide an established community. The land uses for the site are consistent with the land uses designated by the TOP, and consistent with proposed business and industrial land uses in the immediate project vicinity. Therefore, no impact would occur.

**Finding.** The proposed project would have no significant direct, indirect, and cumulative impacts relating to land use and planning. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **10. Mineral Resources**

There are no known mineral resources either on the site or in the immediate vicinity of the site that would be impacted by the proposed project. The project site is located in MRZ-3.

**Finding.** The proposed project would have no significant direct, indirect, and cumulative impacts relating to mineral resources. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **11. Population and Housing**

There are currently two single-family residences on the project site that would be displaced upon development of the proposed project. However, due to the low number of residents that would be displaced compared to the existing larger housing stock in the region, the proposed project would not displace a substantial number of people or houses,

requiring the construction of a substantial number of replacement houses elsewhere and impact on this topic would be minimal.

**Finding.** The proposed project would have no significant direct, indirect, and cumulative impacts relating to population and housing. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **12. Public Services**

The proposed project would be developed with business and industrial land uses, which is not expected to generate additional students in the service area. Pursuant to State law, commercial and industrial development is required to pay school impact mitigation fees as adopted by the affected school district which would fully mitigate potential impacts on the school district. Typically, residential development increases the need for new parks or other public facilities, and as the proposed project would introduce commercial and industrial uses, such increase in use by employees would be marginal and would not result in deterioration of facilities such that the construction or expansion of facilities would be necessary.

**Finding.** The proposed project would have no significant direct, indirect, and cumulative impacts relating to schools, parks, or other public facilities. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **13. Recreation**

The proposed project would result in the conversion of agricultural uses into commercial and industrial uses. Development of the proposed project would not directly increase housing or population, which would cause an increase in the demand for and use of existing neighborhood parks and other citywide recreational facilities. The proposed project does not include any recreational facilities nor result in the expansion of any existing recreational facilities.

**Finding.** The proposed project would have no significant direct, indirect, and cumulative impacts relating to recreational facilities. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **14. Transportation**

The proposed project would be designed to provide access for all emergency vehicles and meet all applicable City of Ontario Fire and Police Department access requirements. During construction activities, both Euclid Avenue and Merrill Avenue would maintain one open lane to ensure emergency access. The proposed project would still allow emergency vehicles to access to the residential neighborhoods to the west.

**Finding.** The proposed project would have no significant direct, indirect, and cumulative impacts relating to emergency access. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **15. Utilities and Service Systems**

Compliance with AB 939 and Title 6, Chapter 3 of the Ontario Municipal Code would ensure that disposal amounts are at or below target amounts of AB 939, solid waste generation is reduced, and that recycling and composting is promoted. The City would require the proposed project to reduce solid waste generation and recycle materials as much as feasible to reduce solid waste.

**Finding.** The proposed project would have no significant direct, indirect, and cumulative impacts relating to utilities and service systems. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **16. Wildfire**

The project site is not within a Very High Fire Hazard Severity Zone, and the project site is also not near a Fire Hazard Severity Zone, when using wildland-urban interface (EUI) as a measure of proximity. The construction of the proposed project would be generally confined to the project site and would not physically impair access to the site or the project area. The proposed project would be required to comply with all applicable City codes. The project site is relatively flat and there are no steep slopes where high winds can exacerbate wildfire risks. Adjacent areas to the project site are also urbanized, therefore, there are no wildlands adjacent to the site that may expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire due to slope and prevailing winds. Additionally, the proposed project would not require the installation of infrastructure that would exacerbate fire risk.

**Finding.** The proposed project would have no significant direct, indirect, and cumulative impacts relating to wildfire. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **C. FINDINGS ON “NO IMPACT” AND “LESS THAN SIGNIFICANT IMPACTS”**

Based on the environmental issue area assessment in the FEIR, the City determined that the proposed project would have no impact or less than significant impacts, including direct, indirect, and cumulative impacts, for the environmental issues summarized below. The rationale for the conclusion that no significant impact would occur in each of the issue areas is based on the environmental evaluation in the listed topical EIR sections in

Section 5 of the DEIR, which include Environmental Setting, Environmental Impacts, Cumulative Impacts, and Mitigation Measures.

Plans, programs, and policies (PPP) are listed and numbered in the DEIR, and include applicable local, state, and federal regulations that are required independently of CEQA review and also serve to prevent the occurrence of, or reduce the significance of, potential environmental effects. Typical PPPs include compliance with the provisions of the California Building Code (CBC), South Coast Air Quality Management District (South Coast AQMD) rules, local agency requirements, and other regulations and standards. Project Design Features (PDF) are also included in the DEIR.

The EIR concluded that all or some of the impacts of the proposed project with respect to the following issues either will not be significant or will be reduced to below a level of significance by implementing project design features or existing plans, programs, and policies as detailed in Chapter 5 of the DEIR. Those issues include the following topical areas in their entirety or portions thereof: Air Quality, Cultural Resources, Energy, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Population and Housing, Public Services, Transportation, and Utilities and Service Systems. CEQA Guidelines Section 15901 requires that an EIR may not be certified for a project which has one or more significant environmental effects unless one of three possible findings is made for each significance effect. Since the following environmental issue areas were determined to have no impact or a less than significant impact in the DEIR, no findings for these issues are required.

## **1. Air Quality**

The following are plans, programs, and policies (PPPs) and Project Design Features (PDFs) that would reduce the proposed project's potential air quality impacts:

- PPP AIR-1 New buildings are required to achieve the current California Building Energy Efficiency Standards (Title 24, Part 6) and California Green Building Standards Code (CALGreen) (Title 24, Part 11). The 2016 Building Energy Efficiency Standards were effective starting on January 1, 2017, and the 2019 Building Energy Efficiency Standards will become Effective January 1, 2020. The Building Energy Efficiency Standards and CALGreen are updated tri-annually with a goal to achieve zero net energy for residential buildings by 2020 and nonresidential buildings by 2030.
- PPP AIR-2 New buildings are required to adhere to the California Green Building Standards Code (CALGreen) requirement to provide bicycle parking for new non-residential buildings, or meet local bicycle parking ordinances, whichever is stricter (CALGreen Sections 5.106.4.1, 14.106.4.1, and 5.106.4.1.2).

- PPP AIR-3 Construction activities will be conducted in compliance with 13 California Code of Regulations (CCR) Section 2499, which requires that nonessential idling of construction equipment is restricted to five minutes or less.
- PPP AIR-4 Construction activities will be conducted in compliance with any applicable South Coast Air Quality Management District rules and regulations, including but not limited to the following:
- Rule 403, Fugitive Dust, for controlling fugitive dust and avoiding nuisance.
  - Rule 402, Nuisance, which states that a project shall not “discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.”
  - Rule 1113, which limits the volatile organic compound content of architectural coatings.
- PPP AIR-5 The heavy-heavy duty tractors and trailers (i.e., trucks that are 53-foot or longer) must use US EPA SmartWay certified tractors and trailers or retrofit their existing fleet with SmartWay verified technologies in accordance with CARB’s Heavy-Duty (Tractor-Trailer) GHG Regulation. Owners are responsible for replacing or retrofitting their affected vehicles with compliant aerodynamic technologies and low rolling resistance tires. Sleeper cab tractors model year 2011 and later must be SmartWay certified. All other tractors must use SmartWay verified low rolling resistance tires. Trailers must have low rolling resistance tires and aerodynamic devices.
- PPP AIR-6 The medium-duty and heavy-duty vehicle engines are required to comply with the USEPA’s GHG and fuel efficiency standards. The federal and California Phase 1 standards took effect with model year 2014 tractors, vocational vehicles, and heavy-duty pick-up trucks and vans and the engines powering such vehicles (the Phase 1 standards excludes trailers). The federal Phase 2 standards cover model years 2018-2027 for certain trailers and model years 2021-2027 for semi-trucks and large pick-up trucks, vans and all types and sizes of buses and work trucks. California is aligned with the federal Phase 2 standards in structure, timing, and stringency, but with some minor California differences. The California Phase 2 regulations became effective April 1, 2019.

- PDF AQ-1 Indoor material handling equipment used throughout the project area would be electric and would not be propane or diesel-powered.
- PDF AQ-2 The tilt-up concrete warehouse buildings would have rooftops that can support tenant improvements for solar panels (i.e., solar ready).
- PDF AQ-3 The project would include installation of electric vehicle charging stations to service 71 parking stalls for electric vehicles and 101 clean air/vanpool parking stalls at the project site.

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**Impact 5.2-1:** For Impact 5.2-1, refer to Section E, *Significant and Unavoidable Significant Impacts that cannot be Mitigated to Below the Level of Significance.*

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**Impact 5.2-2:** For Impact 5.2-2, refer to Section E, *Significant and Unavoidable Significant Impacts that cannot be Mitigated to Below the Level of Significance.*

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**Impact 5.2-3:** Construction-related emissions associated with land uses accommodated under the proposed project would not expose sensitive receptors to substantial concentrations of criteria air pollutants. [Threshold AQ-3].

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### **Construction Phase Localized Significance Thresholds (LSTs)**

The screening-level LSTs are the amount of project-related emissions at which localized concentrations (ppm or  $\mu\text{g}/\text{m}^3$ ) could exceed the AAQS for criteria air pollutants for which the SoCAB is designated nonattainment. They are based on the proposed project size and distance to the nearest sensitive receptor. Table 5.2-13, *Maximum Daily Onsite Construction Emissions Compared to the Localized Significance Thresholds*, on page 5.2-34 of the DEIR, shows the maximum daily construction emissions (pounds per day) generated during onsite construction activities compared with the SCAQMD's screening-level construction LSTs. As shown in the Table, construction-related activities would not generate emissions that would exceed the screening-level LSTs. Therefore, project-related construction emissions would not exceed the California AAQS, and project construction would not expose sensitive receptors to substantial pollutant concentrations. Therefore, localized construction-related impacts would be less than significant.

**Finding.** The proposed project would have a less than significant direct, indirect, and cumulative impact associated with the exposure of sensitive receptors to substantial concentrations of criteria air pollutants. (DEIR at p. 5.2-36) Accordingly, no changes or

alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.2-4: Project-related construction activities would not result in potentially significant cancer risk impacts to nearby off-site sensitive receptors. [Threshold AQ-3]**

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The proposed project would temporarily elevate concentrations TACs and DPM in the vicinity of sensitive land uses during construction activities. As stated, SCAQMD currently does not require health risk assessments for short-term emissions from construction equipment, which primarily consist of DPM. However, an analysis was included to conservatively gauge the potential health risk-related impacts of short-term construction activities on off-site sensitive receptors.

The proposed project includes on-site improvements that would be developed over two development phases in addition to off-site infrastructure improvements, over a period of 27 months. The US EPA AERMOD, Version 9.7, dispersion modeling program was used to determine ground-level DPM concentrations, and the 2015 OEHHA guidance was used to estimate excess lifetime cancer risk and chronic non-cancer hazard index for non-carcinogenic risk at the nearest sensitive receptors. Results are shown in Table 5.2-14, *Construction Risk Summary*, on page 5.2-37 of the DEIR.

According to the modeling result, the residential maximum exposed receptor (MER) is the single-family residences across Eucalyptus Avenue near the northeast portion of the project site. As shown in Table 5.2-14 of the DEIR, the maximum incremental cancer risk during the construction phase of the project at the residential MER is 9.4 per million, which would not exceed the significance threshold of 10 per million. For non-carcinogenic effects, the hazard index identified for each toxicological endpoint totaled less than one for the MER. Therefore, non-carcinogenic hazards are within acceptable limits, and off-site health risk impacts associated with project-related construction activities would be less than significant.

**Finding.** The proposed project would have a less than significant direct, indirect, and cumulative impact associated with the exposure of sensitive receptors to significant cancer risks. (DEIR at p. 5.2-37) Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.



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**Impact 5.2-5: Long-term operation of the land uses associated with buildout of the proposed project would not expose sensitive receptors to substantial concentrations of criteria air pollutants and toxic air contaminants. [Threshold AQ-3]**

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### **Operational Phase LSTs**

The screening-level LSTs are the amount of project-related stationary and area sources of emissions at which localized concentrations (ppm or  $\mu\text{g}/\text{m}^3$ ) would exceed the ambient air quality standards for criteria pollutants for which the SoCAB is designated a nonattainment area. Land uses that have the potential to generate substantial sources of emissions or would require a permit from SCAQMD include industrial land uses, such as chemical processing, and warehousing operations where substantial truck idling could occur onsite. Onsite emissions include: truck maneuvering and idling, TYUs, and diesel- and CNG-powered yard trucks. Table 5.2-15, *Localized Onsite Operational Emissions*, on page 5.2-38 of the DEIR, shows localized maximum daily operational emissions. As shown in the Table, onsite project-related operational emissions would not exceed the screening-level LSTs. Therefore, localized criteria air pollutant emissions impacts from project-related operations would be less than significant.

### **Operational Phase Toxic Air Contaminants (TACs)**

The SCAQMD requires an analysis of toxic air contaminants when the project generates emissions proximate to sensitive receptors in order to ensure that the proposed project does not expose sensitive receptors to substantial pollutant concentrations. Land uses that generate more than 100 truck trips per day have the potential to substantially increase TAC concentrations and health risks at off-site land uses within 1,000 feet of the facility.

Operation of the proposed project would generate TAC emissions from diesel truck activity (truck maneuvering and idling), TRUs, and diesel-fueled off-road equipment (i.e., yard trucks) in proximity to the same nearby sensitive receptors evaluated in the construction HRA (i.e., residents west and north of the project site). Receptors within 1,000 feet of the haul route were also included in the operational modeling. The results of the unmitigated operational HRA are provided in Table 5.2-16, *Operational HRA Results*, on page 5.2-39 of the DEIR. As shown in the Table, cancer risks from all sources would be 6.2 in a million. In comparison to the significance threshold of 10 in a million, carcinogenic risks are below the threshold value for residents in the vicinity of the project. Therefore, the project would not expose off-site sensitive receptors to substantial concentrations of air pollutant emissions during project operation and impacts would be less than significant.

### **Operational Phase CO Hotspots**

Areas of vehicle congestion have the potential to create pockets of CO called hotspots. Under existing and future vehicle emission rates, a project would have to increase traffic

volumes at a single intersection by more than 44,000 vehicles per hour—or 24,000 vehicles per hour where vertical and/or horizontal air does not mix—in order to generate a significant CO impact (BAAQMD 2017). Full buildout of the proposed project would result in up to 392 peak hour (PM) trips. Thus, implementation of the proposed project would not produce the volume of traffic required (i.e., 24,000 to 44,000 peak hour vehicle trips) to generate a CO hotspot. Therefore, implementation of the proposed project would not have the potential to substantially increase CO hotspots at intersections in the vicinity of the project area, and impacts would be less than significant.

**Finding.** Compliance with existing PPPs would minimize adverse impacts of air quality to less than significant levels. The proposed project would have a less than significant direct, indirect, and cumulative impact from long-term operational air quality emissions. (DEIR at p. 5.2-39) Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.2-6:** For Impact 5.2-6, refer to Section D, *Findings on Significant Environmental Impacts that can be Reduced to a Less than Significant Level.*

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**Impact 5.2-7:** For Impact 5.2-7, refer to Section E, *Significant and Unavoidable Significant Impacts that cannot be Mitigated to Below the Level of Significance.*

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**Impact 5.2-8:** For Impact 5.2-8, refer to Section D, *Findings on Significant Environmental Impacts that can be Reduced to a Less than Significant Level.*

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## 2. Cultural Resources

The following are plans, programs, and policies (PPPs) that would reduce the proposed project's potential cultural resources impacts:

PPP CUL-1 Cultural and paleontological resources are recognized as nonrenewable resources and receive protection under the PRC and CEQA.

PPP CUL-2 Native American historical and cultural resources and sacred sites are protected under PRC Sections 5097.9 to 5097.991, which require that descendants be notified when Native American human remains are discovered and provide for treatment and disposition of human remains and associated grave goods.

- PPP CUL-3 The removal, without permission, of any paleontological site or feature is prohibited from lands under the jurisdiction of the state or any city, county, district, authority, or public corporation, or any agency thereof (PRC Section 5097.5). This applies to agencies' own activities, including construction and maintenance, and permit actions by others.
- PPP CUL-4 Adverse impacts to paleontological resources from developments on public (state, county, city, and district) lands require reasonable mitigation. (PRC Section 5097.5)
- PPP CUL-5 If human remains are discovered within a project site, disturbance of the site must stop until the coroner has investigated and made recommendations for the treatment and disposition of the human remains to the person responsible for the excavation, or to his or her authorized representative. If the coroner has reason to believe the human remains are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission. (California Health and Safety Code Section 7050.5)

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**Impact 5.4-1: Development of the project would not impact an identified historical resource. [Threshold C-1]**

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As described in Table 5.4-1, *Potentially Historical Structures Analyzed within Project Area*, on page 5.4-7 of the DEIR, potential historical resources in the study area—the Main House, Manager's House (manufactured house), Dairy Barn, associated structures and features of dairy farm, and a small house to the west of the Main House—were evaluated to determine if they are considered historical resources. Since the buildings structures do not appear to have played a significant role in the history of dairy farming, or appear to be an important example of a large-scale, concentrated animal dairy operation in Ontario, or the Chino Valley area, they are not considered eligible for listing pursuant to criterion in the NRHP, CRHR, or as a Landmark in the City. Therefore, demolition of on-site structures would not impact an identified historical resource.

**Finding.** Compliance with existing PPPs would minimize adverse impacts to cultural resources to less than significant levels. The proposed project would have a less than significant direct, indirect, and cumulative impact on historic resources. (DEIR at p. 5.4-14) Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.4-2: For Impact 5.4-2, refer to Section D, *Findings on Significant Environmental Impacts that can be Reduced to a Less than Significant Level.***

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### **3. Energy**

The following are plans, programs, and policies (PPPs) and Project Design Features (PDFs) that would reduce the proposed project's potential energy impacts:

PPP E-1 New buildings are required to achieve the current California Building Energy Efficiency Standards (Title 24, Part 6) and California Green Building Standards Code (CALGreen) (Title 24, Part 11). The 2016 Building Energy Efficiency Standards were effective starting January 1, 2017. The 2019 Building Energy Efficiency Standards will become effective on January 1, 2020. The Building Energy Efficiency Standards and CALGreen are updated tri-annually with a goal to achieve zero net energy for residential buildings by 2020 and non-residential buildings by 2030.

PPP E-2 New buildings are required to adhere to the California Green Building Standards Code (CALGreen) requirement to provide bicycle parking for new non-residential buildings, or meet local bicycle parking ordinances, whichever is stricter (CALGreen Sections 5.106.4.1, 14.106.4.1, and 5.106.4.1.2).

PPP E-3 California's Green Building Standards Code (CALGreen) requires the recycling and/or salvaging for reuse at minimum of 65 percent of the nonhazardous construction and demolition waste generated during most "new construction" projects (CALGreen Sections 4.408 and 5.408). Construction contractors are required to submit a construction waste management plan that identifies the construction and demolition waste materials to be diverted from disposal by recycling, reuse on the project, or salvaged for future use or sale and the amount (by weight or volume).

PPP E-4 Construction activities are required to adhere to Title 13 California Code of Regulations Section 2499, which requires that nonessential idling of construction equipment is restricted to five minutes or less.

PPP E-5 New buildings are required to adhere to the California Green Building Standards Code and Water Efficient Landscape Ordinance requirements to increase water efficiency and reduce urban per capita water demand.

PPP E-6 CARB's Renewable Portfolio Standard (RPS) is a foundational element of the State's emissions reduction plan. These mandates apply directly to investor-owned utilities, which in the case of the proposed project is Southern California Edison. On September 10, 2018, Senate Bill 100 was signed into law

and established the following RPS targets: 50 percent renewable resources target by December 31, 2026, and 60 percent target by December 31, 2030. SB 100 also requires that retail sellers and local publicly owned electric utilities procure a minimum quantity of electricity products from eligible renewable energy resources so that the total kilowatt hours of those products sold to their retail end-use customers achieve 44 percent of retail sales by December 31, 2024; 52 percent by December 31, 2027; and 60 percent by December 31, 2030.

PPP E-7 The 2007 Energy Bill creates new federal requirements for increases in fleetwide fuel economy for passenger vehicles and light trucks under the Federal Corporate Average Fuel Economy Standards. The federal legislation requires a fleetwide average of 35 miles per gallon (mpg) to be achieved by 2020. The National Highway Traffic Safety Administration is directed to phase in requirements to achieve this goal. Analysis by CARB suggests that this will require an annual improvement of approximately 3.4 percent between 2008 and 2020.

PPP E-8 SB 375 requires the reduction of GHG emissions from light trucks and automobiles through land use and transportation efforts that will reduce vehicle miles traveled. In essence, SB 375's goal is to control GHGs by curbing urban sprawl and through better land use planning. SB 375 essentially becomes the land use contribution to the GHG reduction requirements of AB 32, California's global warming bill enacted in 2006, and SB 32.

PDF E-1 The tilt-up concrete warehouse buildings would have rooftops that can support tenant improvements for solar panels (i.e., solar ready).

PDF E-2 All outdoor water demands would be served with recycled water.

PDF E-3 The project will include installation of electric vehicles charging stations to service 71 parking stalls for electric vehicles and 101 clean air/vanpool parking spaces.

PDF E-4 The proposed project includes use of energy efficient LEDs, implementation of passive design such as skylights, building orientation, landscaping, and strategic colors to improve building energy performance, use of high performance dual pane window glazing in office storefronts, and incorporation of skylights into at least two percent of warehousing/distribution building roof area to provide natural light and to reduce electric lighting demand.

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**Impact 5.5-1: The proposed project would not result in significant impacts due to wasteful, inefficient, or unnecessary consumption of energy resources, during construction or operation. [Threshold E-1]**

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### **Short-Term Construction Impacts**

Construction for the proposed project would create temporary increased demands for electricity and vehicle fuels compared to existing conditions and would result in short-term transportation-related energy use. Energy consumption during construction (2020 through 2022) was calculated using the CalEEMod, Version 2016.3.2 computer model, and the results are shown in Table 5.5-1, *Construction-Related Fuel Usage*, on page 5.5-9 of the DEIR.

#### *Electrical Energy*

Construction activities associated with the land uses accommodated under the proposed project would require electricity use to power the construction equipment. The electricity use during construction would vary during different phases of construction, where the majority of construction equipment during demolition and grading would be gas-powered or diesel-powered, and the later construction phases would require electricity-powered, such as interior construction and architectural coatings. Overall, the use of electricity would be temporary in nature and would fluctuate according to the phase of construction. Additionally, it is anticipated that the majority of electric-powered construction equipment would be hand tools (e.g., power drills, table saws, compressors) and lighting, which would result in minimal electricity usage during construction activities. Therefore, project-related construction activities would not result in wasteful or unnecessary electricity demands and impacts would be less than significant.

#### *Natural Gas Energy*

It is not anticipated that construction equipment used for the proposed project would be powered by natural gas, and no natural gas demand is anticipated during construction. Impacts would be less than significant.

#### *Transportation Energy*

Transportation energy use depends on the type and number of trips, vehicle miles traveled, fuel efficiency of vehicles, and travel mode. Transportation energy use during construction would come from the transport and use of construction equipment, delivery vehicles and haul trucks, and construction employee vehicles that would use diesel fuel and/or gasoline. The use of energy resources by these vehicles would fluctuate according to the phase of construction and would be temporary. Transportation energy use during construction would be temporary and would not require expanded energy supplies or the construction of new infrastructure. The proposed project would not result in wasteful, inefficient, or unnecessary use of energy during construction. Therefore, impact would be less than significant.

## **Long-Term Impacts During Operation**

Operation of the proposed project would create additional demands for electricity and natural gas compared to existing conditions and would result in increased transportation energy use. Operational use of energy would include heating, cooling, and ventilation of buildings; water heating; operation of electrical systems; use of on-site equipment and appliances; and indoor, outdoor, perimeter, and parking lot lighting.

### *Electrical Energy*

Operation of existing facility consumes electricity for various purposes, including heating, cooling, and ventilation of buildings; water heating; operation of electrical systems; security and control center functions; lighting; and use of onsite equipment and appliances. Estimated electricity use by the project would result in a net increase of 13,337,750 kilowatt-hours/year from existing conditions. The project would be consistent with the requirements of the current Building Energy Efficiency Standards and CALGreen and therefore, would not result in wasteful or unnecessary electricity demands. Therefore, the proposed project would not result in a significant impact related to electricity.

### *Natural Gas Energy*

The project's natural gas demand would result in a net increase of 12,408,994 kilo-British thermal units per year. Because the project would be built to meet the Building Energy Efficiency Standards; it would not result in wasteful or unnecessary natural gas demands. Therefore, operation of the proposed project would result in less than significant impacts.

### *Transportation Energy*

The proposed project would consume transportation energy during operations from the use of motor vehicles. Because the efficiency of the motor vehicles in use, such as the average miles per gallon for motor vehicles involved with the proposed project are unknown, estimates of transportation energy use is assessed based on the overall vehicle miles traveled (VMT) and related transportation energy use. The proposed project related VMT would primarily come from future employees. The VMT for the proposed project is estimated to be 31,467,861 miles. However, the proposed project would involve the construction of an industrial and business park that would provide more opportunities for employment for residents of the City and would be within an urbanized area with nearby amenities and public transit options. Furthermore, the proposed project includes a Circulation Plan to provide connectivity to the trails and bikeway corridors identified in the Ontario Multipurpose Trails and Bikeway Corridor Plan. Specifically, the proposed project includes and identifies installation of a Class II bikeway along Merrill Avenue and multipurpose trails along Euclid and Merrill Avenues. The City is also coordinating with regional transit agencies to implement BRT service that would include the segment of Euclid Avenue along the western boundary of the project area. In addition, in compliance with CALGreen, the proposed project would include bicycle racks and storage for

employee use. These features and aspects of the proposed project would contribute in minimizing VMT and transportation-related fuel usage. Overall, it is expected that operation-related fuel usage associated with the proposed project would not be any more inefficient, wasteful, or unnecessary than similar development projects. Therefore, impacts would be less than significant with respect to operation-related fuel usage.

**Finding.** Compliance with existing PPPs would minimize adverse impacts from energy use to less than significant levels. The proposed project would have a less than significant direct, indirect, and cumulative impact on energy resources. (DEIR at p. 5.5-12) Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.5-2: The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. [Threshold E-2]**

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#### **City of Ontario Community Climate Action Plan**

The City's CAP includes measures related to building energy. However, as discussed in Table 5.8-8, *Consistency with the Community Climate Action Plan*, these measures would generally not be applicable to the proposed project. For example, Measures Energy 3 through Energy 5 pertain to the retrofit of existing residential and non-residential buildings only. Implementation of the proposed project would result in the development and operation of new buildings only. Therefore, the proposed project would not be inconsistent with the energy efficiency and renewable energy measures of the City's Community CAP.

#### **City of Ontario Policy Plan**

Table 5.5-5, *Consistency with the Ontario Policy Plan*, on page 5.5-13 of the DEIR, evaluates the consistency of the proposed project to the applicable policies of the City of Ontario Policy Plan. As shown in the Table, the proposed project would generally be consistent with the applicable policies of the City of Ontario Policy Plan. Therefore, the proposed project would be consistent and would not interfere with the City of Ontario Policy Plan.

**Finding.** Compliance with existing PPPs and PDFs would minimize adverse impacts from energy to less than significant levels. The proposed project would have a less than significant direct, indirect, and cumulative impact on consistency with the CAP and Policy Plan. (DEIR at p. 5.5-13) Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

#### **4. Geology and Soils**

The following are plans, programs, and policies (PPP) that would reduce the proposed project's potential geology and soils impacts:



PPP GEO-1 The project would be required to comply with the California Building Code and the Ontario Municipal Code Section 1803.2, which requires a geotechnical investigation to evaluate soil classification, slope stability, soil strength, position and adequacy of load-bearing soils, the effect of moisture variation on soil-bearing capacity, compressibility, liquefaction, and expansiveness, as necessary, determined by the City building official. The geotechnical investigation must be prepared by registered professionals (i.e., California Registered Civil Engineer or Certified Engineering Geologist).

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**Impact 5.6-1: Project occupants would be subject to strong ground shaking, however, project development would not subject people or structures to seismic-related ground failure including liquefaction. [Threshold G-1ii and iii]**

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### **Surface Fault Rupture**

The project site is not within an Alquist-Priolo Earthquake Fault Zone, and no evidence of faulting was identified during the geotechnical investigation. The project site is not subject to surface rupture of a known active fault, as the nearest faults to the site are approximately 2.3- to 3-miles to southwest. The possibility of significant fault rupture on the site is considered to be low. Therefore, impacts would be less than significant.

### **Ground Shaking**

Southern California is considered a seismically active region and regional vicinity of the project site contains a number of known earthquake faults. As part of the geotechnical report, 2016 California Building Code Seismic Design Parameters were generated for future structural improvements within the Specific Plan area. Structures for human occupancy must be designed to meet or exceed 2016 CBC standards for earthquake resistance. Therefore, future development of habitable structures within the site would be conducted in accordance with the 2016 CBC Seismic Design Parameters generated as part of the geotechnical report, which would reduce impacts from seismic ground shaking to a less than significant level.

### **Liquefaction**

Liquefaction occurs when saturated fine-grained sands or silts lose their strengths during an earthquake and behave as a liquid. According to the geotechnical report, the project site is not within a zone of liquefaction susceptibility and the subsurface conditions at the boring locations are not considered to be conducive to liquefaction. Liquefaction potential under the site is low due to the depth to groundwater and the mix of soil type and is not considered to be a design concern for the proposed project. Therefore, project development would not subject people or structures to liquefaction hazards, and impacts would be less than significant.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to seismic-related ground failure to less than significant levels. (DEIR at p. 5.6-11) The proposed project would have a less than significant direct, indirect, and cumulative impact from geology and soils. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.6-2: Unstable geologic unit or soils conditions would not result from development of the project. [Threshold G-3]**

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### **Lateral Spreading and Subsidence**

As discussed in Impact 5.6-1, liquefaction is not considered to be a design concern for the proposed project, and potential lateral spreading would be low. The major cause of ground subsidence is the excessive withdrawal of groundwater. Based on the conditions encountered in the borings and trenches conducted for the geotechnical report groundwater was not observed within 30 feet of the ground surface, and recent water level data indicates that the highest groundwater levels range from 83 feet bgs in the project site vicinity. Therefore, groundwater is not expected to affect excavations for the foundations and utilities. However, minor subsidence is expected to occur in the soils below the zone of soil removal, due to settlement and machinery working; the subsidence is estimated to be 0.10 feet.

The geotechnical report provides recommendations to support the proposed structures and offset impacts from subsidence of 0.10 feet such as scarification and air drying of over-excavated materials to obtain a stable subgrade. The City of Ontario adopts the California Building Code by reference and PPP GEO-1 requires compliance with the recommendations of the geotechnical report. Therefore, with implementation of PPP GEO-1, the project applicant would comply with the recommendations of the geotechnical report and impacts from potential subsidence of 0.10 feet would be reduced to a less than significant level.

### **Consolidation and Collapsible Soils**

Collapsible soils shrink upon being wetted and/or subjected to a load. Selected soil samples were tested to determine their consolidation potential, and their potential for collapse or heave. As the existing fill soils and the upper portion of the near surface alluvium are not considered suitable for support of new structures, remedial grading would be necessary. The recommended remedial grading would remove the existing undocumented fill soils as well as a portion of the near-surface native alluvium and replace these materials as compacted structural fill. Provided the recommended remedial grading is completed in accordance with the geotechnical report, post-construction settlements of the proposed structures are expected to be within tolerable limits. Therefore, development of the proposed improvements would result in a less than significant impact with implementation of PPP GEO-1.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to unstable geologic unit or soils conditions to less than significant levels. (DEIR at p. 5.6-12) The proposed project would have a less than significant direct, indirect, and cumulative impact on geology and soils. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.6-3: For Impact 5.6-3, refer to Section D, *Findings on Significant Environmental Impacts that can be Reduced to a Less than Significant Level.***

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## **5. Hazards and Hazardous Materials**

The following are plans, programs, and policies (PPPs) that would reduce the proposed project's potential hazards and hazardous materials impacts:

- PPP HAZ-1 **Transportation of Hazardous Waste.** Hazardous materials and hazardous wastes shall be transported to and/or from the proposed project in compliance with any applicable state and federal requirements, including the U.S. Department of Transportation regulations listed in the Code of Federal Regulations (Title 49, Hazardous Materials Transportation Act); California Department of Transportation standards; and the California Occupational Safety and Health Administration standards.
- PPP HAZ-2 **Resource Conservation and Recovery Act.** Hazardous waste generation, transportation, treatment, storage, and disposal shall be conducted in compliance with the Subtitle C of the Resource Conservation and Recovery Act (RCRA) (Code of Federal Regulations, Title 40, Part 263), including the management of nonhazardous solid wastes. The San Bernardino County Fire Protection District serves as the designated Certified Unified Program Agency (CUPA) and which implements state and federal regulations for the following programs: (1) Hazardous Materials Release Response Plans and Inventory Program, (2) California Accidental Release Prevention (CalARP) Program, (3) Aboveground Petroleum Storage Act Program, and (4) Underground Storage Tank (UST) Program (5) Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs (6) Hazardous Materials Management Plan and Hazardous Material Inventory Statement Program.
- PPP HAZ-3 **ACMs.** Demolition activities that have the potential to expose construction workers and/or the public to ACMs shall be conducted in accordance with applicable regulations, including, but not limited to:
- South Coast Air Quality Management District's Rule 1403

- California Health and Safety Code (Section 39650 et seq.)
- California Code of Regulations (Title 8, Section 1529)
- California Occupational Safety and Health Administration regulations (California Code of Regulations, Title 8, Section 1529)
- Code of Federal Regulations (Title 40, Part 61, Title 40, Part 763, and Title 29, Part 1926)

PPP HAZ-4 **Removal of Hazardous Materials.** The removal of hazardous materials, such as polychlorinated biphenyls (PCBs), mercury-containing light ballast, and mold shall be completed in accordance with applicable regulations pursuant to 40 CFR 761 (PCBs), 40 CFR 273 (mercury-containing light ballast), and 29 CFR 1926 (molds) by workers with the hazardous waste operations and emergency response (HAZWOPER) training, as outlined in 29 CFR 1910.120 and 8 CCR 5192.

PPP HAZ-5 **Lead-Based Paints.** Demolition activities that have the potential to expose construction workers and/or the public to lead-based paint shall be conducted in accordance with applicable regulations, including, but not limited to:

- California Occupational Safety and Health Administration regulations (California Code of Regulations, Title 8 Section 1532.1)
- Code of Federal Regulations (Title 40, Part 745, and Title 29, Part 1926)
- EPA's Lead Renovation, Repair and Painting Program Rules and Residential Lead-Based Paint Disclosure Program
- Sections 402/404 and 403, and Title IV of the Toxic Substances Control Act (TSCA)

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**Impact 5.8-1:** For Impact 5.8-1, refer to Section D, *Findings on Significant Environmental Impacts that can be Reduced to a Less than Significant Level.*

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**Impact 5.8-2:** For Impact 5.8-2, refer to Section D, *Findings on Significant Environmental Impacts that can be Reduced to a Less than Significant Level.*

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**Impact 5.8-3:** The project site is located within the jurisdiction of the Ontario International Airport and Chino Airport. [Threshold H-5]

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The project site is within the ONT and Chino Airport's AIA. The proposed project is in Zone E of the Chino Airport as designated in the ALUCP. Warehousing and office buildings are permitted in Zone E. Furthermore, the maximum building height for the proposed project is 55 feet and the project does not require ALUC review. In the San Bernardino County Chino Airport Comprehensive Land Use Plan, the site is within Safety Zone III, Traffic Pattern/Overflight Zone. Light industrial and manufacturing uses are acceptable within this zone, provided that they do not generate any visual, electronic, or physical hazards to aircraft. The project site is not within a ONT safety zone, noise impact zone, or airspace protection zone. Therefore, the proposed project would not result in a safety hazard or excessive noise for people residing or working in the project area and impacts would be less than significant.

**Finding.** Compliance with existing PPPs would minimize adverse impacts from nearby airports to less than significant levels. (DEIR at p. 5.8-16) The proposed project would have a less than significant direct, indirect, and cumulative impact on hazards and hazardous materials. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **6. Hydrology and Water Quality**

The following are plans, programs, and policies (PPPs) that would reduce the proposed project's potential hydrology and water quality impacts:

- PPP HYD-1 The proposed project will be constructed and operated in accordance with the City's Standard Condition SC 3.66 that requires a hydrology study and drainage analysis be prepared and signed by a California registered civil engineer in accordance with the San Bernardino County Hydrology Manual and the City of Ontario's Standards and Guidelines. Additional drainage facilities may be required after review of the studies by the City.
- PPP HYD-2 Any construction shall be regulated by the State Water Resources Control Board in a manner pursuant to and consistent with applicable requirements contained in the General Permit No. CAS000002, State Water Resources Control Board Order Number 2009-0009-DWQ. This includes preparation of a SWPPP and an Erosion Sediment and Control Plan, as per the City of Ontario's requirements.
- PPP HYD-3 The project will be constructed and operated in accordance with the San Bernardino County MS4 Permit (Order No. R8-2010-0036, NPDES No. CAS618036 as renewed by the ROWD submitted on August 1, 2014). The MS4 Permit requires new development and redevelopment projects to prepare a preliminary WQMP and a final WQMP to:

- Develop site design measures using Low Impact Development (LID) principles
- Establish project-specific design capture volume (DCV) and applicable Hydrologic Conditions of Concern (HCOC) requirements
- Evaluate feasibility of on-site LID Best Management Practices (BMPs)
- Maximize hydrologic source control, infiltration, and biotreatment BMPs
- Select applicable source control BMPs
- Address post-construction BMP maintenance requirements

PPP HYD-4 Onsite wells shall be abandoned in compliance with DWR standards and San Bernardino County well permit requirements.

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**Impact 5.9-1: The proposed project would not violate water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. [Threshold HYD-1]**

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### **Construction**

Clearing, grading, excavation, and construction activities associated with the proposed project have the potential to impact water quality through soil erosion and increasing the amount of silt and debris carried in runoff. Additionally, the use of construction materials and the refueling and parking of construction vehicles and other equipment may present a risk to surface water quality and may discharge into the storm drain system.

To minimize potential impacts, development of the project would require compliance with the Construction General Permit (CGP) Water Quality Order 2009-0009-DWQ, which requires the preparation of a SWPPP. A SWPPP requires the incorporation of BMPs to control sediment, erosion, and hazardous materials contamination of runoff during construction and prevent contaminants from reaching receiving water bodies. Table 5.9-2, *Construction BMPs*, on page 5.9-12 of the DEIR, shows the categories of potential BMPs that would be implemented for this project. In addition, the City of Ontario requires that an erosion and sediment control plan be submitted prior to grading plan approval and the issuance of a grading permit. The proposed project would comply with all applicable water quality standards and water discharge requirements.

### **Operations**

Once the proposed project is constructed, urban runoff could include a variety of contaminants that could impact water quality. Precipitation at the beginning of the rainy season may result in an initial stormwater runoff (first flush) with high pollutant concentrations. According to the Santa Ana RWQWCB MS4 permit, this permit would be classified as a Priority Development Project because it would create more than 10,000 square feet of impervious surfaces. Therefore, a preliminary WQMP and a final WQMP

would be required for the proposed project under the MS4 Permit, and would include BMPs. The preliminary WQMP shows that the project can treat the full design capture volume (DCV) onsite. The total volume of stormwater runoff detained by the underground CMP chambers and proprietary biofiltration units (401,309 cubic feet) is greater than the calculated volume needed to meet the HCOC requirements (280,483 cubic feet). Therefore, implementation of the project will not increase the time of concentration and the post-development runoff volume will not exceed pre-development conditions for the design storm event. The project will comply with all state, county, and local regulations regarding stormwater runoff during construction and operational phases of the project.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to water quality to less than significant levels. (DEIR at p. 5.9-17) The proposed project would have a less than significant direct, indirect, and cumulative impact on violating water quality. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.9-2: The proposed project would increase the amount of impervious surfaces but will not substantially increase the rate or amount of surface runoff in a manner which would result in potential flooding on- or offsite, create runoff water would exceed the capacity of storm drain systems, or provide substantial additional sources of polluted runoff. [Thresholds HYD-3 (ii), (iii), and (iv)]**

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The proposed project will not involve the alteration of any natural drainages or watercourses. The storm drain facilities would include an on-site internal storm drain system that discharges via catch basins to 11 underground detention chambers and 11 modular wetlands biofiltration units scattered throughout the site. There currently are no improved drainage facilities other than earthen ditches in the vicinity of the project site, since the existing land use is agricultural. However, the Ontario Ranch Business Park Specific Plan describes storm drain improvements that will be implemented as part of the project consistent with the City of Ontario's Master Plan of Drainage.

Until the future storm drain infrastructure is constructed, the project will retain onsite any stormwater runoff in excess of the stormwater volume produced by a 25-year storm under existing conditions. Since the existing storm drain infrastructure does not have the capacity to accept stormwater flows in excess of the 25-year storm, the project proposed an additional detention system at the site. The proposed project would not result in the impedance or redirection of flood flows. Offsite stormwater runoff will be intercepted by the proposed future storm drain along Eucalyptus Avenue.

With the implementation of the BMPs and detention features, the project would not substantially increase the rate or amount of surface runoff in a manner that would result in on- or off-site flooding. The site design LID features and onsite detention facilities will

ensure that stormwater runoff does not exceed the capacity of the storm drain system. The calculated stormwater runoff volume for the 100-year storm under post-development conditions would be less than the amount of stormwater runoff for the 25-year storm under existing conditions. In addition, the modular wetlands system will provide biofiltration and treatment prior to discharge into the storm drain system so there will not be additional sources of polluted runoff. Therefore, this impact would be less than significant.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to potential flooding on- or offsite and storm drain capacity to less than significant levels. (DEIR at p. 5.9-19) The proposed project would have a less than significant direct, indirect, and cumulative impact on increasing the rate or amount of surface runoff. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.9-3: The proposed site is not located in tsunami or seiche zones and would not release pollutants due to inundation from flood hazard. [Threshold HYD-4]**

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The project site is not within a 100-year floodplain; it is designated as within Zone D, where no analysis of flood hazards has been conducted. However, the project site is relatively flat and there are no nearby water bodies or streams or other conditions that would result in flooding at the project site. The project site is within the dam inundation zone of San Antonio Dam which is owned and operated by the Army Corps of Engineers and functions as a flood control and debris dam for the San Antonio River. The probability of dam failure is very low and the City of Ontario has never been impacted by a major dam failure. The proposed BMPs and LID measures at the project site would result in the treatment and biofiltration of any flood waters that enter the site and prevent pollutants from entering the regional storm drain system. The project site is also not located near any water storage tanks or reservoirs that would result in a seiche during seismic activity. The project site is inland and approximately 30 miles from the ocean and therefore is not at risk of flooding due to tsunamis. Impacts associated with the release of pollutants due to inundation would be less than significant.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to tsunamis, seiches, or inundations to less than significant levels. (DEIR at p. 5.9-19) The proposed project would have a less than significant direct, indirect, and cumulative impact from tsunamis, seiches, or inundations. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.9-4: The proposed project would not obstruct or conflict with the implementation of a water quality control plan or sustainable groundwater management plan. [Threshold HYD-5]**

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Adherence to the State GCP, implementation of the SWPPP, and adherence to the City's Erosion and Sediment Control Plan requirements, as described in detail in Impact 5.9-1, would ensure that surface and groundwater quality are not adversely impacted during construction. In addition, implementation of the LID and BMP measures at the site, including hydrodynamic separators, underground detention, and modular wetlands biofiltration will ensure that water quality is not impacted during the operational phase of the project. As a result, site development will not obstruct or conflict with the implementation of the Santa Ana River Basin Water Quality Control Plan.

The project site is currently used for agricultural uses, including dairy operations and field crops. The site currently uses groundwater from an on-site groundwater well for the irrigation of crops and other agricultural-related uses, which would cease with implementation of the proposed project. Upon development, the project site will be connected to the City's public water supply and there will be no on-site wells for use of groundwater. The City manages both the potable and non-potable supplies to ensure withdrawals from the Chino Groundwater Basin do not exceed the safe yield for the Basin, as per the Chino Basin Watermaster's Optimum Basin Management Program (OBMP). Therefore, the project would not obstruct or conflict with the OBMP and impacts would be less than significant.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to water quality control plan or sustainable groundwater management plan to less than significant levels. (DEIR at p. 5.9-20) The proposed project would have a less than significant direct, indirect, and cumulative impact from a water quality control plan or sustainable groundwater management plan. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## **7. Land Use and Planning**

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**Impact 5.10-1: The proposed project would not conflict with applicable plans adopted for the purpose of avoiding or mitigating an environmental effect. [Threshold LU-2]**

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The proposed project consists of a General Plan Amendment, Specific Plan, Development Plan Review, Tentative Parcel Maps, and Development Agreement to allow for development of an industrial and business park on eleven parcels covering 85.6 acres in the City of Ontario. The General Plan Amendment would change land uses from General Commercial, Office Commercial, and Low-Medium Density Residential to Business Park and Industrial land uses. The Specific Plan would provide zoning regulations for development of the project site by establishing permitted land use, development standards, infrastructure requirements and implementation requirements for the development.

The proposed project is considered of regionwide significance pursuant to the criteria outlined in SCAG's *Intergovernmental Review Procedures Handbook* and CEQA Guidelines Section 15206 because it would involve a net increase of over 500,000 square feet of business establishment. Therefore, a consistency analysis with the applicable regional planning guidelines of SCAG's RTP/SCS is required. Table 5.10-2, *Consistency with SCAG's 2016-2040 RTP/SCS Goals*, on page 5.10-5 of the DEIR, indicates that the proposed project would be consistent with SCAG's 2016-2040 RTP/SCS Goals.

Moreover, a detailed analysis of the project's consistency with Citywide goals in TOP is provided in Table 5.10-3, *Consistency with the City of Ontario General Plan (TOP)*, on page 5.10-8 of the DEIR; the proposed project would be consistent with the policies of the TOP. Additionally, the Specific Plan would become the land use implementation tool for the project area, and if there are any conflicts between the requirements of the Development Code and the standards contained within an adopted Specific Plan, the requirements of the Specific Plan shall govern, and when the provisions of a Specific Plan are silent on a specific matter, the regulations set forth in the Development Code shall apply. As such, the proposed Specific Plan would not result in conflicts with the Ontario Development Code, and impacts would be less than significant.

The project site is located immediately to the north of the Chino Airport and is approximately 4.6 miles to the southwest of the Ontario International Airport, and are within the Airport Influence Areas of these airports. The project site is not within a safety zone, a noise impact zone, or an airspace protection zone of Ontario International Airport. The proposed project is in Zone E of the Chino Airport; warehousing and office buildings are permitted in Zone E

**Finding.** Compliance with existing PPPs would minimize adverse impacts from land use and planning to less than significant levels. (DEIR at p. 5.10-23) The proposed project would have a less than significant direct, indirect, and cumulative impact from the potential to conflict with land use applicable plans. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## 8. Noise

The following are plans, programs, and policies (PPPs) that would reduce the proposed project's potential noise and vibration impacts:

PPP N-1      The proposed project shall comply with City of Ontario Municipal Code Chapter 29, Exterior Noise Standards and Section 5-29.09, which limits construction activities to weekdays between the hours of 7:00 AM and 6:00 PM or on Saturday or Sunday between the hours of 9:00 AM and 6:00 PM.

PPP N-2 The proposed project shall comply with City of Chino Municipal Code Chapter 9.40, Exterior Noise Standards, and Section 15.44.040, which limits construction activities between the hours of 7:00 AM and 8:00 PM Monday through Saturday, with no construction allowed on Sundays and federal holidays.

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**Impact 5.11-1: For Impact 5.11-1, refer to Section D, *Findings on Significant Environmental Impacts that can be Reduced to a Less than Significant Level.***

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**Impact 5.11-2: For Impact 5.11-2, refer to Section D, *Findings on Significant Environmental Impacts that can be Reduced to a Less than Significant Level.***

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**Impact 5.11-3: The project would not create significant ground borne vibration. [Threshold N-2]**

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### **Architectural Vibration Damage**

Construction operations can generate varying degrees of ground vibration, depending on the construction procedures and equipment. Operation of construction equipment generates vibrations that spread through the ground diminish with distance from the source.

Table 5.11-12, *Vibration Levels for Typical Construction Equipment*, on page 5.11-27 of the DEIR, summarizes vibration levels for typical construction equipment at a reference distance of 25 feet. Typical construction equipment can generate vibration levels ranging up to 0.21 in/sec PPV at 25 feet. Vibration levels at a distance greater than 25 feet would attenuate 0.2 in/sec PPV or less. The closest residential structures in both the City of Ontario (residences to the north) and residential structures in the City of Chino (residences to the west) are located beyond 25 feet from possible off-site road and utility work. Therefore, vibration levels would attenuate to below the 0.2 in/sec PPV threshold, and this impact would be less than significant.

### **Vibration Annoyance**

Table 5.11-13, *Vibration Annoyance Levels for Typical Construction Equipment*, on page 5.11-27 of the DEIR, shows typical vibration annoyance levels (VdB) at 25 feet. The nearest sensitive receptors are residences 300 feet north of the Building 8 area center. At that distance, VdB levels would attenuate to 62 VdB or less on average, which is well below the significance threshold of 94 VdB. Residences to the west in Chino would experience even lower vibration levels on average. Therefore, impacts would be less than significant.

## Operational Vibration

The proposed project would include truck movement activity at the proposed project site. These movements would generally be low-speed and would occur over new, smooth surfaces. Since the project's truck movements would be a low speed (not at freeway speeds), would be over smooth surfaces (not under poor roadway conditions), project-related vibration associated with truck activity would not result in excessive ground borne vibrations; no vehicle-generated vibration impacts would occur. In addition, there are no sources of substantial ground borne vibration associated with the project, such as rail or subways. The proposed project would not create or cause any vibration impacts due to operations.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to vibration to less than significant levels. (DEIR at p. 5.11-28) The proposed project would have a less than significant direct, indirect, and cumulative impact from vibration. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.11-4: The proximity of the project site to an airport or airstrip would not result in exposure of future workers to excessive airport-related noise. [Threshold N-3]**

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### *Chino Airport*

The proposed project is across Merrill Avenue from the Chino Airport. The Chino General Plan's Noise Element has noise contours for the Chino Airport. The noise contours show the project site outside the 65 dBA CNEL contour and, in addition, the proposed project would be an industrial business park, which is not considered a noise-sensitive land use. Therefore, there would be no impact.

### *Ontario International Airport*

The proposed project is approximately 5 miles south of the Ontario International Airport. The Ontario International Airport Land Use Compatibility Plan Policy Map 2-3, Noise Impact Zones, shows airport noise contours. The map shows the proposed project site to be outside the 60-65 dB CNEL contour. As discussed above, the proposed project would be an industrial business park, which is not considered a noise-sensitive land use. There would be no impact.

**Finding.** Compliance with existing PPPs would minimize adverse impacts from airport-related noise to less than significant levels. (DEIR at p. 5.11-28) The proposed project would have a less than significant direct, indirect, and cumulative impact from exposure to airport-related noise. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental.

## 9. Population and Housing

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**Impact 5.12-1: The proposed project would not directly or indirectly result in population growth in the project area. [Threshold P-1]**

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### Construction

Construction of the proposed project would require contractors and laborers. Because of the size of the project, the supply of general construction labor would be available from the local and regional labor pool. The project would not result in a long-term increase in employment from short-term construction activities.

### Operation

The projected number of employees that would result from the implementation of the Specific Plan was calculated based on the land use projection assumptions in the TOP EIR, Appendix J. As shown in Table 5.12-6, *Project Generated Employment*, on page 5.12-11 of the DEIR, the project site has the potential to generate 2,064 employees. The forecast increase in project employment is well within SCAG's forecast employment increase for the City of Ontario of 72,100 and the forecast employment increase for the County of San Bernardino of 367,600 by 2040. Therefore, project-related employment growth impacts are not anticipated to be significant.

### Population Growth

Implementation of the proposed project would increase jobs in the City of Ontario which would have the potential to increase the demand for housing in the area. The San Bernardino Council of Governments (SBCOG) region is housing rich, and the proposed project would produce more jobs and therefore would support the improvements designated by SCAG in pursuit of an improved jobs housing-balance for the County of San Bernardino. However, even if the project increase in employees added equivalent population to the project site, growth of 2,064 residents would be well within the growth projections assumed for the City and the region, specifically, 92,300 by 2040 in the City of Ontario and 663,300 by 2040 in the County of San Bernardino. Therefore, the proposed project would not result in substantial population growth, and impacts would be less than significant.

### Jobs-Housing Balance

As stated, the San Bernardino Council of Governments (SBCOG) region is housing rich. The project would produce more jobs and therefore would support the improvements designated by SCAG in pursuit of an improved jobs-housing balance for the County of San Bernardino. As shown in Table 5.12-7, *Projected Jobs-Housing Balance*, on page 5.12-13 of the DEIR, at buildout of the proposed project the jobs-housing ratio for the City of Ontario is estimated to be 2.36, similar to SCAG projections for the City in 2040 of 2.33.

Buildout of the Specific Plan would result in an estimated jobs-housing ratio of 1.21 for the County of San Bernardino, similar to SCAG projections for the County of 1.20. Therefore, no significant impact would occur.

**Finding.** The proposed project would have a less than significant direct, indirect, and cumulative impact from population and employment growth associated with the project. (DEIR at p. 5.12-13) Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## 10. Public Services

The following are plans, programs, and policies (PPPs) that would reduce the proposed project's potential public services impacts:

PPP PS-1 The proposed project is required to comply with the 2019 Edition of the California Fire Code.

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**Impact 5.13-1: The proposed project would introduce new structures and workers into the Ontario Fire Department service boundaries, thereby increasing the requirement for fire protection facilities and personnel. [Threshold FP-1]**

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The increase in development and workers within the project site would result in additional calls for fire department services, which would increase needs for fire department staffing and equipment. However, the eight new tilt-up industrial/warehouse buildings would be constructed from non-flammable concrete and would be equipped with automatic ceiling-mounted fire sprinkler systems. All other fire-related safety features would be in accordance with the applicable provisions of the adopted California Fire Code (CFC) and the City's Municipal Code Section 4-4.01, ordinances, and standard conditions regarding fire prevention and suppression measures related to water improvement plans, fire hydrants, fire access, and water availability. Additionally, prior to the approval of the project, the City's Building Department and OFD would review building plans in order to ensure that all applicable fire safety features are incorporated as part of the project. Prior to the approval of occupancy permits for the new buildings, it would be required that the OFD would inspect all new structures in order to ensure that all fire safety features have been implemented and installed correctly.

The City has eight existing fire stations; the closest of which is Station 3, located approximately 4 miles north of the project site. A new station has been proposed in the City of Ontario that would be located approximately 4 miles east/northeast of the project site that would supplement Station 3 in immediate response to the project site. The existing and planned facilities would serve the southern portion of the City, including the project site. The proposed project would not create any deficiencies in current response

times or staffing models, nor require provision of new or expanded fire facilities, construction of which would have the potential to cause significant environmental impacts. Development impact fees (DIF) would also be collected in order to build and supply necessary infrastructure for fire protection services, as necessary. Therefore, impacts related to fire protection services would be less than significant.

**Finding.** Compliance with existing PPPs would minimize adverse impacts to fire services to less than significant levels. (DEIR at p. 5.13-6) The proposed project would have a less than significant direct, indirect, and cumulative impact to fire facilities and services. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.13-2: The proposed project would introduce new structures and workers into the Ontario Police Department service boundaries, thereby increasing the requirement for police protection facilities and personnel. [Threshold PP-1]**

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The increase in development and workers within the project site would result in additional calls for police services. However, implementation of the Specific Plan would include installation of security features and natural surveillance through the provision of low-intensity security lighting in and around the new buildings in addition to the parking areas. As described in Chapter 3, *Project Description*, the project would incorporate design features that would discourage crime including features such as thematic fencing, decorative walkways and trellises. The design would also incorporate skylights and landscaping into the project. Additionally, pursuant to the City's existing permitting process, the City's Building Department would review final site plans in order to ensure that crime prevention through design measures is incorporated as part of the project. Furthermore, as the eight new buildings are expected to operate 24 hours a day, 7 days a week, someone would always be onsite, thereby lowering the crime potential for the project site, lessening the potential for increased police facilities or personnel. The Ontario Police Department has prepared for growth of the Ontario Ranch area of the City and is expected to have adequate facilities and personnel to serve the proposed development. Therefore, impacts would be less than significant.

**Finding.** Compliance with existing PPPs would minimize adverse impacts to police services to less than significant levels. (DEIR at p. 5.13-10) The proposed project would have a less than significant direct, indirect, and cumulative impact to police and emergency facilities and services. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

## 11. Transportation

The following are plans, programs, and policies (PPPs) and project design features (PDFs) that would reduce the proposed project's potential transportation impacts:

- PPP TR-1 The proposed project would be required to comply with the City of Ontario's Development Impact Fee (DIF) program, which helps fund transportation improvements. The City's DIF includes regional improvements to comply with Measure I. If roadway improvements are not included in the DIF program, the proposed project would be required to provide funding on a fair share basis where appropriate, as determined by the City. These fees shall be collected by the City of Ontario, with the proceeds solely used as part of a funding mechanism aimed at ensuring that regional highways and arterial expansions keep pace with the projected population increases. Chapter 8 of the TIA (contained in Appendix L1) provides more information on the DIF program, fair share contributions, and the proposed project's expected contributions.
- PPP TR-2 The proposed project would be required to comply with Municipal Code Section 7-3.07, which requires that prior to any activity that would encroach into a right-of-way, the area be safeguarded through the installation of safety devices that would be specified by the City's Engineering Department during the construction permitting process to ensure that construction activities would not increase hazards.

### Project Design Features

#### *Roadway and Intersection Improvements*

The proposed circulation plan for the proposed project would facilitate site access and movement of vehicles, pedestrians, and cyclists within the Specific Plan area. All road surface, sidewalk, and trail improvements within the Specific Plan area must be approved by the City's Engineering Department. Exhibit 1-4 in the TIA (contained in Appendix L1 to this DEIR) depicts the improvements described below. Implementation of the Specific Plan would result in the following roadway improvements:

- **Euclid Avenue (SR-83).** Euclid Avenue (SR-83) is a north-south oriented roadway located along the project's western boundary. Construct Euclid Avenue (SR-83) from Eucalyptus Avenue to Merrill Avenue at its ultimate half-section width as an 8-lane other principal arterial (200-foot ultimate right-of-way) in compliance with the circulation recommendations found in City of Ontario General Plan. Improvements include curb and gutter, a 15-foot parkway including sidewalk, and a 33-foot half-width raised median. This raised median will prohibit left turns into and out of Driveways 1 and 2 on Euclid Avenue (SR-83).



- **Eucalyptus Avenue.** Eucalyptus Avenue is an east-west oriented roadway located along the project's northern boundary. Construct Eucalyptus Avenue from Euclid Avenue (SR-83) to Sultana Avenue at its ultimate half-section width as a 4-lane collector (108-foot ultimate right-of-way) in compliance with the circulation recommendations found in City of Ontario General Plan. Improvements include curb and gutter and a 12-foot parkway including sidewalk.
- **Merrill Avenue.** Merrill Avenue is an east-west oriented roadway located along the project's southern boundary. Construct Merrill Avenue from Euclid Avenue (SR-83) to Sultana Avenue at its ultimate half-section width as a 4-lane collector (108-foot ultimate right-of-way) in compliance with the circulation recommendations found in City of Ontario General Plan. Improvements include curb and gutter and a 12-foot parkway including sidewalk.
- **Sultana Avenue.** Sultana Avenue is a north-south oriented roadway located along the project's eastern boundary. Construct Sultana Avenue from Eucalyptus Avenue to Merrill Avenue at its ultimate half-section width as a 2-lane local street (66-foot ultimate right-of-way) in compliance with the circulation recommendations found in City of Ontario General Plan. Improvements would include curb and gutter and a 9-foot parkway including sidewalk.

In addition, the proposed project includes improvements to the following project site access driveways and one existing intersection. These intersection improvements include:

- **Euclid Avenue (SR-83) & Driveway 1 (#9):**
  - Install a stop control on the westbound approach and a westbound right turn lane.
  - Add a northbound right turn lane with a minimum of 100-feet of storage.
- **Euclid Avenue (SR-83) & Driveway 2 (#10):**
  - Install a stop control on the westbound approach and a westbound right turn lane.
  - Add a northbound right turn lane with a minimum of 100-feet of storage.
- **Euclid Avenue (SR-83) & Merrill Avenue (#11):**
  - Add a westbound left turn lane with a minimum of 250-feet of storage.
  - Add a westbound right turn lane.
  - Modify the traffic signal to implement overlap phasing on the westbound right turn lane.
- **Driveway 3 & Eucalyptus Avenue (#17):**
  - Install a stop control on the northbound approach and a northbound right turn lane. The intersection should be constructed to prohibit left turns in and out of this driveway.
  - Add an eastbound right turn lane with a minimum of 100-feet of storage.

- Driveway 4 & Merrill Avenue (#18):
  - Install a stop control on the southbound approach and a northbound right turn lane. The intersection should be constructed to prohibit left turns in and out of this driveway.
  - Add a westbound right turn lane with a minimum of 100-feet of storage.
- Driveway 5 & Eucalyptus Avenue (#19):
  - Install a stop control on the northbound approach and a northbound right turn lane. The intersection should be constructed to prohibit left turns in and out of this driveway.
  - Add an eastbound right turn lane with a minimum of 100-feet of storage.
- Sultana Avenue & Eucalyptus Avenue (#20):
  - Install a stop control on the northbound approach and a northbound shared left-right turn lane.
  - Add an eastbound right turn lane with a minimum of 100-feet of storage.
  - Add a westbound left turn lane with a minimum of 150-feet of storage.
- Sultana Avenue & Driveway 6 (#21):
  - Install a stop control on the eastbound approach and an eastbound shared left-right turn lane.
  - Add a northbound left turn lane with a minimum of 100-feet of storage in the two-way-left-turn lane and a northbound through lane.
  - Add a southbound shared through-right turn lane.
- Sultana Avenue & Driveway 7 (#22):
  - Install a stop control on the eastbound approach and an eastbound shared left-right turn lane.
  - Add a northbound left turn lane with a minimum of 100-feet of storage in the two-way-left-turn lane and a northbound through lane.
  - Add a southbound shared through-right turn lane.
- Sultana Avenue & Driveway 8 (#23):
  - Install a stop control on the eastbound approach and an eastbound shared left-right turn lane.
  - Add a northbound left turn lane with a minimum of 100-feet of storage in the two-way-left-turn lane and a northbound through lane.
  - Add a southbound shared through-right turn lane.
- Sultana Avenue & Driveway 9 (#24):
  - Install a stop control on the eastbound approach and an eastbound shared left-right turn lane.
  - Add a northbound left turn lane with a minimum of 100-feet of storage in the two-way-left-turn lane and a northbound through lane.
  - Add a southbound shared through-right turn lane.
- Sultana Avenue & Driveway 10 (#25):
  - Install a stop control on the eastbound approach and an eastbound shared left-right turn lane.

- Add a northbound left turn lane with a minimum of 100-feet of storage in the two-way-left-turn lane and a northbound through lane.
- Add a southbound shared through-right turn lane.
- Sultana Avenue & Driveway 11 (#26):
  - Install a stop control on the eastbound approach and an eastbound right turn lane. The intersection should be constructed to prohibit left turns in and out of this driveway.
  - Add a northbound through lane.
  - Add a southbound shared through-right turn lane.

### ***Truck Access and Circulation***

- In order to accommodate heavy truck access to the project site, the following improvements to curb radii and driveways would be made:
  - Driveway 4 on Merrill Avenue would be modified to provide a 50-foot curb radius on the northwest and northeast corners to accommodate WB-67 trucks.
  - The intersection of Sultana Avenue and Eucalyptus Avenue would be modified to provide a 50-foot curb radius on the southwest corner of the intersection to accommodate WB-67 trucks.
  - Driveway 6 on Sultana Avenue would be modified to provide a 35-foot curb radius on the northwest corner and a 40-foot curb radius on the southwest corner. In addition, modify the landscaped median 30-feet to the west in order to allow for WB-67 trucks to maneuver on site at Driveway 6.
  - Driveway 8 on Sultana Avenue would be modified to provide a 40-foot curb radius on the northwest corner and a 45-foot radius on the southwest corner. In addition, modify the landscaped median on the southwest corner by 10-feet to accommodate WB-67 trucks.
  - Driveway 9 on Sultana Avenue would be modified to provide a 40-foot curb radius on the northwest corner. In addition, modify the landscaped median to the northwest corner by 10-feet to accommodate WB-67 trucks.

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**Impact 5.14-1: See Section E. *Significant and Unavoidable Impacts that Cannot be Mitigated to Below the Level of Significance.***

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**Impact 5.14-2: The project would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, bicycle, and pedestrian facilities. [Threshold T-1]**

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**Bicycle and Pedestrian Facilities**

The City of Ontario proposes a Class II and multipurpose trails along Merrill Avenue, Campus Avenue, and Euclid Avenue (SR-83) adjacent to the project. As discussed in Chapter 3, *Project Description*, of the DEIR, sidewalks would be 5-feet wide and provided along all streets abutting the project site. Multipurpose trails would be provided on the east side of Euclid Avenue, the south side of Eucalyptus Avenue, and the north side of Merrill Avenue. A bikeway on Merrill Avenue would connect to the City's existing bike path system. As such, the proposed project supports the City's goal of encouraging bicycling and walking by increasing the connectivity of the City's bicycle and pedestrian system. The sidewalks and trails would be designed to ensure pedestrian and bicyclist safety consistent with the City's Mobility Element. Therefore, a less than significant impact would occur.

**Transit Facilities**

Transit options provide an alternative mode of transportation for motorists and a primary mode for the transit dependent. The City is coordinating with regional transit agencies to implement Bus Rapid Transit (BRT) service to target destinations and along corridors, including Euclid Avenue on the western boundary of the Specific Plan area. The proposed project is located near the Omnitrans Route 83 route. Omnitrans Route 83 operates on Euclid Avenue (SR-83) north of the site and runs on Eucalyptus Avenue and Euclid Avenue near the project site. The proposed project would not permanently interrupt or displace the existing Omnitrans Route 83 service or route.

The City of Ontario strives to provide a transit system that serves as a viable alternative to automobile travel. The proposed project would support transit use by improving existing pedestrian and bicycle facilities in the project area. The proposed project would also increase the number of employees in the area that may access the site by public transit. The proposed project would not introduce new features to any public road that would affect transit in the project area. As such, a less than significant impact would occur.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to transit, bicycle, and pedestrian facilities to less than significant levels. (DEIR at p. 5.14-50) The proposed project would have no significant direct, indirect, and cumulative impact to bike, pedestrian, and transit facilities. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.14-3: See Section E. Significant and Unavoidable Impacts that Cannot be Mitigated to Below the Level of Significance.**

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## **12. Utilities and Service Systems**

The following are plans, programs, and policies (PPPs) that would reduce the proposed project's potential utility and service system impacts:

- PPP WW-1 The proposed project will be designed, constructed, and operated in accordance with the IEUA Regional Wastewater Ordinance No. 97. All industrial wastewater discharges into IEUA facilities shall be required to comply with the discharge standards set forth to protect the POTWs.
- PPP WW-2 The project's sewer infrastructure improvements will be designed, constructed, and operated in accordance with the City of Ontario Water and Sewer Design Development Guidelines.
- PPP WW-3 The proposed project will be designed, constructed, and operated in accordance with the requirements of the City's Municipal Code Chapter 7, *Public Sewer System*, to protect the City of Ontario sewerage system and IEUA treatment system.
- PPP W-1 The project's water infrastructure improvements will be designed, constructed, and operated in accordance with the City of Ontario's Water and Sewer Design Development Guidelines.
- PPP W-2 Water conservation measures for the proposed project will abide by the requirements of the City of Ontario's Municipal Code Chapter 8A, *Water Conservation Plan*, and Chapter 8C, *Recycled Water Use*.
- PPP W-3 The project will follow the City of Ontario's Landscape Development Guidelines to assure compliance with the State's current Model Water Efficient Landscape Ordinance.
- PPP HYD-1 The project will be constructed and operated in accordance with the City's Municipal Code Chapter 6, *Stormwater Drainage System* to ensure the health, safety and general welfare of the residents of the City of Ontario by prescribing regulations to effectively prohibit non-stormwater discharges into the City's stormwater drainage system.
- PPP HYD-2 Any construction shall be regulated by the State Water Resources Control Board in a manner pursuant to and consistent with applicable requirements contained in the General Permit No. CAS000002, State Water Resources Control Board Order Number 2009-0009-DWQ. The city may notify the State Board of any person performing construction work that has a non-compliant construction site per the General Permit.

PPP HYD-3 The project will be constructed and operated in accordance with the San Bernardino County MS4 Permit (Order No. R8-2010-0036, NPDES No. CAS618036 as renewed by the ROWD submitted on August 1, 2014). The MS4 Permit requires new development and redevelopment projects to adopt a water quality management plan (WQMP) to:

- Control contaminants into storm drain systems
- Educate the public about stormwater impacts
- Detect and eliminate illicit discharges
- Control runoff from construction sites
- Implement BMPs and site-specific runoff controls and treatments

PPP SW-1 The project shall comply with Section 4.408 of the 2016 California Green Building Code Standards, which requires new development projects to submit and implement a construction waste management plan in order to reduce the amount of construction waste transported to landfills. Prior to the issuance of building permits, the City of Ontario shall confirm that a sufficient plan has been submitted, and prior to final building inspections, the City of Ontario shall review and verify the contractor's documentation that confirms the volumes and types of wastes that were diverted from landfill disposal, in accordance with the approved construction waste management plan.

PPP SW-2 The project will store and collect recyclable materials in compliance with AB 341.

PPP SW-3 The project will abide by the requirements of County of San Bernardino Integrated Waste Management Plan and Chapter 3, *Integrated Waste Management*, of the City's Municipal Code.

PPP SW-4 The project will abide by the requirements of the City of Ontario's Refuse and Recycling Planning Manual.

PPP OU-1 New buildings are required to achieve the current California Building Energy and Efficiency Standards (Title 24, Part 6) and California Green Building Standards Code (CALGreen) (Title 24, Part 11).

PPP OU-2 All new appliances would comply with the 2012 Appliance Efficiency Regulations (Title 20, CCR Sections 1601 through 1608).

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**Impact 5.16-1: The proposed project would not result in the relocation or construction of new or expanded wastewater facilities, the construction or relocation of which would cause significant environmental effects. [Threshold U-1]**

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## **Wastewater Conveyance**

There are no existing sewer mains in the vicinity of the project site that are within the jurisdiction of the City of Ontario and the proposed project would require the construction of both on- and off-site sewer mains. The ultimate sewer collection system, as shown in the City of Ontario 2012 Sewer Master Plan, will include approximately 140,000 feet of additional trunk sewer to serve the NMC. The sewer master plan includes a Capital Improvement Program to ensure adequate long-range planning for implementing the City's sewer infrastructure improvements in line with the City's 2010 General Plan buildout scenario. The proposed project includes a network of new public sewer mains consistent with the City's 2012 Sewer Master Plan. The indoor water demand for the proposed project is less than the water demand anticipated in the 2010 General Plan buildout scenario for the project site. Wastewater generation can be conservatively assumed to be equal to 100 percent of indoor water demand. Therefore, wastewater generation from the proposed project would be less than wastewater generation rates assumed for the project site in the general plan and would not require expansion of the wastewater infrastructure specified for the project site in the sewer plan.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to wastewater facilities to less than significant levels. (DEIR at p. 5.16-6) The proposed project would have a less than significant direct, indirect, and cumulative impact to wastewater facilities. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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### **Impact 5.16-2: Project-generated wastewater could be adequately treated by the wastewater service provider for the project. [Threshold U-3]**

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The proposed project will be served by the RP-5 wastewater treatment plant. Buildout of the proposed project would generate 129,360 gpd of wastewater which is equal to the indoor water demand. The current liquid treatment capacity of RP-5 is 15 mgd, and the plant treats an average of 9 mgd. Therefore, RP-5 has a remaining wastewater treatment capacity of 6 mgd. The proposed project's generated wastewater would represent less than three percent of the RP-5's remaining treatment capacity. Therefore, wastewater generated by the proposed project would be adequately treated at the RP-5. RP-5 is required by federal and state law to meet applicable standards of treatment plant discharge requirements subject to Order No. RS-2015-0036 NPDES No. CA8000409. The additional wastewater (quantity and type) that would be generated by the proposed project and treated by the RP-5 would not impede the treatment plant's ability to continue to meet its wastewater treatment requirements.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to wastewater treatment to less than significant levels. (DEIR at p. 5.16-6) The proposed project would have a less than significant direct, indirect, and cumulative impact to wastewater service providers. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.16-3: The proposed project would not result in the relocation or construction of new or expanded water facilities the construction or relocation of which would cause significant environmental effects. [Threshold U-1]**

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The project site is currently agricultural land use, including dairy operations and field crops. The site is not connected to the City's water supply and utilizes groundwater for irrigation of crops and other agricultural-related uses. The use of this water supply would cease upon implementation of the proposed project. Potable water distribution to the proposed project would be provided by the City of Ontario. There are no existing water mains in the vicinity of the project that are within the City's jurisdiction. The project proposes new offsite potable water mains as specified in the City's Water Master Plan, which has identified water facilities to serve the NMC.

Potable water system improvements for the proposed project require the planning, design, and construction of the 925 Pressure Zone (PZ) Phase 2 West Backbone and a Secondary Loop between the 925 PZ Phase 2 West Backbone which includes: extending the 24-inch potable water main in Eucalyptus Avenue from Archibald Avenue to Grove Avenue; installing a 30-inch potable water main in Grove Avenue connecting from the 24-inch potable water main in Eucalyptus Avenue and extending to Chino Avenue; installing a 42-inch potable water main in Grove Avenue connecting from the 30-inch potable water main in Grove Avenue at Chino Ave and extending to Francis Avenue; installing a 42-inch potable water main in Francis Avenue connecting from the 42-inch potable water main in Grove Avenue and extending to Bon View Avenue; installing a 42-inch potable water main in Bon View Avenue connecting from the 42-inch potable water main in Francis Avenue and extending to Bon View Avenue Reservoir site and to the Reservoir; a 9 million gallon reservoir on the Bon View Reservoir site; and, two 2,500 gpm wells with any treatment necessary to meet water quality standards and the 16-inch and 24-inch collection main from the wells to the reservoirs.

In addition to the 925 Pressure Zone (PZ) Phase 2 West Backbone, the Specific Plan area requires the planning, design, and construction of a Secondary Loop between the 925 Pressure Zone (PZ) Phase 2 West Backbone and the Specific Plan area which includes: installing a 16-inch potable water main in Eucalyptus Avenue connecting to the 30-inch 925 Pressure Zone (PZ) Phase 2 West Backbone main in Grove Avenue and extending to Euclid Avenue; installing a 16-inch potable water main in Euclid Avenue



connecting from the 16-inch potable water main in Eucalyptus Avenue and extending to Merrill Avenue; installing a 16-inch potable water main in Merrill Avenue connecting from the 16-inch potable water main in Euclid Avenue and extending to Walker Avenue; and installing a 16-inch potable water main in Walker Avenue connecting from the 16-inch potable water main in Merrill Avenue and extending to connect to the 24-inch potable water main in Eucalyptus Avenue. The Specific Plan area also requires the planning, design, and construction of the Adjacent Potable Water System, which includes: installing a 12-inch potable water main in Sultana Avenue connecting to the 16-inch potable water main in Eucalyptus Avenue and extending to connect to the 16-inch potable water main in Merrill Avenue.

Until the ultimate pipeline network for Ontario Ranch has been completed, there may be instances where construction of improvements to serve a project may not meet the required fire flow demands. Therefore, projects within the Specific Plan area may be required to construct additional pipelines not indicated in the City's Water Master Plan or upsize master planned pipelines to meet Fire Department fire flow requirements and/or Water Master Plan criteria. Although off-site construction of the water lines would be necessary for operation of the proposed project, these facilities have been planned by the City in its Water Master Plan, and no extensions or capacity expansions beyond the planned system would be required. Furthermore, any offsite construction of potable water infrastructure would be implemented in accordance with the City's Water and Sewer Design Development Guidelines and the standards and specifications of the Municipal Code. Off-site water mains required to serve the project will need to be constructed prior to or concurrent with on-site water improvements.

Additionally, the City of Ontario Ordinance 2689 requires all new development in Ontario Ranch to connect to and use recycled water for all approved uses, including but not limited to landscape irrigation. Prior to use of recycled water, approval from the City of Ontario and SWRCB is required. There are currently no existing City recycled water mains or City recycled water infrastructure in the vicinity of the project site and the proposed project would require the construction of both on- and off-site recycle water mains to serve the site. Therefore, the proposed project would not result in the construction of new water facilities or expansion of existing facilities, the construction of which could cause significant environmental effects, and impacts would be less than significant.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to water infrastructure to less than significant levels. (DEIR at p. 5.16-15) The proposed project would have a less than significant direct, indirect, and cumulative impact to water facilities. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.16-4: Available water supplies are sufficient to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years. [Threshold U-2]**

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### **Water Demand**

Water use for the proposed project was calculated using domestic water demand rates and recycled water irrigation demand rates as specified in the UWMP. As shown in Table 5.16-4, *Water Demand Estimate for the Proposed Project*, on page 5.16-16 of the DEIR, the total domestic water demand within the proposed project is estimated to be 129,360 gal/day (144.9 AFY). The total recycled water demand is estimated to be 87,055 gal/day (97.5 AFY). The total water demand would be 216,415 gal/day or 242.4 AFY.

The 2015 UWMP indicates that the City is capable of meeting the water demands of its customers in normal, single dry, and multiple dry years between 2020 and 2040. The 2015 UWMP projected water demands are based on future land uses as specified in the City's latest 2010 General Plan. The 2010 General Plan designates the project site as mixed-use development consisting of general commercial, office commercial, and low-medium density residential. Projected water demand for the project site is included in the UWMP 2015 projections but is based on the 2010 General Plan land use designations. Based on the projected future land use for the project site in the UWMP, the water demand for a mixed-use development was estimated, as shown in Table 5.16-5, *Water Demand Estimate for the Project Site Based on Land Use in 2015 UWMP*, on page 5.16-17 of the DEIR. As shown in Table 5.16-5, the total domestic water demand within the site area for a mixed-use development as depicted in the 2015 UWMP is estimated to be 211,342 gal/day (236.7 AFY). The total recycled water demand is estimated to be 101,267 gal/day (113.4 AFY). Therefore, the total water demand for a mixed-use development would be 312,609 gal/day or 350.1 AFY.

Therefore, the total water demand for the proposed project is approximately 69 percent of the total water demand anticipated in the 2015 UWMP. Potable water demand for the proposed project is about 61 percent of the potable water demand projected in the 2015 UWMP. Recycled water demand is 86 percent of the recycled demand in the 2015 UWMP. Therefore, implementation of the proposed project will not obstruct the City's ability to meet water demands of its customers in normal, single dry, and multiple dry years and impacts would be less than significant.

### **Proposed Water Conservation Strategies**

Landscaping within the Ontario Ranch Specific Plan area will be implemented in line with the City of Ontario's Landscape Development Guidelines which include water conservation measures that need to be incorporated into landscape designs, the different elements that need to be incorporated into preliminary landscape plans, and the required landscape construction documents. In addition to the City having adequate water supply to service the proposed project, the water conservation strategies would decrease water demand and impacts would be less than significant.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to water supply to less than significant levels. (DEIR at p. 5.16-18) The proposed project would have a less than significant direct, indirect, and cumulative impact to water supplies. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.16-5: The proposed project would not result in the relocation or construction of new or expanded stormwater facilities the construction or relocation of which would cause significant environmental effects. [Threshold U-1]**

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Development of the proposed project would alter the onsite drainage patterns with the development of the buildings, roadways, and associated site improvements. The Specific Plan area storm drain improvements are consistent with the facilities specified in Drainage Area XIV of the City of Ontario Master Plan of Drainage. The Specific Plan will construct storm drains consistent with the Master Plan of Drainage, including storm drain improvements along the project frontage with a 108-inch reinforced concrete pipe (RCP) along Euclid Avenue, a 90- to 66-inch RCP along Eucalyptus Avenue, a 30-inch RCP along Sultana Avenue, and a 9.5-foot by 9.5-foot RCP along Merrill Avenue. Runoff would be conveyed to an open channel along Euclid (Airport Channel) south of Merrill in the City of Chino. The City of Chino plans to construct a mainline storm drain along Euclid south of Merrill and a double 10-foot by 10-foot reinforced concrete box culvert with a point of connection at Pine Avenue as part of its Master Plan of Drainage. Currently, the ultimate discharge location downstream is not fully improved. Until the ultimate discharge location downstream is fully improved, the project would utilize on-site storm water detention, subject to City of Ontario review and approval, so that discharge from Specific Plan development remains less than peak flow rates prior to development.

The proposed project would include onsite stormwater detention and treatment BMPs designed in accordance with the NPDES requirements. In general, proposed condition runoff from the project site will surface drain to proposed catch basins throughout the site. With onsite detention, the total proposed condition 100-year discharge from the project site to Merrill Avenue will be approximately 65.5 cfs. This is less than the existing condition 25-year discharge (79.6 cfs). Therefore, impacts would be less than significant.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to stormwater facilities to less than significant levels. (DEIR at p. 5.16-23) The proposed project would have a less than significant direct, indirect, and cumulative impact to stormwater facilities. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.16-6: Existing and proposed facilities would be able to accommodate project-generated solid waste and comply with solid waste regulations. [Threshold U-4]**

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**Construction**

Prior to construction of the proposed project, the existing structures onsite would be demolished; the project applicant anticipates approximately 16,638 tons of demolition debris. Collectively, the two primary landfills have a daily permitted capacity of 20,854 tons per day (tpd), and an average daily disposal of 12,994 tpd, as reported in 2017 (see Table 5.16-8). Therefore, the two landfills have a residual capacity of 7,860 tpd. The 3,041 tons of demolition waste that would be disposed of in landfills would occur over a period of approximately two and a half months and would not exceed the daily residual capacity of the landfills.

**Operational**

Buildout of the proposed project is estimated to generate 24,363 ppd of solid waste. As detailed in Table 5.16-8, *Estimated Solid Waste Generation*, on page 5.16-28 of the DEIR, the two landfills serving Ontario have capacity residual capacity of 7,860 tpd. The estimated 24,363 ppd or 12.18 tpd generated by the proposed project would be adequately served by the Badlands Sanitary, or El Sobrante landfill. Overall, sufficient landfill capacity is available in the region for the estimated solid waste generated by the proposed project during operations, and project development would not require an expansion of landfill capacity. Impacts would be less than significant for the operational phase.

**Regulatory Compliance**

Additionally, Assembly Bill 341 requires all businesses in California that generate four cubic yards or more of waste per week to implement actions in order to reuse, recycle, compost, or otherwise divert commercial solid waste from disposal. Furthermore, the proposed project would implement the requirements of the City's Integrated Waste Department's Refuse & Recycling Planning Manual on refuse and recycling storage and access for service, as well as addressing the City's recycling goals. The requirements of Chapter 3, *Integrated Waste Management*, of the Municipal Code will also be implemented to ensure that the proposed project complies with all applicable state and federal laws, including, but not limited to, The Integrated Waste Management Act of 1989. A construction waste management plan would be submitted and implemented in compliance with Section 4.408 of the 2016 California Green Building Code Standards.

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to solid waste to less than significant levels. (DEIR at p. 5.16-28) The proposed project would have a less than significant direct, indirect, and cumulative impact to solid waste facilities. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

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**Impact 5.16-7: Existing and/or proposed facilities would be able to accommodate project-generated utility demands. [Threshold U-1]**

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**Electricity**

Project operation is expected to use approximately 14.1 million kilowatt hours (kWh) annually. Total mid-electricity consumption in SCE's service area is forecast to increase by approximately 12,723 GWh between 2015 and 2027. SCE forecasts that it will have sufficient electricity supplies to meet demands in its service area; and the electricity demand due to the project is within the forecast increase in SCE's electricity demands. Project development would not require SCE to obtain new or expanded electricity supplies, and impacts would be less than significant.

**Natural Gas**

Project operation is estimated to use about 12.8 million kilo British Thermal Units (kBTU) per year. SCGC's residual supplies were forecast to remain constant at 3,775 MMCF/day from 2020 through 2035. Total natural gas consumption in SCGC's service area is forecast to decline slightly from 2,591 MMCF/day in 2019 to 2,313 MMCF/day in 2035. SCGC forecasts that it will have sufficient natural gas supplies to meet project gas demands, and project development would not require SCGC to obtain new or expanded gas supplies. Impacts would be less than significant.

Furthermore, the proposed project would comply with the requirements of the current California Building Energy and Efficiency Standards (Title 24, Part 6) and the California Green Building Standards Code (CALGreen) (Title 24, Part 11). All new appliances would comply with the 2012 Appliance Efficiency Regulations (Title 20, CCR Sections 1601 through 1608).

**Finding.** Compliance with existing PPPs would minimize adverse impacts related to utilities to less than significant levels. (DEIR at p. 5.16-34) The proposed project would have a less than significant direct, indirect, and cumulative impact to electricity and natural gas facilities. Accordingly, no changes or alterations to the proposed project were required to avoid or substantially lessen any significant environmental impacts under those thresholds.

**D. FINDINGS ON SIGNIFICANT ENVIRONMENTAL IMPACTS THAT CAN BE REDUCED TO A LESS THAN SIGNIFICANT LEVEL**

The following summary describes impacts of the proposed project that, without mitigation, would result in significant adverse impacts. Upon implementation of the mitigation measures provided in the EIR, these impacts would be considered less than significant.

## 1. Air Quality

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**Impact 5.2-6: Construction activities and long-term operation of the land uses associated with buildout of the proposed project would expose sensitive receptors to substantial concentrations of toxic air contaminants. [Threshold AQ-3]**

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The following evaluates the combined health risks from project-related construction and operational activities for a 30-year residential scenario. The risks levels shown in Table 5.2-17, *Combined Construction and Operational HRA*, on page 5.2-40 of the DEIR, are based on 2 years of exposure to construction emissions and 28 years of exposure to operational emissions. As shown in the Table, total cancer risks from project-related construction and operational activities would be 13.0 in a million. In comparison to the significance threshold of 10 in a million, carcinogenic risks exceed the threshold value for residents in vicinity of the project. For non-carcinogenic effects, the chronic hazard index identified for each toxicological endpoint totaled less than one for residents. Therefore, chronic non-carcinogenic hazards are below the significance threshold. However, because cancer risks would exceed 10 in a million, the project would expose off-site residential receptors to substantial concentrations of toxic air contaminants during project construction and operation. Therefore, carcinogenic hazard impacts would be potentially significant.

### **Mitigation Measure:**

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

#### *Off-Road Equipment*

AQ-5      Only electric-powered off-road equipment (e.g., yard trucks/hostlers) shall be utilized onsite for daily warehouse and business operations. The project developer/facility owner shall disclose this requirement to all tenants/business entities prior to the signing of any lease agreement. In addition, the limitation to use only electric-powered off-road equipment shall be included all leasing agreements.

Prior to issuance of a Business License for a new tenant/business entity, the project developer/facility owner and tenant/business entity shall provide to the City of Ontario Planning Department and Business License Department a signed document (verification document) noting that the project development/facility owner has disclosed to the tenant/business entity the requirement to use only electric-powered equipment for daily operations.

AQ-6 All truck/dock bays that serve cold storage facilities within the proposed buildings shall be electrified to facilitate plug-in capability and support use of electric standby and/or hybrid electric transport refrigeration units. All site and architectural plans submitted to the City of Ontario Planning Department shall note all the truck/dock bays designated for electrification. Prior to the issuance of a Certificate of Occupancy, the City of Ontario Building Department shall verify electrification of the designated truck/dock bays.

AQ-7 To reduce idling emissions from transport trucks, signage shall be placed at truck access gates, loading docks, and truck parking areas that identify applicable California Air Resources Board (CARB) anti-idling regulations (e.g., Rule 2485). At minimum, each sign shall include: 1) instructions for truck drivers to shut off engines when not in use; 2) instructions for drivers of diesel trucks to restrict non-essential idling to no more than two (2) consecutive minutes; and 3) telephone numbers of the building facilities manager and CARB to report violations. All signage shall be made of weather-proof materials. All site and architectural plans submitted to the City of Ontario Planning Department shall note the locations of these signs. Prior to issuance of the Certificate of Occupancy, the City of Ontario Building Department shall verify the installation of these signs.

AQ-8 For tenants that require use of trucks with transport refrigeration units (TRUs), all TRU operating onsite shall be required to meet the US Environmental Protection Agency (EPA) Tier 4 standard, which requires engines to achieve 0.02 grams per brake horsepower hour (g/bhp-hr) of particulate matter (PM). The project developer/facility owner shall disclose this requirement to all tenants/business entities that require cold storage and use of TRUs prior to the signing of any lease agreement. In addition, the limitation to use only Tier 4 off-road equipment shall be included all leasing agreements.

Prior to issuance of a Business License for a new tenant/business entity, the project developer/facility owner and tenant/business entity shall provide to the City of Ontario Planning Department and Business License Department a signed document (verification document) noting that the project development/facility owner has disclosed to the tenant/business entity the requirement to use only Tier 4 TRUs for daily operations.

#### *Landscaping Equipment*

AQ-9 All landscaping equipment (e.g., leaf blower) used for property management shall be electric-powered only. The property manager/facility owner shall provide documentation (e.g., purchase, rental, and/or services agreement) to the City of Ontario Planning Department to verify, to the City's satisfaction, that all landscaping equipment utilized will be electric-powered.

### *Architectural Coatings and Paints*

- AQ-10 All paints used for interior and exterior architectural re-coatings of all buildings shall at minimum, have a volatile organic compound (VOC) content of 25 20 grams per liter or less.
- AQ-11 Paints used in re-stripping of the parking lot shall, at minimum, have a volatile organic compound (VOC) content of 50 grams per liter or less.

### *Transportation Sector*

- AQ-12 The project shall install the necessary infrastructure (e.g., conduit in parking lots) to support the future transition to zero emissions (ZE) and near zero emission (NZE) trucks. These requirements shall be noted on all site plans and verified by the City of Ontario during site inspections prior to issuance of occupancy permits.
- AQ-13 The City of Ontario shall require phased-in use of on-road trucks that have zero-emissions or near-zero emissions—such as trucks with natural gas engines that meet the California Air Resources Board’s (CARB) adopted optional nitrogen oxides (NOX) emissions standard of 0.02 gram per break horsepower-hour (g/bhp-hr). At a minimum, operators on-site shall commit to using year 2010 or newer trucks with engines that meet CARB’s 2010 emissions standards—which are 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr for NO<sub>x</sub>—or newer, cleaner trucks or equipment. These requirements shall be noted on all site plans and verified by the City of Ontario during site inspections during project operation. During operation, the building tenant and/or building owner shall maintain records of all truck deliveries to the warehouse on an annual basis. These records shall be made available to the City of Ontario upon request.
- AQ-14 Prior to the issuance of occupancy permit, the applicant and/or building operators shall submit an employee training handbook to the City of Ontario that includes the following:
- Required facility operator management and employee training on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
  - Required facility operator management and employee training on keeping vehicle records in diesel technologies and compliance with CARB regulations.
  - Required facility operator management and employee to attend courses approved by the California Air Resources Board.



- The facility operators shall maintain records on-site demonstrating compliance with training and shall make records available for inspection by the City of Ontario upon request.

AQ-15 The City of Ontario shall require that check-in points for trucks provide sufficient stacking distance within the individual parcels to ensure that there are no trucks queuing outside of the facility and that truck traffic does not idle on public streets. The applicant for a warehouse project that includes check-in points for trucks shall submit a queuing analysis to the City of Ontario Engineering Division prior to approval of grading permits.

AQ-16 Construction contractors shall, at minimum, use equipment that meets the United States Environmental Protection Agency's (EPA) Tier 4 Final emissions standards for off-road diesel-powered construction equipment with more than 50 horsepower for all Phase 2 building construction activities, unless it can be demonstrated to the City of Ontario Building Department that such equipment is not available. Where equipment is not available, the next available engine Tier (e.g., US EPA Tier 4 Interim equipment) shall be used. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by Tier 4 Final emissions standards for a similarly sized engine, as defined by the California Air Resources Board's regulations. For construction equipment 25 horsepower or less (e.g., plate compactors, pressure washers), the Construction Contractor shall use battery-powered or alternative fuel-powered equipment. During construction activity, electrical hook-ups or other charging mechanisms (including generators) for electric construction tools, such as saws, drills and compressors, shall be provided where feasible.

Prior to construction, the project engineer shall ensure that all construction (e.g., demolition and grading) plans clearly show the requirement for EPA Tier 4 Final emissions standards for construction equipment over 50 horsepower and battery-powered or alternative fuel-powered equipment for engines under 25 horsepower for the specific activity stated above. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City of Ontario. The construction equipment list shall state the makes, models, Equipment Identification Numbers, and number of construction equipment onsite. Equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations. Construction contractors shall also ensure that all nonessential idling of construction equipment is restricted to 5 minutes or less in compliance with Section 2449 of the California Code of Regulations, Title 13, Article 4.8, Chapter 9.

**Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measures above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

**Rationale for Finding**

Mitigation Measures AQ-5 through AQ-7 require that only electric-powered equipment be used, all truck/dock bays that serve cold storage facilities within the proposed buildings shall be electrified to facilitate plug-in capability and support use of electric standby and/or hybrid electric transport refrigeration units, and signage shall be placed at truck loading/parking/access areas to reduce idling emissions. Mitigation Measure AQ-8 requires that all landscaping equipment be electric-powered only. Mitigation Measures AQ-10 and AQ-11 require the use of low VOC paints. Additionally, Mitigation Measure AQ-16 requires that construction contractors shall, at minimum, use equipment that meets the United States Environmental Agency's (EPA) Tier 4 Final emissions standards for off-road diesel-powered construction equipment with more than 50 horsepower for all Phase 2 building construction activities. Mitigation Measures AQ-5 through AQ-16 would reduce potential impacts to air quality to a level that is less than significant.

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**Impact 5.2-8: Operation of land uses accommodated under the proposed project could result in other emissions that would adversely affect a substantial number of people. [Threshold AQ-4]**

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**Construction**

During construction activities, construction equipment exhaust and application of asphalt and architectural coatings would temporarily generate odors. Any construction-related odor emissions would be temporary and intermittent. Additionally, noxious odors would be confined to the immediate vicinity of the construction equipment. By the time such emissions reached any sensitive receptor sites, they would be diluted to well below any level of air quality concern. Furthermore, short-term construction-related odors are expected to cease upon the drying or hardening of odor-producing materials. Therefore, impacts associated with construction-generated odors are considered less than significant.

**Operation**

The type of facilities that are considered to have objectionable odors include wastewater treatment plants, compost facilities, landfills, solid waste transfer stations, fiberglass manufacturing facilities, paint/coating operations (e.g., auto body shops), dairy farms, petroleum refineries, asphalt batch plants, chemical manufacturing, and food

manufacturing facilities. The types of businesses accommodated under the proposed project could result in these types of uses, such as food manufacturing and chemical manufacturing facilities. While these and other types of industrial land uses associated with the proposed project would be required to comply with SCAQMD Rule 402, additional measures may be necessary to prevent an odor nuisance. Therefore, industrial land uses associated with the proposed project may generate potentially significant odor impacts to a substantial number of people.

**Mitigation Measure:**

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

AQ-17      Prior to future discretionary approval, if it is determined that a project has the potential to emit nuisance odors beyond the property line, an odor management plan shall be prepared by the project applicant, subject to review and approval by the City of Ontario Planning Department. Facilities that have the potential to generate nuisance odors include but are not limited to:

- Wastewater treatment plants
- Composting, green waste, or recycling facilities
- Fiberglass manufacturing facilities
- Painting/coating operations
- Large-capacity coffee roasters
- Food-processing facilities

The odor management plan shall show compliance with the South Coast Air Quality Management District's Rule 402 for nuisance odors. The Odor Management Plan shall identify the best available control technologies for toxics (T-BACTs) that will be utilized to reduce potential odors to acceptable levels, including appropriate enforcement mechanisms. T-BACTs may include, but are not limited to scrubbers (i.e., air pollution control devices) at the industrial facility. T-BACTs identified in the odor management plan shall be identified as mitigation measures in the environmental document and/or incorporated into the site plan.

## **Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

## **Rationale for Finding**

Mitigation Measure AQ-17 requires an odor management plan to be prepared if a project has the potential to emit nuisance odors, and the plan shall show compliance with the South Coast Air Quality Management District's Rule 402 for nuisance odors. Mitigation Measure AQ-17 would reduce potential impacts to air quality to a level that is less than significant.

## **2. Biological Resources**

The following are plans, programs, and policies (PPPs) that would reduce the proposed project's potential noise and vibration impacts:

- PPP BIO-1 The project shall comply with the Federal Endangered Species Act and Migratory Bird Treaty Act.
- PPP BIO-2 The project shall comply with the California Endangered Species Act and Fish and Game Code.

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**Impact 5.3-1: Development of the proposed project has the potential to impact sensitive animal species and nesting birds; no impacts to sensitive plant species or sensitive habitat would occur. [Threshold B-1]**

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## **Sensitive Species**

### *Special-Status Plants*

No sensitive plant species are onsite due to the current site conditions (disturbed with agricultural uses) and continual anthropogenic disturbances. Therefore, construction or operation would not impact any sensitive plant species.

### *Special-Status Wildlife*

#### Project Site

There are 15 wildlife species that could inhabit the project site due to the potential habitat or foraging opportunities present onsite. The Cooper's hawk, Swainson's hawk, merlin, and American peregrine falcon have the potential to be onsite due to suitable foraging opportunities. However, these species are not expected to nest on site, as it is located

outside of the known nesting range or does not contain suitable nesting habitat. Impacts would be less than significant. There is moderate potential for the state Fully Protected white-tailed kite to nest within large ornamental trees and forage throughout the off-site improvement area. However, based on the high level of decades-long ongoing human disturbance, the off-site improvement area represents limited foraging opportunities for this species; therefore, project impacts to foraging by this species are considered less than significant.

The proposed project would remove potential foraging habitat (agriculture) for the western mastiff bat. However, based on the level of ongoing human disturbance within the off-site improvement area, and the regional availability of foraging habitat in the vicinity of the project site, potential bat foraging habitat is not considered a significant impact. The Tricolored blackbird, grasshopper sparrow, southern California legless lizard, great blue heron, California glossy snake, burrowing owl, yellow rail, western pond turtle, and California horned lark have the potential to be onsite due to the suitable habitat on site. Therefore, project implementation has the potential to impact these species, and impacts would be significant.

#### Off-Site Improvement Area

A single burrowing owl was detected within the off-site improvement area, along the western bank of the Grove Channel within the Chino Airport property. Although a single burrowing owl was detected, this owl is assumed to be breeding based upon its presence during the breeding season. Impacts to one individual or a pair of burrowing owls would be a potentially significant impact. A focused habitat assessment for the federally listed as Endangered Delhi sands flower-loving fly determined that the off-site improvement area does not support potential habitat for this species; therefore, this species does not pose a constraint to the construction of the proposed off-site improvements and impacts would be less than significant.

The proposed project would remove 27.7 acres of potential foraging habitat (agriculture) for five special-status bats: big free-tailed bat, pallid bat, western red bat, western mastiff bat, and western yellow bat. However, based on the level of ongoing human disturbance within the off-site improvement area, and the regional availability of foraging habitat in the vicinity of the project site, such as the Prado Basin, Chino Hills State Park, and the Santa Ana Mountains, the loss of 27.7 acres of low-quality potential bat foraging habitat is not considered a significant impact.

There is moderate potential for the state Fully Protected white-tailed kite to nest within large ornamental trees and forage throughout the off-site improvement area. However, based on the high level of decades-long ongoing human disturbance, the off-site improvement area represents limited foraging opportunities for this species; therefore, project impacts to foraging by this species are considered less than significant.

The state listed as Endangered and Fully Protected bald eagle, state listed as Threatened Swainson's hawk, state Fully Protected golden eagle, state Fully Protected American peregrine falcon, California Species of Special Concern yellow warbler, and California Species of Special Concern yellow-headed blackbird have the potential to forage within the off-site improvement area; however, these species are not expected to nest within the off-site improvement area, as it is located outside of the known nesting range or does not contain suitable nesting habitat. Based on the high level of decades-long ongoing human disturbance, as with white-tailed kite, the off-site improvement area represents limited foraging opportunities for these species; therefore, project impacts to foraging by these species are considered less than significant.

### **Sensitive Habitat**

The project site and off-site improvement area has been disturbed by agricultural uses. No native habitat is present, and no impacts to native or sensitive habitats and communities would occur. Furthermore, the project is not located within designated federal critical habitat. No impact to critical habitat is expected.

### **Nesting Birds**

The project study area contains trees, shrubs, and ground cover that provide habitat for nesting migratory birds. Migratory non-game native bird species are protected under the federal Migratory Bird Treaty Act. Nevertheless, potential impacts to nesting birds could occur if ground disturbing activities or vegetation removal occur during the bird nesting season. Impacts would be potentially significant.

### **Mitigation Measure:**

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

- BIO-1      Prior to the issuance of permits for any construction activity, the project applicant shall demonstrate compliance with the federal MBTA and Fish and Game Code Sections 3503 and 3503 to the satisfaction of the City of Ontario that either of the following has been accomplished:
- Conduct pre-construction nesting bird surveys within three days prior to any disturbance of the site, including staging, site preparation, disking, demolition activities, and grading. If active nests are found, they shall be flagged and the biologist shall establish suitable buffers around the nest (generally a minimum of 200 feet up to 500 feet for raptors and a minimum of 50 feet up to 300 feet for passerine species, with specific buffer widths to be determined by a qualified biologist). The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests.
- BIO-2      Three days prior to any ground disturbing activities or vegetation removal, a qualified biologist shall conduct a pre-construction survey to identify the

southern California legless lizard and California glossy snake. Any reptile species found to be present within the project area shall be relocated outside of the impact areas under the supervision of a qualified biologist. Biological monitors shall be on-call to relocate any reptile or amphibian that is encountered during construction activities.

BIO-3

Prior to issuance of a demolition or grading permit for any ground disturbing activity, a qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls within 14 days prior to site disturbance. Surveys shall be conducted consistent with the procedures in outlined in the "California Department of Fish and Wildlife (CDFW) 2012 Staff Report on Burrowing Owl Mitigation." If the species is absent, no additional mitigation will be required.

**Areas Outside of the Chino RMP Boundary.** If burrowing owl(s) are observed onsite during the pre-construction clearance survey;

- Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within designated off-site conserved lands to be identified through coordination with CDFW and the City in which the burrowing owl(s) is(are) detected (either the City of Ontario or the City of Chino). A qualified biologist shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls.
- Until suitable replacement burrows have been provided/confirmed within the off-site conserved lands to be identified through coordination with CDFW and the City of Ontario or the City of Chino, no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31). If reduced setbacks are implemented, a broad-scale, long-term, scientifically-rigorous monitoring program shall be implemented by the City to ensure that burrowing owls are not detrimentally affected by the project.
- Occupied burrows should not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

- If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report.

**City of Chino, RMP Boundary.** If burrowing owl(s) is(are) detected within the Project's disturbance footprint in the City of Chino RMP boundary, the owl(s) are required to be handled as indicated by the RMP:

The RMP addresses mitigation requirements for impacts to burrowing owls. The RMP states that the 1995 CDFG Staff Report on Burrowing Owl Mitigation (as supplemented by the RMP) shall be followed when burrowing owls are detected on properties. If avoidance of occupied habitat is infeasible, provisions shall be made to passively relocate owls from sites in accordance with the current 2012 CDFG Staff Report (supersedes 1995 CDFG Staff Report).

According to the Preserve EIR and RMP, Burrowing Owls to be relocated from properties within the City's Subarea 2 are intended to be accommodated within a "300-acre conservation area" and/or additional Candidate Relocation Areas as described on Page 4-16 and 4-21 of the RMP. One such contingency conservation area is identified in the RMP as "Drainage Area B".

Drainage Area B consists of a series of Natural Treatment System (NTS) facilities that were constructed south of Kimball Avenue and west of Mill Creek Road. When the NTS facilities were constructed, approximately 50 artificial owl burrows were installed within the basins to accommodate relocated owls and additional owls dispersing to the site. This location was given top priority as an owl relocation site by the RMP due to its proximity to areas that have been and will be converted to urban development. If Burrowing Owls are present at the project site at time of site disturbance, the Burrowing Owls would be more likely to initially relocate to the immediately surrounding properties, including additional locations within the Chino Airport. However, the NTS basins represent the nearest conservation area providing regional mitigation for the loss of burrowing owl habitat.

Consistent with the RMP, the following measures shall apply to the portion of the project site within the RMP boundary regarding burrowing owl mitigation:

- Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within the City of Chino designated relocation area (e.g. the NTS basins). A qualified biologist through coordination with the City shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls.
- Until suitable replacement burrows have been provided/confirmed within the designated relocation area (e.g. the NTS basins), no disturbance shall occur within 50 meters (approximately 160 feet) of occupied



burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).

- Occupied burrows should not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.
- If Burrowing Owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report and Table 4-6 of the RMP.
- Pursuant to mitigation measure B-3(8) of The Preserve EIR, and as noted on Page 4-39 of the RMP, the Project shall pay the required mitigation fee prior to initiation of ground disturbing activities. One priority for funding supported by the mitigation fees is the establishment and long-term management of burrowing owl habitat within the Drainage Area B conservation area.

#### BIO-4

Prior to implementation of project activities, a qualified biologist shall be retained to determine whether potential roosting sites for bats may be affected. For large ornamental trees habitats or structures suitable for bat roosting/nursery, an appropriate combination of structure inspection, sampling, exit counts, and acoustic surveys shall be performed prior to initial ground disturbance and vegetation removal to determine whether the project footprint and a 300-foot buffer supports a nursery or roost, and by which species. This survey work will occur between late-spring and late summer and/or in the fall (generally mid-March through late October) April 1 through August 31.

If the results of the bat survey finds roosting individuals a total of a single roosting individual of a special-status bat species or 25 or more individuals of non-special-status bat species with potential to be present in the study area (i.e., western Mastiff bat, big free-tailed bat, pallid bat, western red bat, and western yellow bat), a Bat Management Plan shall be developed to ensure mortality to bats does not occur. For each location confirmed to be occupied by bats, the plan will provide details both in text and graphically where exclusion devices/and or staged tree removal will need to occur, the timing for exclusion work, and the timeline and methodology needed to exclude the bats. The plan will need to be reviewed and approved by CDFW prior to disturbance of the roost(s).

BIO-5 Within the breeding season (May- July) prior to the onset of construction activities, a qualified biologist shall conduct pre-construction visual surveys, following U.S. Geological Survey visual survey protocol, for western pond turtle within all areas of any suitable aquatic habitat for this species (retention ponds). If Western pond turtles are observed during the pre-construction survey, the Applicant shall prepare for CDFW review and approval, a translocation plan identifying proposed protocol for trapping and relocating turtles, including identifying potential, appropriate receiver sites to relocate western pond turtles. If no western pond turtles are observed during the pre-construction survey, then construction activities may begin. If construction is delayed or halted for more than 30 days, another pre-construction survey for western pond turtle shall be conducted. Within seven days of the pre-construction survey, a report of findings from the survey shall be submitted to the CDFW.

During construction, a qualified biological monitor who has been approved by the CDFW to relocate western pond turtles shall be onsite to ensure that no western pond turtles are harmed. If western pond turtles are observed in the construction area at any time during construction, the onsite biological monitor shall be notified and construction in the vicinity of the sighting shall be halted until such a time as a turtle has been removed from the construction zone, and relocated by an approved biologist. If a sighting occurs during construction, the biologist shall prepare a report of the event and submit it to CDFW.

### **Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

### **Rationale for Finding**

Mitigation Measure BIO-1 requires that the project applicant demonstrate compliance with the federal MBTA to avoid impacts to nesting birds; Mitigation Measure BIO-2 requires a pre-construction survey to be performed by a qualified biologist, three days prior to any ground disturbing activities/vegetation removal, to identify the southern California legless lizard and California glossy snake; Mitigation Measure BIO-3 requires a qualified biologist to conduct a pre-construction presence/absence survey for burrowing owls within 14 days prior to site disturbance; Mitigation Measure BIO-4 calls for a qualified biologist to be retained to determine whether potential roosting sites for bats may be affected, prior to implementation of project activities; and Mitigation Measure BIO-5 requires that a

qualified biologist shall conduct pre-construction surveys for western pond turtles within all areas of suitable aquatic habitat for this species prior to the onset construction activities. Mitigation Measures BIO-1 through BIO-5 would reduce potential impacts to biological resources to a level that is less than significant.

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**Impact 5.3-2: Development of the proposed project could result in the loss of 1.67-acres of Corps jurisdictional drainages and 3.3-acres of CDFW streambed. [Thresholds B-2 and B-3]**

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### **Project Site**

The project site does not contain any riparian or other sensitive natural community identified by CDFW or USFWS, nor does it contain any federally protected wetlands developed by Section 404 of the CWA. Project implementation would require the removal of the retention ponds onsite. However, the retention ponds are man-made and are not considered jurisdictional drainages or WoUS because the ponds do not receive hydrologic flow. Additionally, the stock ponds are isolated features that are not tributary to nor do they have a significant nexus (biological, chemical, or physical connection) to traditional navigable waters of the United States. As previously stated, the project site is disturbed and does not contain native or federal-designated critical habitat. Therefore, no impact would occur.

### **Off-Site Improvement Area**

#### *Corps/Regional Board Jurisdiction*

Proposed impacts to Corps WofUS totals 1.67 acres, none of which consists of jurisdictional wetlands. Although the drainages proposed for impacts are heavily denuded flood control facilities that are subject to ongoing maintenance and do not support jurisdictional wetlands or riparian vegetation communities, impacts to 1.66 acres of waters is a potentially significant impact due to the potential for this quantity of loss of surface waters to affect the hydrology supporting downstream wetland and/or riparian resources.

#### *CDFW Jurisdiction*

Proposed impacts to CDFW streambed totals 3.30 acres; none of which consists of riparian habitat. As with impacts to Corps and Regional Board jurisdiction, although the drainages proposed for impacts are heavily denuded flood control facilities that are subject to ongoing maintenance and do not support jurisdictional wetlands or riparian vegetation communities, impacts to 3.30 acres of streambed is a potentially significant impact due to the potential for this quantity of loss of surface streambeds to affect the hydrology supporting downstream wetland and/or riparian resources. A CDFW Section 1602 Streambed Alteration Agreement would be required for proposed impacts to waters.

### **Mitigation Measure:**

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

BIO-6 To mitigate the loss of Corps, Regional Board, and CDFW jurisdiction, prior to the issuance of grading permits, the project applicant shall purchase credits from an approved mitigation bank/in-lieu fee program at a minimum of a 1:1 ratio, for a minimum of 3.30 acres (inclusive of the 1.67 acres of non-wetland WoUS and Porter-Cologne waters) of mitigation credits, or a number of mitigation credits equal to project impacts based on final infrastructure design during aquatic permitting.

If an approved mitigation bank/in-lieu fee program cannot be identified to mitigate the loss of Corps, Regional Board, and CDFW jurisdiction, the project applicant shall enhance, re-establish, or establish Corps, Regional Board, and CDFW jurisdictional areas on off-site conserved lands at a minimum of a 1:1 ratio, for a minimum of 3.30 acres (inclusive of the 1.67 acres of non-wetland WoUS and Porter-Cologne waters) of enhancement, re-establishment, or establishment, or a number acres equal to Project impacts based on final infrastructure design during aquatic permitting. Compensatory mitigation should be coordinated with CWA 401 and 404 permitting and CDFW 1602 Streambed Alteration Agreement acquisition to ensure efficiencies with the mitigation effort.

### **Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

### **Rationale for Finding**

Mitigation Measure BIO-6 requires that the project applicant purchase credits from an approved mitigation bank/in-lieu fee program at a minimum of a 1:1 ratio, for a minimum of 3.30 acres of mitigation credits, or a number of mitigation credits equal to project impacts. Mitigation Measure BIO-6 would reduce potential impacts to biological resources to a level that is less than significant.

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**Impact 5.3-3: The project would not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, but may impede the use of native wildlife nursery sites. [Threshold B-4]**

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The project site is not located within a designated wildlife corridor or linkage. The site is separated from regional wildlife movement corridors associated with the Prado Dam Flood Control Basin and Santa Ana River. Additionally, the site not contain the structural topography and vegetative cover that facilitate regional wildlife movement, is subject to a high level of ongoing human disturbance, and much of the project and surrounding area is fenced or consists of active public roadways, which act as inhibitors to wildlife movement. Therefore, the project site does not function as a wildlife movement corridor and would not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors.

The project site does include non-native shrubs and trees, which would be removed under the proposed project. The project area may potentially represent a nursery site if western red bat, western yellow bat, or other non-special-status lasiurine bat species are found to be utilizing the large ornamental trees within the project area as maternity roosts in a colonial or semi-colonial nature. Therefore, the proposed project may result in an impact to wildlife nurseries if colonial or semi-colonial maternally roosting bats are present, which would be a potentially significant impact.

**Mitigation Measure:**

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

BIO-4      BIO-4 Prior to implementation of project activities, a qualified biologist shall be retained to determine whether potential roosting sites for bats may be affected. For large ornamental trees habitats or structures suitable for bat roosting/nursery, an appropriate combination of structure inspection, sampling, exit counts, and acoustic surveys shall be performed prior to initial ground disturbance and vegetation removal to determine whether the project footprint and a 300-foot buffer supports a nursery or roost, and by which species. This survey work will occur between late-spring and late summer and/or in the fall (generally mid-March through late October) April 1 through August 31.

If the results of the bat survey finds roosting individuals a total of a single roosting individual of a special-status bat species or 25 or more individuals of non-special-status bat species with potential to be present in the study area (i.e., western Mastiff bat, big free-tailed bat, pallid bat, western red bat, and western yellow bat), a Bat Management Plan shall be developed to

ensure mortality to bats does not occur. For each location confirmed to be occupied by bats, the plan will provide details both in text and graphically where exclusion devices/and or staged tree removal will need to occur, the timing for exclusion work, and the timeline and methodology needed to exclude the bats. The plan will need to be reviewed and approved by CDFW prior to disturbance of the roost(s).

**Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

**Rationale for Finding**

Mitigation Measure BIO-4 calls for a qualified biologist to be retained to determine whether potential roosting sites for bats may be affected, prior to implementation of project activities. Mitigation Measure BIO-4 would reduce potential impacts to biological resources to a level that is less than significant.

**3. Cultural Resources**

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**Impact 5.4-2: The project area has a low sensitivity for archaeological resources, however, there is a potential to encounter previously undiscovered buried resources during grading activities. [Threshold C-2]**

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Based on the results of the resources search and survey, the proposed Specific Plan area is considered to have a low sensitivity for presence of archaeological deposits or features. A pedestrian survey of the off-site infrastructure improvement areas did not encounter any cultural resources and there is a low potential for impacting prehistoric or historical archaeological deposits or features. Despite actions taken to ensure that all cultural resources are identified prior to construction, including record searches and field surveying, there is a possibility that undiscovered, buried archaeological resources might be encountered during grading activities. As a result, impacts to archaeological resources are considered potentially significant and mitigation measures are required to ensure the proper treatment of undiscovered archaeological resources that may be encountered during grading.

**Mitigation Measure:**

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

CUL-1 Prior to issuance of any permits allowing ground-disturbing activities for the proposed project, the City of Ontario shall ensure that an archeologist who meets the Secretary of the Interior's Standards for professional archaeology has been retained for the project and will be on-call during all grading and other significant ground-disturbing activities. The Qualified Archaeologist shall ensure that the following measures are followed for the project:

- Prior to any ground disturbance, the Qualified Archaeologist, or their designee, shall provide worker environmental awareness protection training to construction personnel regarding regulatory requirements for the protection of cultural (prehistoric and historic) resources. As part of this training, construction personnel shall be briefed on proper procedures to follow should unanticipated cultural resources be made during construction.
- In the event that unanticipated cultural material is encountered during any phase of project construction, all construction work within 50 feet (15 meters) of the find shall cease and the Qualified Archaeologist shall assess the find for importance. Construction activities may continue in other areas. If the discovery is determined to not be important by the Qualified Archaeologist, work will be permitted to continue in the area.
  - If a find is determined to be important by the Qualified Archaeologist, additional investigation would be required, or the find can be preserved in place and construction may be allowed to proceed.
  - Additional investigation work would include scientific recording and excavation of the important portion of the find.
  - If excavation of a find occurs, the Qualified Archaeologist shall draft a report within 60 days of conclusion of excavation that identifies the find and summarizes the analysis conducted. The completed report shall be approved by the City's Planning Director and filed with the County and with the South Central Coastal Information Center at California State University, Fullerton.
  - Excavated finds shall be curated at a repository determined by the Qualified Archaeologist and approved by the City.

### **Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

### **Rationale for Finding**

Mitigation Measure CUL-1 would require that a qualified archeological monitor be on-call during ground disturbing activities. In the event resources are uncovered, a 50-foot buffer would be sufficient to ensure that resources would be protected in the vicinity of the find. Mitigation Measure CUL-1 would reduce potential impacts to archeological and historic resources to a level that is less than significant.

## **4. Geology and Soils**

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**Impact 5.6-3: The proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. [Threshold G-6]**

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The project site currently operates with agricultural uses and is frequently disturbed by human and machine activity. No paleontological resources or unique geologic formations were identified on the project site during the field survey. A records search within a 1-mile radius of the project site did not yield any fossil localities and there were no fossil localities identified within the project site boundaries.

The geologic units underlying the project site are mapped entirely as younger Quaternary alluvium (Qyfa) dating from the late Holocene to Pleistocene. While these deposits typically do not contain significant vertebrate fossils within the uppermost layers, it is likely they are underlain in the area by older Quaternary deposits at relatively shallow but unknown depth. There are nearby localities from similar sedimentary deposits found within the proposed off-site improvement area. Therefore, the Specific Plan area is considered low to moderate sensitivity for paleontological resources. The proposed project would require remedial grading to remove all existing undocumented fill soils and near-surface alluvial soils. Over excavation to depths of 4 to 6 feet below site grades are anticipated, however, design level investigation could result in additional over excavation requirements. Should excavation exceed a depth of 10 feet below surface, there is the potential to encounter paleontological resources. Therefore, grading activities have the potential to encounter unknown, buried resources, and impacts are considered potentially significant.



**Mitigation Measure:**

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

GEO-1 The project applicant shall retain an on-call paleontologist to prepare a Paleontological Resources Impact Mitigation Program consistent with the guidelines of the Society of Vertebrate Paleontology. The report shall include the methods that will be used to protect paleontological resources, as well as procedures for monitoring, fossil preparation and identification, curation into a repository, and preparation of a report at the conclusion of grading. Excavation and grading activities at a depth of 10 feet below surface or within areas of older Quaternary deposits, shall require a full-time paleontological monitor. If paleontological resources are encountered during the course of ground disturbance, the paleontological monitor shall have the authority to temporarily redirect construction away from the area of the find in order to assess its significance. In the event that paleontological resources are encountered when a paleontological monitor is not present, work in the immediate area of the find shall be redirected, and a paleontologist should be contacted to assess the find for significance. If determined to be significant, the fossil shall be collected and prepared to the point of identification, identified to the lowest taxonomic level possible, cataloged, and curated into the permanent collections of a museum repository. At the conclusion of curation, a report of findings shall be prepared to document the results of the monitoring program.

**Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

**Rationale for Finding**

Mitigation Measure GEO-1 would ensure that an on-call paleontologist would prepare a Paleontological Resources Impact Mitigation Program which would include methods to protect resources. Additionally, a full-time paleontologist shall be retained if excavation and grading activities at a depth of 10 feet below surface or within areas of older Quaternary deposits occur. Mitigation Measure GEO-1 would reduce potential impacts on paleontological resources to less than significant.

## 5. Hazards and Hazardous Materials

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**Impact 5.8-1: Project construction could create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials, or through reasonably foreseeable upset and accident conditions. [Thresholds H-1 H-2]**

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### Construction

Project-related construction activities would involve the use of larger amounts of hazardous materials than would project operation. Construction activities would include the use of material such as fuels, lubricants, and greases in construction equipment and coatings used in construction. However, the materials used would not be in such quantities or stored in such a manner as to pose a significant safety hazard. These activities would be short-term or one-time in nature and would cease upon completion of the proposed project's construction phase. Additionally, as with project operation, the use, storage, transport, and disposal of construction-related hazardous materials would be required to conform to existing laws and regulations. Compliance with applicable laws and regulations would ensure that all potentially hazardous materials are used and handled in an appropriate manner and would minimize the potential for hazardous impacts. Therefore, impacts would be less than significant.

### *Grading Activities*

Grading activities required to develop the project would involve the disturbance of onsite soils. There is the potential for the discovery of contamination during grading activities, due to potential for chemical constituents to accumulate in the ponds and become trapped in the sediment. Furthermore, site grading requires the removal of ASTs, where areas of staining was observed, and septic tanks prior to site development. A demolition permit from San Bernardino County Building & Safety Division will be required to remove the septic tanks. The handling and transport of these materials and exposure to contaminated soils for workers and the surrounding environment could result in a significant impact.

The historic and current use of the site as a dairy-production farm may produce methane gas in the subsurface from animal wastes. A methane assessment was conducted to assess subsurface methane levels across a portion of the site. Based on the results of this investigation, methane gas was detected in subsurface vapor probes at maximum concentrations of approximately 10 percent of the lower explosive limit (LEL) for methane. The methane survey conducted is a preliminary investigation that identified methane on site, and further investigation is required to determined maximum concentrations across the project site. This is a potentially significant impact.

## *Demolition*

Demolition of buildings and equipment on site has the potential to expose and disturb ACMs, PCBs, lead-based paints, and mercury. Site buildings were constructed prior to bans on ACBMs, PCBs, and lead-based paints coming into effect. Such releases could pose significant risks to persons living and working in and around the project site as well as project construction workers. The potential exposure of construction workers to ACMs, PCBs, lead-based paints, or mercury is a potentially significant impact. Survey of existing structures prior to demolition would be required to characterize the potential exposure and further prevent impacts from the potential release of these materials.

## **Operation**

Operation of the business park would involve the use of small amounts of hazardous materials, such as industrial cleansers, greases, and oils for cleaning and maintenance purposes. The industrial park may involve the use, transport, and disposal of hazardous materials; the use, storage, transport, and disposal of hazardous materials would be governed by existing regulations of several agencies. Mandatory compliance with laws and regulations would ensure that impacts would be less than significant.

## **Mitigation Measure:**

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

- HAZ-1 Prior to the issuance of grading permits, the project applicant shall conduct further testing for the presence of methane on the project site, in accordance with DTSC methane assessment guidelines. The project applicant shall prepare a methane gas soil survey and implement grading activity recommendations to the satisfaction of the City Building Department. This shall include a post-construction soil gas investigation and installation of methane gas mitigation systems where post-grading methane levels exceed 5,000 ppmv, should any such levels occur.
  
- HAZ-2 Following drainage of the on-site ponds, the project applicant shall conduct a limited Phase II subsurface assessment of sediments to evaluate the sediments for chemical risks to human health and the environment. If contamination from dairy and animal-related wastes is encountered at a level above Environmental Screening Levels (ESLs) for non-residential uses, the appropriate environmental agency (RWQCB, DTSC, SCAQMD) shall be notified. Any contamination identified as a result of such testing/sampling shall be investigated, and removed or remediated to the satisfaction of the environmental agency with evidence provided to the City.

HAZ-3 **Soil Management Plan.** Prior to issuance of a grading permit, the project applicant shall retain a qualified environmental consultant to prepare a Soil Management Plan (SMP) that details procedures and protocols for onsite management of soils containing potentially hazardous materials. The SMP would be implemented during grading activities onsite to ensure that soils containing residual levels of hydrocarbons or arsenic are properly identified, monitored, and managed onsite, and include the following:

- A certified hazardous waste hauler shall remove all potentially hazardous soils. In addition, sampling of soil shall be conducted during excavation to ensure that all petroleum hydrocarbon and arsenic impacted soils are removed, and that Environmental Screening.
- Levels (ESLs) for non-residential uses are not exceeded. Excavated materials shall be transported per California Hazardous Waste Regulations to a landfill permitted by the State to accept hazardous materials.
- Any subsurface materials exposed during construction activities that appear suspect of contamination, either from visual staining or suspect odors, shall require immediate cessation of excavation activities. Soils suspected of contamination shall be tested for potential contamination. If contamination is found to be present per the Department of Toxic Substances Control Screening Levels for industrial/commercial land use (DTSC-SLi) and the EPA Regional Screening Levels for industrial/commercial land use (EPA-RSLi), it shall be transported and disposed of per state regulations to an appropriately permitted landfill.
- The SMP shall include a Health and Safety Plan (HSP) addresses potential safety and health hazards and includes the requirements and procedures for employee protection; each contractor will be required to have their own HSP tailored to their particular trade that addresses the general project safety requirements. The HSP shall also outline proper soil handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction.
- The SMP shall be prepared and executed in accordance with South Coast Air Quality Management District (SCAQMD) Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil. The SMP shall require the timely testing and sampling of soils so that contaminated soils can be separated from inert soils for proper disposal. The SMP shall specify the testing parameters and sampling frequency.

Anticipated testing includes total petroleum hydrocarbons (TPH), volatile organic compounds (VOCs), and semi-volatile organic compounds (SVOCs). During excavation, Rule 1166 requires that soils identified as contaminated shall be sprayed with water or another approved vapor suppressant, or covered with sheeting during periods of inactivity of greater than an hour, to prevent contaminated soils from becoming airborne. Under Rule 1166, contaminated soils shall be transported from the project site by a licensed transporter and disposed of at a licensed storage/treatment facility to prevent contaminated soils from becoming airborne or otherwise released into the environment.

- All SMP measures shall be printed on the construction documents, contracts, and project plans prior to issuance of grading permits.

HAZ-4 Construction period testing: Construction at the project site shall be conducted under a project-specific Construction Risk Management Plan (CRMP) to protect construction workers, the general public, and the environment from subsurface hazardous materials previously identified and to address the possibility of encountering unknown contamination or hazards in the subsurface. The CRMP shall summarize soil and groundwater analytical data collected on the project sites during past investigations and during site investigation activities; delineate areas of known soil and groundwater contamination, if applicable; and identify soil and groundwater management options for excavated soil and groundwater, in compliance with local, state, and federal statutes and regulations. The CRMP shall:

- Provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively.
- Require the preparation of a project-specific Health and Safety Plan that identifies hazardous materials present, describes required health and safety provisions and training for all workers potentially exposed to hazardous materials in accordance with State and Federal worker safety regulations, and designates the personnel responsible for Health and Safety Plan implementation.
- Require the preparation of a contingency plan that shall be applied should previously unknown hazardous materials be encountered during construction activities. The contingency plan shall include provisions that require collection of soil and/or groundwater samples in the newly discovered affected area by a qualified environmental professional prior to further work, as appropriate. The analytical results of the sampling

shall be reviewed by the qualified environmental professional and submitted to the appropriate regulatory agency. The environmental professional shall provide recommendations, as applicable, regarding soil/waste management, worker health and safety training, and regulatory agency notifications, in accordance with local, state, and federal requirements. Work shall not resume in the area(s) affected until these recommendations have been implemented under the oversight of the County or regulatory agency, as appropriate.

- Designate personnel responsible for implementation of the CRMP. The CRMP shall be submitted to the County for review and approval prior to the issuance of construction and demolition permits. This measure would reduce the hazards and hazardous materials impact to a less-than-significant level.

HAZ-5 Prior to the commencement of any construction related site activities (clearing, demolition, grading etc.), all above ground storage tanks (ASTs) shall be removed. ASTs storing diesel shall be disposed of by a State of California licensed contractor and in compliance with the required San Bernardino County Fire Department (SBCFD) Hazardous Materials Division regulations for tank removals. For stained soils in the vicinity of diesel containing ASTs, as identified in the Phase I Environmental Site Assessment (ESA) dated March 15, 2017, soil samples shall be collected, as directed by the SBCFD inspector, for chemical analysis at a laboratory licensed by the State of California. If contaminated soils are encountered, a soil management plan shall be prepared to manage the stained soils during redevelopment.

HAZ-6 Prior to the issuance of a demolition permit for any buildings or structures onsite, the project applicant shall conduct a comprehensive ACM survey to identify the locations and quantities of ACM in above-ground structures. The project applicant shall retain a licensed or certified asbestos consultant to inspect buildings and structures onsite. The consultant's report shall include requirements for abatement, containment, and disposal of ACM, if encountered, in accordance with the South Coast Air Quality Management District's Rule 1403.

**Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

## Rationale for Finding

Mitigation Measures HAZ-1 through HAZ-6 would require further testing for the presence of methane on the project site, a limited Phase II subsurface assessment of sediments to be conducted following the drainage of the on-site ponds, preparation of a Soil Management Plan, construction to be conducted under a Construction Risk Management Plan, removal of all above ground storage tanks (ASTs) prior to the commencement of construction activities, and a comprehensive ACM survey to be conducted to identify the locations and quantities of ACM in above-ground structures. These mitigation measures would ensure that construction-related impacts would not pose a risk to people or the environment. Mitigation Measures HAZ-1 through HAZ-6 would reduce potential impacts of hazards and hazardous materials to less than significant.

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**Impact 5.8-2: The project site is on a list of hazardous materials sites and, as a result, development of the site could create a significant hazard to the public or the environment. [Threshold H-4]**

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The site was identified on the Waste Discharge System database as an agricultural facility with designated/influent or solid wastes that pose a significant threat to water quality (dairy waste ponds). As noted in Impact 5.8-1, the applicant shall perform a Phase II subsurface assessment of the sediments after the ponds have been drained. If the Phase II subsurface assessment detects chemical risks to human health and the environment due to sediments in the ponds, the project applicant is required to prepare a soils management plan, and any engineering or administrative controls or long-term operations and maintenance plan that is required by DTSC. This is considered a potentially significant impact.

### Mitigation Measure:

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

HAZ-2 Following drainage of the on-site ponds, the project applicant shall conduct a limited Phase II subsurface assessment of sediments to evaluate the sediments for chemical risks to human health and the environment. If contamination from dairy and animal-related wastes is encountered at a level above Environmental Screening Levels (ESLs) for non-residential uses, the appropriate environmental agency (RWQCB, DTSC, SCAQMD) shall be notified. Any contamination identified as a result of such testing/sampling shall be investigated, and removed or remediated to the satisfaction of the environmental agency with evidence provided to the City.

HAZ-3 **Soil Management Plan.** Prior to issuance of a grading permit, the project applicant shall retain a qualified environmental consultant to prepare a Soil Management Plan (SMP) that details procedures and protocols for onsite management of soils containing potentially hazardous materials. The SMP would be implemented during grading activities onsite to ensure that soils containing residual levels of hydrocarbons or arsenic are properly identified, monitored, and managed onsite, and include the following:

- A certified hazardous waste hauler shall remove all potentially hazardous soils. In addition, sampling of soil shall be conducted during excavation to ensure that all petroleum hydrocarbon and arsenic impacted soils are removed, and that Environmental Screening
- Levels (ESLs) for non-residential uses are not exceeded. Excavated materials shall be transported per California Hazardous Waste Regulations to a landfill permitted by the State to accept hazardous materials.
- Any subsurface materials exposed during construction activities that appear suspect of contamination, either from visual staining or suspect odors, shall require immediate cessation of excavation activities. Soils suspected of contamination shall be tested for potential contamination. If contamination is found to be present per the Department of Toxic Substances Control Screening Levels for industrial/commercial land use (DTSC-SLi) and the EPA Regional Screening Levels for industrial/commercial land use (EPA-RSLi), it shall be transported and disposed of per state regulations to an appropriately permitted landfill.
- The SMP shall include a Health and Safety Plan (HSP) addresses potential safety and health hazards and includes the requirements and procedures for employee protection; each contractor will be required to have their own HSP tailored to their particular trade that addresses the general project safety requirements. The HSP shall also outline proper soil handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction.
- The SMP shall be prepared and executed in accordance with South Coast Air Quality Management District (SCAQMD) Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil. The SMP shall require the timely testing and sampling of soils so that contaminated soils can be separated from inert soils for proper disposal. The SMP shall specify the testing parameters and sampling frequency.



Anticipated testing includes total petroleum hydrocarbons (TPH), volatile organic compounds (VOCs), and semi-volatile organic compounds (SVOCs). During excavation, Rule 1166 requires that soils identified as contaminated shall be sprayed with water or another approved vapor suppressant, or covered with sheeting during periods of inactivity of greater than an hour, to prevent contaminated soils from becoming airborne. Under Rule 1166, contaminated soils shall be transported from the project site by a licensed transporter and disposed of at a licensed storage/treatment facility to prevent contaminated soils from becoming airborne or otherwise released into the environment.

- All SMP measures shall be printed on the construction documents, contracts, and project plans prior to issuance of grading permits.

HAZ-4 Construction period testing: Construction at the project site shall be conducted under a project-specific Construction Risk Management Plan (CRMP) to protect construction workers, the general public, and the environment from subsurface hazardous materials previously identified and to address the possibility of encountering unknown contamination or hazards in the subsurface. The CRMP shall summarize soil and groundwater analytical data collected on the project sites during past investigations and during site investigation activities; delineate areas of known soil and groundwater contamination, if applicable; and identify soil and groundwater management options for excavated soil and groundwater, in compliance with local, state, and federal statutes and regulations. The CRMP shall:

- Provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively.
- Require the preparation of a project-specific Health and Safety Plan that identifies hazardous materials present, describes required health and safety provisions and training for all workers potentially exposed to hazardous materials in accordance with State and Federal worker safety regulations, and designates the personnel responsible for Health and Safety Plan implementation.
- Require the preparation of a contingency plan that shall be applied should previously unknown hazardous materials be encountered during construction activities. The contingency plan shall include provisions that require collection of soil and/or groundwater samples in the newly discovered affected area by a qualified environmental professional prior to further work, as appropriate. The analytical results of the sampling

shall be reviewed by the qualified environmental professional and submitted to the appropriate regulatory agency. The environmental professional shall provide recommendations, as applicable, regarding soil/waste management, worker health and safety training, and regulatory agency notifications, in accordance with local, state, and federal requirements. Work shall not resume in the area(s) affected until these recommendations have been implemented under the oversight of the County or regulatory agency, as appropriate.

- Designate personnel responsible for implementation of the CRMP. The CRMP shall be submitted to the County for review and approval prior to the issuance of construction and demolition permits. This measure would reduce the hazards and hazardous materials impact to a less-than-significant level.

### **Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

### **Rationale for Finding**

Mitigation Measures HAZ-2 through HAZ-4 would require a limited Phase II subsurface assessment of sediments to be conducted following the drainage of the on-site ponds, preparation of a Soil Management Plan, and construction to be conducted under a Construction Risk Management Plan. These mitigation measures would ensure that construction-related impacts would not pose a risk to people or the environment. Mitigation Measures HAZ-2 through HAZ-4 would reduce potential impacts of hazards and hazardous materials to less than significant.

## **6. Noise**

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### **Impact 5.11-1: Construction activities would result in substantial temporary noise increases in the vicinity of the proposed project [Threshold N-1]**

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#### **Construction Noise**

##### *Off-Site Improvements*

The proposed project would include various off-site improvements that would take place along roadways and near residential uses. Off-site improvements such as expanding water and sewage lines would be temporary and such construction activity would not remain in one place for an extended period of time. Unlike on-site improvements and construction activity that is bounded by the project site, offsite improvements would

progress a linear fashion. As discussed above, Section 5-29.06(e) of the Ontario Municipal Code exempts noise sources associated with construction, repair, remodeling, demolition or grading of a public right-of-way and construction noise associated with off-site improvements would be less than significant.

### *On-Site Improvements*

Noise attenuation due to distance, the number and type of equipment, and the load and power requirements to accomplish tasks at each construction phase would result in different noise levels from construction activities at a given receptor. Since noise from construction equipment is intermittent and diminishes at a rate of at least 6 dBA per doubling of distance (conservatively ignoring other attenuation effects from air absorption, ground effects, and shielding effects), the average noise levels at noise-sensitive receptors could vary considerably, because mobile construction equipment would move around the site with different loads and power requirements.

Noise levels from project-related construction activities were calculated from the simultaneous use of all applicable construction equipment at spatially averaged distances (i.e., from the acoustical center of the general construction site) to the property line of the nearest receptors. Although construction may occur across the entire project area, the center of construction activities best represents the potential average construction-related noise levels at the various sensitive receptors. To provide for a conservative assessment of project impacts, the center of the proposed building closest to off-site sensitive receptors (e.g., Building 8 being closest to residences in Ontario across Eucalyptus Avenue) was used to estimate construction noise levels occurring during that period of construction. As shown in Table 5.11-9, *Project-Related Construction Noise, dBA L<sub>eq</sub>*, on page 5.11-19 of the DEIR, noise levels could at times exceed the 65 dBA significance threshold at the nearest noise-sensitive receptors. In addition, since construction is anticipated to last over two years, impacts from construction noise are considered significant.

### *Construction Vehicles*

The transport of workers and materials to and from the construction site would incrementally increase noise levels along site access roadways. Individual construction vehicle pass-bys and haul trucks may create momentary noise levels of up to approximately 85 dBA (L<sub>max</sub>) at 50 feet from the vehicle, but these occurrences would generally be limited to demolition and soil hauling and be relatively short lived. An estimated maximum of approximately 310 daily combined construction-related trips during overlapping activity phases would result in a noise increase of 0.1 dBA or less when compared to existing traffic volumes along Euclid Avenue and Merrill Avenue, which are 9,000 ADT or higher. PPP N-1 would require that all demolition and soil hauling be conducted during daytime (7:00 AM to 6:00 PM) hours. Noise impacts from construction vehicles would be less than significant.

### **Mitigation Measure:**

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

- N-1 Prior to issuance of demolition, grading and/or building permits, a note shall be provided on construction plans indicating that during grading, demolition, and construction, the project applicant shall be responsible for requiring contractors to implement the following measures to limit construction-related noise:
- Construction activity is limited to the daytime hours between 7:00 AM to 6:00 PM on weekdays and between 9:00 AM to 6:00 PM on Saturday per the City of Ontario Municipal Code. Construction is prohibited on Sundays and federal holidays per the City of Chino Municipal Code.
  - During the entire active construction period, equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds), wherever feasible.
  - Require that impact tools (e.g., jack hammers and hoe rams) be hydraulically or electrically powered wherever possible. Where the use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used along with external noise jackets on the tools.
  - Stationary equipment such as generators, air compressors shall be located as far as feasible from nearby noise-sensitive uses.
  - Stockpiling of materials shall be located as far as feasible from nearby noise-sensitive receptors.
  - Construction traffic shall be limited to approved haul routes established by the City and other agencies and shall be prohibited during nighttime hours (10:00 PM to 7:00 AM).
  - At least 10 days prior to the start of construction activities, a sign shall be posted at the entrance(s) to the job site, clearly visible to the public, that includes permitted construction days and hours, as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, he/she shall investigate, take appropriate corrective action, and report the action to the City.

- Signs shall be posted at the job site entrance(s), within the on-site construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment shall be turned off if not in use for more than 5 minutes.
- During the entire active construction period and to the extent feasible, the use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only. The construction manager shall use smart back-up alarms, which automatically adjust the alarm level based on the background noise level, or switch off back-up alarms and replace with human spotters in compliance with all safety requirements and laws.
- Erect temporary noise barriers (at least as high as the exhaust of equipment and breaking line-of-sight between noise sources and sensitive receptors) to maintain construction noise levels at or below the performance standard of 65 dBA. Barriers shall be constructed with a solid material that has a density of at least 4 pounds per square foot with no gaps from the ground to the top of the barrier. Effective locations for barriers are along Euclid Avenue and Eucalyptus Avenue where residences are directly across the street.

### **Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

### **Rationale for Finding**

Mitigation Measure N-1 would ensure that construction activities would occur between the hours permitted by the City of Ontario Municipal Code, and that equipment and trucks shall utilize noise control techniques such as being hydraulically or electrically powered, or placed away from noise-sensitive receptors. Mitigation Measure N-1 would reduce potential impacts of noise to less than significant.

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**Impact 5.11-2: Project implementation would result in long-term operation-related noise that would exceed standards. [Threshold N-1]**

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### **Mobile Noise**

As shown in Table 5.11-10, *Traffic Noise Levels for Existing and Project Buildout Conditions*, on page 5.11-21 of the DEIR, there are several roadway segments along

Eucalyptus Avenue from Euclid Avenue to Grove Avenue that would experience a traffic noise increase of greater than 1.5 dBA where the existing ambient is 65 dBA CNEL or greater. This would be considered a significant impact. It should be noted that while the traffic noise increase is greater than 1.5 dBA on Merrill Avenue from Sultana Avenue to Bon View Avenue, and the existing ambient is greater than 65 dBA CNEL, there are no noise-sensitive uses along this roadway segment. The significance threshold of 3 dBA is applied to the Baker Avenue south of Merrill Avenue roadway segment since the existing ambient is less than 65 dBA CNEL.

### **Mechanical Equipment**

Heating, ventilation, and air conditioning (HVAC) systems are anticipated to be on the rooftop of various buildings. The nearest noise sensitive receptors are residential uses to the north and west. Typical HVAC equipment generates noise levels ranging up to 72 dBA at a distance of 3 feet.

#### *City of Ontario*

Residential uses to the north would be subject to the City of Ontario noise level standards. The nearest HVAC equipment at proposed Building 8 could be approximately 150 feet from the residential uses. At that distance, HVAC noise levels would attenuate to approximately 38 dBA, which is below the 65 dBA Leq daytime and 45 dBA Leq nighttime noise limits. Noise associated with HVAC equipment would be less than significant for residential uses in the City of Ontario.

#### *City of Chino*

Residential uses to the west would be subject to the City of Chino noise level standards. The nearest HVAC equipment at proposed Building 6 could be approximately 300 feet from the residential uses. At that distance, HVAC noise levels would attenuate to 32 dBA, which is below the 55 dBA L50 daytime and 50 dBA L50 nighttime noise limits. Noise associated with HVAC equipment would be less than significant for residential uses in the City of Chino.

### **Loading Docks**

The proposed project would have operational noise associated with truck loading bay operations. The proposed project would construct eight buildings with loading docks generally oriented towards the center of the project, away from nearby sensitive receptors. For the closest residences in Ontario to the north across Eucalyptus Avenue, a scenario was developed assuming all 12 of the loading docks proposed at Building 8 operating at the same time from a distance of 350 feet. Additionally, since the warehouse buildings will act as noise barriers between the truck bays and the receptor locations by providing shielding, barrier attenuation was included. Finally, it was assumed that seven loading docks could be in operation at proposed Building 1 where only partial shielding is provided by the buildings (Buildings 7 and 8 would provide partial shielding) between the loading docks and the residences approximately 750 feet to the north of Building 1. For the closest residences in Chino to the west across Euclid Avenue, a scenario was developed assuming all 21 of the loading docks proposed at Building 4 operating at the

same time from a distance of 475 feet. Again, since the warehouse buildings will act as noise barriers between the truck bays and the receptor locations, barrier attenuation was included.

Loading dock noise levels are not expected to exceed 45 dBA Leq nighttime threshold at the closest residence north in the City of Ontario. The Leq noise level metric (energy average noise level) is generally similar in value to the L50 noise level (the noise level exceeded half of the measurement period). The L50 noise level at the closest residence in the City of Ontario is predicted to be 29 dBA, well below the limit of 45 dBA. In addition, loading dock noise levels would be below the City of Chino nighttime standards (50 dBA L50, 55 dBA L25, 60 dBA L8, 65 dBA L2, and 70 dBA Lmax) at the closest residences to the west. Loading dock noise levels would be even lower at the Egan Lyle High School and Youth Correctional Facility further to the southwest of the project site. Operational loading dock noise from the proposed project would be less than significant.

#### **Mitigation Measure:**

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

N-2 Prior to the issuance of building permits, the project applicant shall install and maintain rubberized or special asphalt paving, such as open grade asphalt concrete (OGAC) along Eucalyptus Avenue from Euclid Avenue to Grove Avenue.

#### **Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

#### **Rationale for Finding**

Mitigation Measure N-2 would require the installation of rubberized or special asphalt along the roadways adjacent to the project site which would ensure notable reductions in tire noise. Mitigation Measure N-2 would reduce impacts to noise to less than significant.

### **7. Tribal Cultural Resources**

The following are plans, programs, and policies (PPPs) that would reduce the proposed project's potential tribal cultural resources impacts:

PPP TCR-1 The project is required to comply with CEQA Guidelines Section 15064.5, Public Resources Code Sections 21083.2 and 5097.9, and Health and Safety Code Section 7050.5, to properly recover and evaluate any TCRs, if encountered.

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**Impact 5.15-1: Grading activities have the potential to encounter unknown, buried tribal cultural resources. [Threshold TCR-1(i)(ii)]**

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**Sacred Lands File Search**

A Sacred Lands File search was conducted by NAHC to determine if any sacred lands or traditional cultural properties had been identified near the project site. The NAHC's Sacred Lands File record search found no record of tribal resources on or within one mile of the project site. The proposed project would not impact any known tribal cultural resource that is listed or eligible for listing. MCC requested further information from 20 Native American tribes or individuals; of the 20 tribes or individuals, 18 had no response or stated that the project site is outside the tribe's ancestral territory and/or areas of tribal affiliation or interest. Two tribes responded as follows:

- Gabrieleno/Tongva San Gabriel Band of Mission Indians – The Tribe stated that the project is in the vicinity of important prehistoric and historic tribal routes and water sources. The Tribe indicated that the heightened sensitivity warrants archaeological and Tribal monitoring by their Tribe.
- Gabrieleno Band of Mission Indians-Kizh Nation – The Tribe indicated that the project is located in a culturally sensitive area that is part of the Gabrieleno Band of Mission Indians-Kizh Nation ancestral territory. Based on traditional and historical information, the Tribe recommended both archaeological and Tribal monitoring for the project. Additionally, the Tribe requested that the following be included in the report: the Gabrieleno Band of Mission Indians-Kizh Nation would like to be the primary Tribe to consult on the project because the project is located in their ancestral territory that they wish to be in contact with the lead agency for consultation; and that they would like to draft mitigation language for tribal cultural resources as the Tribe anticipates encountering prehistoric and historic cultural resources.

**SB 18 and AB 52 Consultation**

In accordance with SB 18 and AB 52, the City notified local tribes identified about the proposed project on March 22, 2019, to determine the potential for TCRs on-site and to determine if local knowledge of TCR is available about the project site and surrounding area. It should be noted that the approved Native American lists for SB 18 and AB 52 consultations are not the same as the tribes and individuals identified on NAHC's Sacred Lands File list.



No tribes responded to the request for Native American consultation. Further, the entire Specific Plan area has been repeatedly and significantly altered and disturbed by over 80 years of agricultural/dairy operations. Based on the records search and previous disturbance associated with agricultural operations, the potential to uncover TCRs for the site is low. However, despite actions taken to ensure that all TCRs are located prior to construction, including record searches and field surveying, there still remains the possibility based on the responses from the Sacred Lands File consultations that undiscovered, buried TCRs might be encountered during ground-disturbing activities, such as excavation and grading. A substantial adverse change in the significance of discovered resource(s) could occur if not mitigated.

### **Mitigation Measure:**

The following mitigation measures were included in the DEIR and the FEIR, and are applicable to the proposed project. The measures as provided include any revisions incorporated in the FEIR.

TCR-1 Prior to commencement of any excavation activities, the project developer shall retain a Native American Monitor of Gabrieleño Ancestry to:

- Conduct a Native American Indian Sensitivity Training for construction personnel. The training session shall include a handout and focus on how to identify Native American resources encountered during earthmoving activities and the procedures followed if resources are discovered, the duties of the Native American Monitor of Gabrieleño Ancestry, and the general steps the Monitor would follow in conducting a salvage investigation.
- Monitor all project-related, ground-disturbing construction activities (e.g., pavement removal, auguring, boring, grading, excavation, potholing, trenching, and grubbing) of previously undisturbed native soils to a maximum depth of 30 feet below ground surface. At their discretion and expense, a Native American Monitor of Gabrieleño Ancestry can be present during the removal of dairy manure to native soil.

### **Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Ontario hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

### **Rationale for Finding**

Mitigation Measure TCR-1 would ensure the project applicant and construction contractors are aware of potential TCRs onsite and have specified procedures to implement to ensure these potentially uncovered resources are not damaged during

grading and construction activities. Mitigation Measure TCR-1 would ensure impacts are less than significant.

#### **E. SIGNIFICANT AND UNAVOIDABLE SIGNIFICANT IMPACTS THAT CANNOT BE MITIGATED TO BELOW THE LEVEL OF SIGNIFICANCE**

The following summary describes the unavoidable adverse impact of the proposed project where either mitigation measures were found to be infeasible, or the mitigation measures are under the control of another lead agency.

Public Resources Code section 21002 states that “it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. The Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

Section 15364 of the State CEQA Guidelines defines “feasible” as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”

Section 15093(a) of the State CEQA Guidelines states:

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

The City Council hereby finds that, despite the incorporation of feasible measures outlined in the Final EIR, pursuant to Section 15093 of the Guidelines, the following impacts cannot be fully mitigated to a less than significant level. Despite these significant and unavoidable impacts, the City nevertheless approves the Project because of the benefits described in the Statement of Overriding Considerations included herein.

Pursuant to Public Resources Code Section 21081(b) and CEQA Guidelines Sections 15093 and 15043, the City has balanced the economic, legal, social, technological, and other benefits of the proposed Project, including the provision of employment opportunities for highly trained workers, against the following unavoidable adverse impacts associated with the proposed Project identified in Section II, G, above, and has adopted all feasible mitigation measures with respect to the specific impacts described in Section IV in the environmental impact areas of Agricultural Resources, Air Quality, Greenhouse Gas Emissions, and Transportation and Traffic. The City also has examined alternatives to the proposed Project, none of which meet the Project objectives nor environmentally superior to the proposed Project.

The following impacts would remain significant and unavoidable:

### **1. Agriculture and Forestry Resources**

The following are plans, programs, and policies (PPPs) that would reduce the proposed project's potential tribal cultural resources impacts:

PPP AG-1 Deed disclosure – In order to reduce conflicts issued between sensitive receptors and agricultural uses, all property owners in the Ontario Ranch Business Park Specific Plan shall be provided with a deed disclosure or similar notice approved by the City Attorney regarding the proximity and nature of neighboring agricultural uses. This disclosure shall be applied at the tentative map stage to the affected properties, or otherwise prior to finalizing the sale or rental agreement of any property. The written disclosure shall be supplied to the property purchaser or renter by the vendor or vendor's agent. The content and text of the disclosure shall be approved by the City Attorney, and shall include language to inform new residents that existing agricultural uses may create nuisances such as flies, odors, dust, night-light, and chemical spraying.

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**Impact 5.1-1: The proposed project would convert approximately 60 acres of California Resource Agency designated Prime Farmland to Specific Plan, which would allow for development of business park and industrial land uses. [Threshold AG-1]**

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The proposed project consists of a General Plan Amendment, Specific Plan, Development Plan Review, Tentative Parcel Maps, and a Development Agreement. The Specific Plan includes Development Standards and Design Guidelines, where all subsequent development within the Specific Plan would be required to conform with these Standards and Guidelines. In accordance with Table 4.1, Allowable Uses, of the Specific Plan, commercial crop production and farming would be conditionally allowed within the Business Park (BP) Zoning District and would be permitted by-right in the Industrial-General (IG) Zoning District. Additionally, community gardens, urban farms, and related uses would be administratively allowed within the BP and IG Districts, and kennels and catteries would not be allowed within BP but permitted in the IG District.

The proposed improvements would also include buffering from parking lots, loading and service areas in accordance with the provisions of the Specific Plan. These requirements support the City's planned orderly transition of existing agricultural uses to urban uses. The project site has historically been used for agricultural purposes, primarily dairy operations and field crops. Approximately 60 acres in the southwestern portion of the site are identified as Prime Farmland, and the remainder of the site (approximately 28 acres) is identified as Other Land. The proposed Specific Plan would convert the approximately

60 acres of Prime Farmland from agriculture to urban use, which would be a significant impact in accordance with The Ontario Plan EIR.

As identified in the TOP EIR, build out of the Ontario General Plan would result in conversion of all agricultural-designated land to urban uses; remaining agricultural uses would be retained within 200 acres of the Southern California Land Foundation preserves. It was determined that the mitigation proposed and considered would not prevent significant impacts from occurring, and impacts would be significant and unavoidable. The City of Ontario adopted a Statement of Overriding Considerations for significant and unavoidable impacts to agricultural lands with full buildout of the General Plan. The Specific Plan would be consistent with the City's General Plan as it would support development of land in an economically productive way that would serve the growing population, but with implementation of the Specific Plan would convert agricultural-designated land to urban uses. Therefore, project implementation would result in potentially significant impacts related to conversion of Prime Farmland to non-agricultural use.

Potential agricultural resources impacts resulting from construction of off-site infrastructure improvements in accordance with the City's master plans were previously evaluated in Initial Study and Mitigated Negative Declaration City of Ontario Infrastructure Master Plans (City of Ontario) July 2012 (Infrastructure Master Plans MND). As discussed in the Infrastructure Master Plans MND, potential agricultural resources impacts resulting from the construction of master plan infrastructure improvements would be limited, as the improvements would be constructed within existing improved streets or otherwise disturbed properties. Further, the Infrastructure Master Plans MND concluded that construction of master plan infrastructure improvements would not result in impacts to agricultural resources not already considered and addressed in The Ontario Plan EIR. Therefore, the project's offsite infrastructure improvements would not result in significant impacts to agricultural uses.

### **Mitigation Measures**

The Ontario Ranch area (previously New Model Colony; NMC) is designated for urban development pursuant to the General Plan. Existing agricultural uses are in various stages of converting to urban uses that are consistent with the General Plan. As the agricultural uses diminish, so too are the needed support uses such as feed stores, agricultural equipment sales and rentals, and manure services. In addition, as described previously, dairy farming has become less and less viable in the Ontario region. The dairy industry in the County has consistently and sharply declined since 2000, and incentives to convert to urban uses increase. Existing agricultural uses within the City are becoming economically unsustainable and represent land uses that are increasingly incongruous with continuing urbanization of the City. Transition of existing agricultural uses and Farmland to non-agricultural uses is an unavoidable effect of implementing the TOP. The TOP EIR considered various mitigation measures that could reduce impacts to

agricultural resources but concluded that there are no feasible measures that would reduce the loss of agriculture to levels that would be less than significant. TOP EIR Mitigation Measures that were considered and rejected are described below.

- **Ontario Plan EIR Mitigation Measure: Retention of On-Site Agricultural Uses.** Retention of agricultural uses within the City of Ontario would create or maintain islands of agricultural uses within an urbanized setting, exacerbating potential land use conflicts and land use incompatibilities. Moreover, The Ontario Plan does not envision long-term use of City properties for agricultural purposes. This is evidenced in the adopted Land Use Plan, which does not establish or maintain any “Agricultural” Land Use designations within the City. Preservation of agricultural land uses would therefore conflict with the adopted Land Use Plan. The “Retention of On-Site Agricultural Uses” mitigation strategy would require comprehensive amendment of the Policy Plan. Neither the City nor applicant has indicated that such amendment is warranted or desired, and neither has initiated such action.

Additionally, economic viability of agricultural uses in the City has declined as a result of losing many of the necessary support services. Increasing urbanization, rising land values, and relatively high operational costs have also put City agricultural and dairy farming uses at a competitive disadvantage in regional markets. Ultimately, the long-term viability of agriculture within the City is limited due to the increasing land values, increased water costs, higher labor costs, higher property taxes, competition from other parts of the state, and the growing urbanization of the area. Based on the preceding, retention of on-site agricultural uses is considered infeasible.

- **Ontario Plan EIR Mitigation Measure: Replacement of Agricultural Resources Off-Site.** Replacement of agricultural resources at an off-site location would require the applicant to purchase off-site replacement acreage not designated as Farmland, and improve or restore it to Farmland status. Creation of additional Farmland in the City is contrary to the Land Use Plan policies and vision as summarized previously, and would require comprehensive amendment of the Policy Plan. Neither the City nor applicant has indicated that such amendment is warranted or desired, and neither has initiated such action. The potential to provide offsite mitigation for the loss of agricultural land and agricultural uses was considered but rejected as infeasible in the General Plan EIR. Using another area within Ontario Ranch for mitigation of impacts related to the Project would result in the same issues as previously described in consideration of onsite mitigation. Therefore, similar to the reasons why onsite mitigation is not feasible, offsite mitigation within Ontario Ranch is also infeasible. In addition, offsite mitigation within the region is also considered infeasible due to

the decreasing economic vitality of agriculture in Ontario Ranch and Southern California and increased urbanization pressures on existing agricultural lands.

Further, creation of new Farmland-status properties outside the City is beyond the Lead Agency and applicant control. The Farmland status at any site would be assigned through the California Department of Conservation Farmland Mapping and Monitoring Program Important Farmland Series mapping protocol. Moreover, creation of new Farmland-status properties at extra-jurisdictional locations could result in land use conflicts at the interface of agricultural uses and urban uses similar to those the City has experienced, and seeks to avoid through implementation of the Land Use Plan.

Additionally, the “Replacement of Agricultural Resources Off-Site” mitigation strategy would likely result in potentially adverse environmental impacts including, but not limited to, impacts to biological resources, hydrology/water quality, air quality, greenhouse gas emissions, and land use and planning. In this regard, the mitigation strategy would likely result in increased, rather than diminished environmental impacts. Based on the preceding, replacement of agricultural resources at off-site locations is considered infeasible.

- **Ontario Plan EIR Mitigation Measure: Relocation of Farmland Topsoil.** Relocation of Farmland topsoil would entail removal of the top 12 to 18 inches of topsoil from Farmland properties and the placement of this soil at sites that have lesser quality soil. This would promote creation of new or additional Farmland status properties in the City, rather than provide for their transition to urban uses. This would be contrary to the Land Use Plan policies and vision as summarized previously, and would require comprehensive amendment of the Policy Plan. Neither the City nor applicant has indicated that such amendment is warranted or desired, and neither has initiated such action.

Further, creation of new Farmland-status by means of imported Farmland topsoil is beyond the Lead Agency and applicant control. The Farmland status at any site would be assigned through the California Department of Conservation Farmland Mapping and Monitoring Program Important Farmland Series mapping protocol. Moreover, creation of new Farmland-status properties at extra-jurisdictional locations could result in land use conflicts at the interface of agricultural uses and urban uses similar to those the City has experienced, and seeks to avoid through implementation of the Land Use Plan.

Additionally, excavation and relocation of topsoil would likely result in potentially adverse environmental impacts affecting biological resources, hydrology/water quality, air quality, greenhouse gas emissions, and land use and planning. Based on the preceding, relocation of Farmland topsoil is considered infeasible.

- **Ontario Plan EIR Mitigation Measure: Establishment of Conservation Easement or Preserves.** Establishment of conservation easements or preserves is contrary to the Land Use Plan policies and vision providing for transition of agricultural uses to urban uses. This mitigation strategy would require comprehensive amendment to the Policy Plan. The City has not indicated that such amendment is warranted or desired, and has initiated no such action. At the project site, establishment of agricultural conservation easements or preserves would negate the project, resulting in a No-Build condition. Based on the preceding, the “Establishment of Conservation Easement or Preserves” mitigation strategy is considered infeasible.
- **Ontario Plan EIR Mitigation Measure: Transfer of Development Rights.** The Southern California Association of Governments (SCAG) provides the following summary of description and application of Transfer of Development Rights (TDR) programs:

Transfer of development rights (TDR) “is a device by which the development potential of a site is severed from its title and made available for transfer to another location. The owner of a site within a transfer area retains property ownership, but not approval to develop. The owner of a site within a receiving area may purchase transferable development rights, allowing a receptor site to be developed at a greater density.”

TDR is most commonly used to preserve agricultural lands but it can also be used for preserving natural, open space. TDR programs can vary depending on the need of the local jurisdiction but in general there are a few common factors that contribute to the success of a TDR program. These include having a donor site with development constraints, appropriate zoning regulations, and infrastructure requirements.”

The project site is not currently entitled for development absent an adopted Specific Plan, and it is unclear what if any development rights would be transferred under a TDR program. Further, there is no designated or contemplated receiving area to accept these development rights. Moreover, a TDR program would preserve agricultural uses at the project site rather than further planned transition of agricultural uses to non-agricultural uses as envisioned under the Policy Plan. This would be contrary to the Land Use Plan policies and vision as summarized previously.

The City of Ontario has not implemented a TDR Program. Implementation of a TDR program would require amending the City Development Code and comprehensive amendment of the Policy Plan. Neither the City nor applicant has indicated that such amendments are warranted or desired, and neither has initiated such actions. Based on the preceding, implementation of a “Transfer of Development Rights Program” mitigation strategy is considered infeasible.

- The City has considered but rejected the collection of fees for offsite mitigation of agricultural impacts. Neither the City nor the adjoining counties have adopted fee programs. Absent viable programs in the region, the imposition of fees would not serve to mitigate the impacts of the project. Furthermore, an offsite fee mitigation program would not avoid the loss of farmland; would not minimize the effect of the project; would not repair, rehabilitate, or restore the affected farmland; and, absent a viable fee program, would not replace affected farmland with substitute farmland. Thus, such a program would not actually mitigate or substantially lessen the significant impact of the project (CEQA Guidelines Section 15370; *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1989) 209 Cal.App.3d 1502, 1519). The same factors that make onsite mitigation infeasible would apply offsite in the region as well. The challenges to continued agricultural production in the Chino Basin area, also challenge agriculture throughout Southern California (*Defend the Bay v. City of Irvine* [2004] 119 Cal. App. 4th 1261, 1270-72).

Offsite mitigation would require the City to purchase replacement acreage for Important Farmland currently not in use elsewhere in California and restore it as viable farmland. However, distant mitigation would not reduce impacts because these mitigation parcels could have no bearing or relationship on the loss of agricultural lands within the City or the County. In addition, experience indicates a program consisting of the required purchase of agricultural easements on other land or through fee programs for the acquisition of agricultural easements would be of limited utility or benefit. Such a program is inherently dependent upon voluntary agreements by farm owners to sell such easements on their property for an agreed price, which, within the City, is largely driven by the City's General Plan land use designations, population growth, urbanization of the surrounding area, and the limited supply of suitable farmland. In remote areas not planned for development in the near-term, owner's may be more willing to sell such an easement at a reasonable price but within the region much of the land is already subject to development pressure. As a result, the most likely result would be a "patchwork" of easements, with some owners more willing than others to sell them, potentially creating a more dispersed development pattern and loss of viability of farmland over time, which would not serve as a feasible measure to mitigate the loss of farmland by the project. Neither the City nor the County have adopted programs for the acquisition of off-site agricultural easements. Consequently, for the reasons previously outlined, it is determined that off-site mitigation of agricultural resources is neither feasible nor effective in mitigating such impacts.



Overall, no feasible mitigation measures have been identified, which would substantially lessen the project's significant impacts related to the loss of Prime Farmland and conversion of farmland to non-agricultural use. This finding is consistent with the finding in General Plan EIR; that there are no feasible mitigation measures to reduce impacts on Important Farmland or the conversion of agricultural land to non-agricultural uses, and thus impacts would be significant and unavoidable.

**Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified above.

The City finds that there are no other mitigation measures that are feasible, taking into consideration specific economic, legal, social, technological or other factors, that would mitigate this impact to a less-than-significant level, and further, that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the EIR, as discussed in Section G of these Findings (Public Resources Code §§ 21081(a)(1), (3); Guidelines §§ 15091(a)(1), (3)). As described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable because specific overriding economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the proposed project outweigh its significant effects on the environment.

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**Impact 5.1-2: The proposed project would involve other changes in the existing environment, which due to the location and nature, would convert Prime Farmland to a non-agricultural use. [Threshold AG-5]**

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Property to the north and east of the site are designated are within the AG Overlay Zone. While these sites currently operate with agricultural production, these lands are designated for future urban development in the City of Ontario General Plan with land use designations of mixed use to the north and low-medium density residential and business park to the east. Property to the south and west in the City of Chino are near the City General Plan-designated Euclid Avenue Corridor, which is planned to feature a transition to mixed-use development with a focus on retail uses and some higher-intensity residential development. Although implementation of the Specific Plan would result in the conversion of the agricultural use on the site, the surrounding area to the north, south, east, and west is proposed to be developed with uses other than for agricultural purposes.

Because of the provisions in the AG Overlay zone for lands within the Specific Plan area, existing nearby agricultural uses would be able to continue via notice in the form of a deed disclosure to future homeowners, business, or property owners that agricultural nuisances such as noise and odor (see Section 5.3, *Air Quality*, of the DEIR), are present and can legally exist so long as the land is not developed otherwise. The deed disclosure ensures that property owners and users within the Specific Plan area are aware of nuisances and operations of the nearby agricultural properties to reduce conflicts between existing and proposed uses. Nonetheless, impacts would remain significant and unavoidable.

### **Mitigation Measures**

The Ontario Ranch area (previously New Model Colony; NMC) is designated for urban development pursuant to the General Plan. Existing agricultural uses are in various stages of converting to urban uses that are consistent with the General Plan. As the agricultural uses diminish, so too are the needed support uses such as feed stores, agricultural equipment sales and rentals, and manure services. In addition, as described previously, dairy farming has become less and less viable in the Ontario region. The dairy industry in the County has consistently and sharply declined since 2000, and incentives to convert to urban uses increase. Existing agricultural uses within the City are becoming economically unsustainable and represent land uses that are increasingly incongruous with continuing urbanization of the City. Transition of existing agricultural uses and Farmland to non-agricultural uses is an unavoidable effect of implementing the TOP. The TOP EIR considered various mitigation measures that could reduce impacts to agricultural resources but concluded that there are no feasible measures that would reduce the loss of agriculture to levels that would be less than significant. TOP EIR Mitigation Measures that were considered and rejected are described below.

- **Ontario Plan EIR Mitigation Measure: Retention of On-Site Agricultural Uses.** Retention of agricultural uses within the City of Ontario would create or maintain islands of agricultural uses within an urbanized setting, exacerbating potential land use conflicts and land use incompatibilities. Moreover, The Ontario Plan does not envision long-term use of City properties for agricultural purposes. This is evidenced in the adopted Land Use Plan, which does not establish or maintain any “Agricultural” Land Use designations within the City. Preservation of agricultural land uses would therefore conflict with the adopted Land Use Plan. The “Retention of On-Site Agricultural Uses” mitigation strategy would require comprehensive amendment of the Policy Plan. Neither the City nor applicant has indicated that such amendment is warranted or desired, and neither has initiated such action.

Additionally, economic viability of agricultural uses in the City has declined as a result of losing many of the necessary support services. Increasing urbanization, rising land values, and relatively high operational costs have also put City agricultural and dairy farming uses at a competitive disadvantage in regional markets. Ultimately, the long-term viability of agriculture within the City is limited due to the increasing land values, increased water costs, higher labor costs, higher property taxes, competition from other parts of the state, and the growing urbanization of the area. Based on the preceding, retention of on-site agricultural uses is considered infeasible.

- **Ontario Plan EIR Mitigation Measure: Replacement of Agricultural Resources Off-Site.** Replacement of agricultural resources at an off-site location would require the applicant to purchase off-site replacement acreage not designated as Farmland, and improve or restore it to Farmland status. Creation of additional Farmland in the City is contrary to the Land Use Plan policies and vision as summarized previously, and would require comprehensive amendment of the Policy Plan. Neither the City nor applicant has indicated that such amendment is warranted or desired, and neither has initiated such action. The potential to provide offsite mitigation for the loss of agricultural land and agricultural uses was considered but rejected as infeasible in the General Plan EIR. Using another area within Ontario Ranch for mitigation of impacts related to the Project would result in the same issues as previously described in consideration of onsite mitigation. Therefore, similar to the reasons why onsite mitigation is not feasible, offsite mitigation within Ontario Ranch is also infeasible. In addition, offsite mitigation within the region is also considered infeasible due to the decreasing economic vitality of agriculture in Ontario Ranch and Southern California and increased urbanization pressures on existing agricultural lands.

Further, creation of new Farmland-status properties outside the City is beyond the Lead Agency and applicant control. The Farmland status at any site would be assigned through the California Department of Conservation Farmland Mapping and Monitoring Program Important Farmland Series mapping protocol. Moreover, creation of new Farmland-status properties at extra-jurisdictional locations could result in land use conflicts at the interface of agricultural uses and urban uses similar to those the City has experienced, and seeks to avoid through implementation of the Land Use Plan.

Additionally, the “Replacement of Agricultural Resources Off-Site” mitigation strategy would likely result in potentially adverse environmental impacts including, but not limited to, impacts to biological resources, hydrology/water quality, air quality, greenhouse gas emissions, and land use and planning. In this regard, the mitigation strategy would likely result in increased, rather than diminished environmental impacts. Based on the preceding, replacement of agricultural resources at off-site locations is considered infeasible.

- **Ontario Plan EIR Mitigation Measure: Relocation of Farmland Topsoil.** Relocation of Farmland topsoil would entail removal of the top 12 to 18 inches of topsoil from Farmland properties and the placement of this soil at sites that have lesser quality soil. This would promote creation of new or additional Farmland status properties in the City, rather than provide for their transition to urban uses. This would be contrary to the Land Use Plan policies and vision as summarized previously, and would require comprehensive amendment of the Policy Plan. Neither the City nor applicant has indicated that such amendment is warranted or desired, and neither has initiated such action.

Further, creation of new Farmland-status by means of imported Farmland topsoil is beyond the Lead Agency and applicant control. The Farmland status at any site would be assigned through the California Department of Conservation Farmland Mapping and Monitoring Program Important Farmland Series mapping protocol. Moreover, creation of new Farmland-status properties at extra-jurisdictional locations could result in land use conflicts at the interface of agricultural uses and urban uses similar to those the City has experienced, and seeks to avoid through implementation of the Land Use Plan.

Additionally, excavation and relocation of topsoil would likely result in potentially adverse environmental impacts affecting biological resources, hydrology/water quality, air quality, greenhouse gas emissions, and land use and planning. Based on the preceding, relocation of Farmland topsoil is considered infeasible.

- **Ontario Plan EIR Mitigation Measure: Establishment of Conservation Easement or Preserves.** Establishment of conservation easements or preserves is contrary to the Land Use Plan policies and vision providing for transition of agricultural uses to urban uses. This mitigation strategy would require comprehensive amendment to the Policy Plan. The City has not indicated that such amendment is warranted or desired, and has initiated no such action. At the project site, establishment of agricultural conservation easements or preserves would negate the project, resulting in a No-Build condition. Based on the preceding, the “Establishment of Conservation Easement or Preserves” mitigation strategy is considered infeasible.
- **Ontario Plan EIR Mitigation Measure: Transfer of Development Rights.** The Southern California Association of Governments (SCAG) provides the following summary of description and application of Transfer of Development Rights (TDR) programs:

Transfer of development rights (TDR) “is a device by which the development potential of a site is severed from its title and made available for transfer to another location. The owner of a site within a transfer area retains property

ownership, but not approval to develop. The owner of a site within a receiving area may purchase transferable development rights, allowing a receptor site to be developed at a greater density.”

TDR is most commonly used to preserve agricultural lands but it can also be used for preserving natural, open space. TDR programs can vary depending on the need of the local jurisdiction but in general there are a few common factors that contribute to the success of a TDR program. These include having a donor site with development constraints, appropriate zoning regulations, and infrastructure requirements.”

The project site is not currently entitled for development absent an adopted Specific Plan, and it is unclear what if any development rights would be transferred under a TDR program. Further, there is no designated or contemplated receiving area to accept these development rights. Moreover, a TDR program would preserve agricultural uses at the project site rather than further planned transition of agricultural uses to non-agricultural uses as envisioned under the Policy Plan. This would be contrary to the Land Use Plan policies and vision as summarized previously.

The City of Ontario has not implemented a TDR Program. Implementation of a TDR program would require amending the City Development Code and comprehensive amendment of the Policy Plan. Neither the City nor applicant has indicated that such amendments are warranted or desired, and neither has initiated such actions. Based on the preceding, implementation of a “Transfer of Development Rights Program” mitigation strategy is considered infeasible.

- The City has considered but rejected the collection of fees for offsite mitigation of agricultural impacts. Neither the City nor the adjoining counties have adopted fee programs. Absent viable programs in the region, the imposition of fees would not serve to mitigate the impacts of the project. Furthermore, an offsite fee mitigation program would not avoid the loss of farmland; would not minimize the effect of the project; would not repair, rehabilitate, or restore the affected farmland; and, absent a viable fee program, would not replace affected farmland with substitute farmland. Thus, such a program would not actually mitigate or substantially lessen the significant impact of the project (CEQA Guidelines Section 15370; *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1989) 209 Cal.App.3d 1502, 1519). The same factors that make onsite mitigation infeasible would apply offsite in the region as well. The challenges to continued agricultural production in the Chino Basin area, also challenge agriculture throughout Southern California (*Defend the Bay v. City of Irvine* [2004] 119 Cal. App. 4th 1261, 1270-72).

Offsite mitigation would require the City to purchase replacement acreage for Important Farmland currently not in use elsewhere in California and restore it as viable farmland. However, distant mitigation would not reduce impacts because these mitigation parcels could have no bearing or relationship on the loss of agricultural lands within the City or the County. In addition, experience indicates a program consisting of the required purchase of agricultural easements on other land or through fee programs for the acquisition of agricultural easements would be of limited utility or benefit. Such a program is inherently dependent upon voluntary agreements by farm owners to sell such easements on their property for an agreed price, which, within the City, is largely driven by the City's General Plan land use designations, population growth, urbanization of the surrounding area, and the limited supply of suitable farmland. In remote areas not planned for development in the near-term, owner's may be more willing to sell such an easement at a reasonable price but within the region much of the land is already subject to development pressure. As a result, the most likely result would be a "patchwork" of easements, with some owners more willing than others to sell them, potentially creating a more dispersed development pattern and loss of viability of farmland over time, which would not serve as a feasible measure to mitigate the loss of farmland by the project. Neither the City nor the County have adopted programs for the acquisition of off-site agricultural easements. Consequently, for the reasons previously outlined, it is determined that off-site mitigation of agricultural resources is neither feasible nor effective in mitigating such impacts.

Overall, no feasible mitigation measures have been identified, which would substantially lessen the project's significant impacts related to the loss of Prime Farmland and conversion of farmland to non-agricultural use. This finding is consistent with the finding in General Plan EIR; that there are no feasible mitigation measures to reduce impacts on Important Farmland or the conversion of agricultural land to non-agricultural uses, and thus impacts would be significant and unavoidable.

**Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified above.

The City finds that there are no other mitigation measures that are feasible, taking into consideration specific economic, legal, social, technological or other factors, that would mitigate this impact to a less-than-significant level, and further, that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the EIR, as discussed in Section G of these Findings (Public Resources Code §§ 21081(a)(1), (3); Guidelines §§ 15091(a)(1), (3)). As described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable because specific overriding economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the proposed project outweigh its significant effects on the environment.

## 2. Air Quality

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**Impact 5.2-1: Construction activities associated with the proposed project would generate short-term VOC and NO<sub>x</sub> emissions in exceedance of SCAQMD's threshold criteria. [Threshold AQ-2]**

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Construction activities would temporarily increase PM<sub>10</sub>, PM<sub>2.5</sub>, VOC, NO<sub>x</sub>, SO<sub>x</sub>, CO regional emissions in the SoCAB. The proposed project is anticipated to be constructed over an approximately 26-month period from October 2020 to December 2022. Construction air pollutant emissions are based on the preliminary information provided by the Applicant and CalEEMod defaults and are subject to changes during final design and as dictated by field conditions. Construction would entail demolition of existing asphalt and buildings, on-site reprocessing of demolition debris, export of demolition debris, site preparation, grading, utility trenching, soil hauling construction of the proposed buildings, architectural coating, and asphalt paving.

As shown in Table 5.2-10, *Maximum Daily Regional Construction Emissions*, on page 5.2-31 of the DEIR, construction activities associated with development of the project could potentially exceed the SCAQMD regional threshold for VOC and NO<sub>x</sub>. The primary source of NO<sub>x</sub> emissions is vehicle and construction equipment exhaust. NO<sub>x</sub> is a precursor to the formation of both O<sub>3</sub> and particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). The primary source of VOC, which is a precursor to the formation of O<sub>3</sub>, would be from paints used for architectural coating and parking lot surface striping. Project-related emissions of VOC and NO<sub>x</sub> would contribute to the O<sub>3</sub>, NO<sub>2</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> nonattainment designations of the SoCAB. Therefore, project-related construction activities would result in potentially significant regional air quality impacts.

### Mitigation Measures

AQ-1 Construction contractors shall, at minimum, use equipment that meets the United States Environmental Protection Agency's (EPA) Tier 4 Interim emissions standards for off-road diesel-powered construction equipment with

more than 50 horsepower for all Phase 1 rough grading and rough grading soil hauling activities, unless it can be demonstrated to the City of Ontario Building Department that such equipment is not available. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by Tier 4 Interim emissions standards for a similarly sized engine, as defined by the California Air Resources Board's regulations.

Prior to construction, the project engineer shall ensure that all construction (e.g., demolition and grading) plans clearly show the requirement for EPA Tier 4 Interim emissions standards for construction equipment over 50 horsepower for the specific activities stated above.

During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City of Ontario. The construction equipment list shall state the makes, models, Equipment Identification Numbers, and number of construction equipment onsite. Equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations. Construction contractors shall also ensure that all nonessential idling of construction equipment is restricted to 5 minutes or less in compliance with Section 2449 of the California Code of Regulations, Title 13, Article 4.8, Chapter 9.

- AQ-2 During building construction, the construction contractor shall, at minimum, use paints with a volatile organic compound (VOC) content of 20 grams per liter or less for all interior and exterior coatings of the Phase 1 buildings (i.e., Buildings 1 through 3). This requirement shall be noted on all construction management plans verified by the City of Ontario prior to issuance of any construction permits and during interior coating activities.
- AQ-3 During building construction, the construction contractor shall, at minimum, use paints with a volatile organic compound (VOC) content of 50 grams per liter or less for all interior and exterior coatings of the Phase 2 buildings (i.e., Buildings 4 through 8). This requirement shall be noted on all construction management plans verified by the City of Ontario prior to issuance of any construction permits and during interior coating activities.
- AQ-4 During Phase 1 and Phase 2 construction, the construction contractor shall, at minimum, use paints with a volatile organic compound (VOC) content of 50 grams per liter or less for all surface parking lot striping. This requirement shall be noted on all construction management plans verified by the City of Ontario prior to issuance of any construction permits and during interior coating activities.



**Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified above.

The City finds that there are no other mitigation measures that are feasible, taking into consideration specific economic, legal, social, technological or other factors, that would mitigate this impact to a less-than-significant level, and further, that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the EIR, as discussed in Section G of these Findings (Public Resources Code §§ 21081(a)(1), (3); Guidelines §§ 15091(a)(1), (3)). As described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable because specific overriding economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the proposed project outweigh its significant effects on the environment.

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**Impact 5.2-2: Long-term operation of the project would generate emissions in exceedance of SCAQMD's threshold criteria. [Threshold AQ-2]**

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Buildout of the proposed project would result in direct and indirect criteria air pollutant emissions from transportation, energy (e.g., natural gas use), and area sources (e.g., aerosols and landscaping equipment). Long-term air pollutant emissions generated by a warehousing development are typically associated with the burning of fossil fuels in cars and trucks (mobile sources); energy use for cooling, heating, and manufacturing (energy); and area sources such as architectural coatings, landscape equipment, and off-road equipment used for daily operations (e.g., yard trucks). Table 5.2-11, *Maximum Daily Regional Operational Phase Emissions*, on page 5.2-32 of the DEIR, identifies the maximum daily criteria air pollutant emissions that would result from implementation of the proposed project.

As shown in the Table, project-related air pollutant emissions from daily operations would exceed the SCAQMD's regional emissions thresholds for VOC and NOX. The primary sources of long-term criteria air pollutant emissions would be project-generated vehicle trips use of forklifts onsite. As stated, the proposed project would generate up to 4,328 weekday ADTs (non-passenger equivalent) consisting of 3,532 passenger vehicle ADTs and 796 medium- and heavy-heavy duty truck ADTs. Additionally, it is anticipated the

project would result in the use of up to 3 diesel-powered and 4 CNG-powered yard trucks in daily operations along with up to 69 trucks fitted with TRUs. Emissions of VOC and NOx that exceed the SCAQMD regional threshold would cumulatively contribute to the O3 nonattainment designation of the SoCAB. Emissions of NOx that exceed SCAQMD's regional significance thresholds would also cumulatively contribute to the particulate matter (PM10 and PM2.5) nonattainment designations of the SoCAB. Therefore, the project would result in a potentially significant impact because it would significantly contribute to the nonattainment designations of the SoCAB.

### **Overlap of Construction and Operational Phase**

The SCAQMD does not have a significance threshold for construction/operation overlap; therefore, this analysis is included for informational purposes only. Table 5.2-12, *Potential Overlap of Construction and Operational Activities*, on page 5.2-33 of the DEIR, shows the maximum daily emissions for a scenario where project-related construction and operation activities overlap. Based on the development timeline for the proposed project, it is anticipated that occupancy of buildings and operation of businesses would not occur until 2022 and after the completion of Phase 1 of the proposed project. For purposes of this discussion, the maximum daily combined emissions shown in the Table represent a conservative scenario as the maximum daily operational emissions are based on full buildout of the project. In practicality, if overlap of project-related construction and operation activities were to occur, only a proportion of the proposed project would be operational while the rest are constructed.

### **Mitigation Measures**

#### *Off-Road Equipment*

AQ-5            Only electric-powered off-road equipment (e.g., yard trucks/hostlers) shall be utilized onsite for daily warehouse and business operations. The project developer/facility owner shall disclose this requirement to all tenants/business entities prior to the signing of any lease agreement. In addition, the limitation to use only electric-powered off-road equipment shall be included all leasing agreements.

Prior to issuance of a Business License for a new tenant/business entity, the project developer/facility owner and tenant/business entity shall provide to the City of Ontario Planning Department and Business License Department a signed document (verification document) noting that the project development/facility owner has disclosed to the tenant/business entity the requirement to use only electric-powered equipment for daily operations.

AQ-6            All truck/dock bays that serve cold storage facilities within the proposed buildings shall be electrified to facilitate plug-in capability and support use

of electric standby and/or hybrid electric transport refrigeration units. All site and architectural plans submitted to the City of Ontario Planning Department shall note all the truck/dock bays designated for electrification. Prior to the issuance of a Certificate of Occupancy, the City of Ontario Building Department shall verify electrification of the designated truck/dock bays.

AQ-7 To reduce idling emissions from transport trucks, signage shall be placed at truck access gates, loading docks, and truck parking areas that identify applicable California Air Resources Board (CARB) anti-idling regulations (e.g., Rule 2485). At minimum, each sign shall include: 1) instructions for truck drivers to shut off engines when not in use; 2) instructions for drivers of diesel trucks to restrict non-essential idling to no more than two (2) consecutive minutes; and 3) telephone numbers of the building facilities manager and CARB to report violations. All signage shall be made of weather-proof materials. All site and architectural plans submitted to the City of Ontario Planning Department shall note the locations of these signs. Prior to issuance of the Certificate of Occupancy, the City of Ontario Building Department shall verify the installation of these signs.

AQ-8 For tenants that require use of trucks with transport refrigeration units (TRUs), all TRU operating onsite shall be required to meet the US Environmental Protection Agency (EPA) Tier 4 standard, which requires engines to achieve 0.02 grams per brake horsepower hour (g/bhp-hr) of particulate matter (PM). The project developer/facility owner shall disclose this requirement to all tenants/business entities that require cold storage and use of TRUs prior to the signing of any lease agreement. In addition, the limitation to use only Tier 4 off-road equipment shall be included all leasing agreements.

Prior to issuance of a Business License for a new tenant/business entity, the project developer/facility owner and tenant/business entity shall provide to the City of Ontario Planning Department and Business License Department a signed document (verification document) noting that the project development/facility owner has disclosed to the tenant/business entity the requirement to use only Tier 4 TRUs for daily operations.

### *Landscaping Equipment*

AQ-9 All landscaping equipment (e.g., leaf blower) used for property management shall be electric-powered only. The property manager/facility owner shall provide documentation (e.g., purchase, rental, and/or services agreement) to the City of Ontario Planning Department to verify, to the City's satisfaction, that all landscaping equipment utilized will be electric-powered.

### *Architectural Coatings and Paints*

- AQ-10 All paints used for interior and exterior architectural re-coatings of all buildings shall at minimum, have a volatile organic compound (VOC) content of 25 20 grams per liter or less.
- AQ-11 Paints used in re-stripping of the parking lot shall, at minimum, have a volatile organic compound (VOC) content of 50 grams per liter or less.

### *Transportation Sector*

- AQ-12 The project shall install the necessary infrastructure (e.g., conduit in parking lots) to support the future transition to zero emissions (ZE) and near zero emission (NZE) trucks. These requirements shall be noted on all site plans and verified by the City of Ontario during site inspections prior to issuance of occupancy permits.
- AQ-13 The City of Ontario shall require phased-in use of on-road trucks that have zero-emissions or near-zero emissions—such as trucks with natural gas engines that meet the California Air Resources Board’s (CARB) adopted optional nitrogen oxides (NOX) emissions standard of 0.02 gram per break horsepower-hour (g/bhp-hr). At a minimum, operators on-site shall commit to using year 2010 or newer trucks with engines that meet CARB’s 2010 emissions standards—which are 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr for NO<sub>x</sub>—or newer, cleaner trucks or equipment. These requirements shall be noted on all site plans and verified by the City of Ontario during site inspections during project operation. During operation, the building tenant and/or building owner shall maintain records of all truck deliveries to the warehouse on an annual basis. These records shall be made available to the City of Ontario upon request.
- AQ-14 Prior to the issuance of occupancy permit, the applicant and/or building operators shall submit an employee training handbook to the City of Ontario that includes the following:
- Required facility operator management and employee training on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
  - Required facility operator management and employee training on keeping vehicle records in diesel technologies and compliance with CARB regulations.
  - Required facility operator management and employee to attend courses approved by the California Air Resources Board.

- The facility operators shall maintain records on-site demonstrating compliance with training and shall make records available for inspection by the City of Ontario upon request.

AQ-15 The City of Ontario shall require that check-in points for trucks provide sufficient stacking distance within the individual parcels to ensure that there are no trucks queuing outside of the facility and that truck traffic does not idle on public streets. The applicant for a warehouse project that includes check-in points for trucks shall submit a queuing analysis to the City of Ontario Engineering Division prior to approval of grading permits.

**Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified above.

The City finds that there are no other mitigation measures that are feasible, taking into consideration specific economic, legal, social, technological or other factors, that would mitigate this impact to a less-than-significant level, and further, that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the EIR, as discussed in Section G of these Findings (Public Resources Code §§ 21081(a)(1), (3); Guidelines §§ 15091(a)(1), (3)). As described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable because specific overriding economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the proposed project outweigh its significant effects on the environment.

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**Impact 5.2-7: The proposed project would generate long-term emissions in exceedance of the SCAQMD regional significance thresholds and be inconsistent with the applicable air quality management plan. [Threshold AQ-1]**

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The SCAQMD is directly responsible for reducing emissions from area, stationary, and mobile sources in the SoCAB to achieve the National and California AAQS. The two principal criteria for conformance with an AQMP are:

1. Whether the project would exceed the assumptions in the AQMP.

2. Whether the project would result in an increase in the frequency or severity of existing air quality violations, cause or contribute to new violations, or delay timeline attainment of air quality standards.

### **Criterion 1**

Section 15206(b) of the CEQA Guidelines states that a proposed project is of statewide, regional, or area-wide significance if the project would involve a net increase of over 500,000 square feet of business establishment. The proposed project would occupy about 85 acres of land and introduce a net increase of approximately 1,577,153 square feet of warehousing floor space and 327,874 square feet of office space; therefore, it is a project of statewide, regional, or area-wide significance. As discussed in Section 5.13.1.2 and Impact 5.13-1 of the DEIR, implementation of the proposed project would not generate additional population growth as it would not result in the development of residential land uses. In addition, it would also not attract or induce population growth. Furthermore, while the proposed project would result in additional employees, as discussed in Impact 5.13-1, the projected employment for the proposed project would not exceed the forecasted employment for the region. Furthermore, while the proposed project would result in an increase in employment, it is anticipated that the jobs created would be filled by the local population and would thus improve the jobs-housing balance for the region. Thus, implementation of the proposed project would not have the potential to substantially affect demographic projections beyond what is accounted for in the current 2016 AQMP. Therefore, the proposed project would be considered consistent with the AQMP under the first criterion.

### **Criterion 2**

With respect to the second criterion, the analyses in the response to Impact 5.2-2 shows that the proposed project would generate long-term emissions of criteria air pollutants that would exceed SCAQMD's regional operation-phase significance thresholds for VOC and NOX (see Table 5.2-11), which were established to determine whether a project has the potential to cumulatively contribute to the SoCAB's nonattainment designations. Thus, implementation of the proposed project would result in an increase in the frequency or severity of existing air quality violations; cause or contribute to new violations; or delay timely attainment of the AAQS. Therefore, overall, the proposed project would be considered inconsistent with the AQMP under the second criterion.

Approximately 95 percent of the project's NOx emissions are from the transportation sector, and over 80 percent of the project's emissions are associated with VMT generated by trucks. For the passenger vehicle emission, the proposed project outlines improvements to active and public transit facilities and includes a Circulation Plan to provide connectivity to the trails and bikeway corridors identified in the Ontario Multipurpose Trails and Bikeway Corridor Plan. Emissions associated with heavy duty

trucks involved in goods movements are generally controlled on the technology side and through fleet turnover of older trucks and engines to newer and cleaner trucks and engines. The first battery-electric heavy-heavy duty trucks are being tested this year and SCAQMD is looking to integrate this new technology into large-scale truck operations.

Despite the infrastructure improvements provided by project and the anticipated regulations implemented by the US EPA and CARB to improve truck efficiency, the project would represent a substantial increase in emissions compared to existing conditions. The estimated long-term emissions generated under full buildout of the proposed project would exceed the SCAQMD's regional operational significance thresholds and would cumulatively contribute to the nonattainment designations in the SoCAB. Therefore, the proposed project would be considered inconsistent with the AQMP, resulting in a significant impact in this regard.

## **Mitigation Measures**

### *Off-Road Equipment*

AQ-5 Only electric-powered off-road equipment (e.g., yard trucks/hostlers) shall be utilized onsite for daily warehouse and business operations. The project developer/facility owner shall disclose this requirement to all tenants/business entities prior to the signing of any lease agreement. In addition, the limitation to use only electric-powered off-road equipment shall be included all leasing agreements.

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AQ-6 All truck/dock bays that serve cold storage facilities within the proposed buildings shall be electrified to facilitate plug-in capability and support use of electric standby and/or hybrid electric transport refrigeration units. All site and architectural plans submitted to the City of Ontario Planning Department shall note all the truck/dock bays designated for electrification. Prior to the issuance of a Certificate of Occupancy, the City of Ontario Building Department shall verify electrification of the designated truck/dock bays.

AQ-7 To reduce idling emissions from transport trucks, signage shall be placed at truck access gates, loading docks, and truck parking areas that identify applicable California Air Resources Board (CARB) anti-idling regulations

(e.g., Rule 2485). At minimum, each sign shall include: 1) instructions for truck drivers to shut off engines when not in use; 2) instructions for drivers of diesel trucks to restrict non-essential idling to no more than two (2) consecutive minutes; and 3) telephone numbers of the building facilities manager and CARB to report violations. All signage shall be made of weather-proof materials. All site and architectural plans submitted to the City of Ontario Planning Department shall note the locations of these signs. Prior to issuance of the Certificate of Occupancy, the City of Ontario Building Department shall verify the installation of these signs.

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### *Transportation Sector*

- AQ-12 The project shall install the necessary infrastructure (e.g., conduit in parking lots) to support the future transition to zero emissions (ZE) and near zero emission (NZE) trucks. These requirements shall be noted on all site plans and verified by the City of Ontario during site inspections prior to issuance of occupancy permits.
- AQ-13 The City of Ontario shall require phased-in use of on-road trucks that have zero-emissions or near-zero emissions—such as trucks with natural gas engines that meet the California Air Resources Board’s (CARB) adopted optional nitrogen oxides (NOX) emissions standard of 0.02 gram per break horsepower-hour (g/bhp-hr). At a minimum, operators on-site shall commit to using year 2010 or newer trucks with engines that meet CARB’s 2010 emissions standards—which are 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr for NOx—or newer, cleaner trucks or equipment. These requirements shall be noted on all site plans and verified by the City of Ontario during site inspections during project operation. During operation, the building tenant and/or building owner shall maintain records of all truck deliveries to the warehouse on an annual basis. These records shall be made available to the City of Ontario upon request.
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  - The facility operators shall maintain records on-site demonstrating compliance with training and shall make records available for inspection by the City of Ontario upon request.
- AQ-15 The City of Ontario shall require that check-in points for trucks provide sufficient stacking distance within the individual parcels to ensure that there are no trucks queuing outside of the facility and that truck traffic does not idle on public streets. The applicant for a warehouse project that includes check-in points for trucks shall submit a queuing analysis to the City of Ontario Engineering Division prior to approval of grading permits.

## **Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified above.

The City finds that there are no other mitigation measures that are feasible, taking into consideration specific economic, legal, social, technological or other factors, that would mitigate this impact to a less-than-significant level, and further, that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the EIR, as discussed in Section G of these Findings (Public Resources Code §§ 21081(a)(1), (3); Guidelines §§ 15091(a)(1), (3)). As described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable because specific overriding economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the proposed project outweigh its significant effects on the environment.

### **3. Greenhouse Gas Emissions**

The following are plans, programs, and policies (PPPs) and project design features (PDFs) that would reduce the proposed project's potential tribal cultural resources impacts:

- PPP GHG-1 New buildings are required to achieve the current California Building Energy Efficiency Standards (Title 24, Part 6) and California Green Building Standards Code (CALGreen) (Title 24, Part 11). The 2019 Building Energy Efficiency Standards become effective on January 1, 2020. The Building Energy Efficiency Standards and CALGreen are updated tri-annually with a goal to achieve zero net energy for residential buildings by 2020 and non-residential buildings by 2030.
- PPP GHG-2 New buildings are required to adhere to the California Green Building Standards Code (CALGreen) requirement to provide bicycle parking for new non-residential buildings, or meet local bicycle parking ordinances, whichever is stricter (CALGreen Sections 5.106.4.1, 14.106.4.1, and 5.106.4.1.2).
- PPP GHG-3 California's Green Building Standards Code (CALGreen) requires the recycling and/or salvaging for reuse at minimum of 65 percent of the nonhazardous construction and demolition waste generated during most "new construction" projects (CALGreen Sections 4.408 and 5.408). Construction contractors are required to submit a construction waste

management plan that identifies the construction and demolition waste materials to be diverted from disposal by recycling, reuse on the project, or salvaged for future use or sale and the amount (by weight or volume).

- PPP GHG-4 Construction activities are required to adhere to Title 13 California Code of Regulations Section 2499, which requires that nonessential idling of construction equipment is restricted to five minutes or less.
- PPP GHG-5 New buildings are required to adhere to the California Green Building Standards Code and Water Efficient Landscape Ordinance requirements to increase water efficiency and reduce urban per capita water demand.
- PPP GHG-6 CARB's Renewable Portfolio Standard (RPS) is a foundational element of the State's emissions reduction plan. These mandates apply directly to investor-owned utilities, which in the case of the proposed project is Southern California Edison. On September 10, 2018, Senate Bill 100 was signed into law and established the following RPS targets: 50 percent renewable resources target by December 31, 2026, and 60 percent target by December 31, 2030. SB 100 also requires that retail sellers and local publicly owned electric utilities procure a minimum quantity of electricity products from eligible renewable energy resources so that the total kilowatt hours of those products sold to their retail end-use customers achieve 44 percent of retail sales by December 31, 2024; 52 percent by December 31, 2027; and 60 percent by December 31, 2030.
- PPP GHG-7 On January 18, 2007, Governor Arnold Schwarzenegger issued Executive Order S-1-07 requiring the establishment of a Low Carbon Fuel Standard (LCFS) for transportation fuels. The LCFS was amended in 2011 and readopted in 2015. This statewide goal requires that California's transportation fuels reduce their carbon intensity by at least 10 percent by 2020.
- PPP GHG-8 The 2007 Energy Bill creates new federal requirements for increases in fleetwide fuel economy for passenger vehicles and light trucks under the Federal Corporate Average Fuel Economy Standards. The federal legislation requires a fleetwide average of 35 miles per gallon (mpg) to be achieved by 2020. The National Highway Traffic Safety Administration is directed to phase in requirements to achieve this goal. Analysis by CARB suggests that this will require an annual improvement of approximately 3.4 percent between 2008 and 2020.
- PPP GHG-9 On July 22, 2002, Governor Gray Davis signed Assembly Bill 1493 (Pavley) requiring CARB to develop and adopt regulations designed to reduce greenhouse gases emitted by passenger vehicles and light-duty trucks beginning with the 2009 model year. The standards set within the Pavley regulations are expected to reduce GHG emissions from California passenger vehicles by about 22 percent in 2012 and about 30 percent in 2016. California had petitioned the USEPA in December 2005 to allow

these more stringent standards and California executive agencies have repeated their commitment to higher mileage standards. On July 1, 2009, the USEPA granted California a waiver that will enable the state to enforce stricter tailpipe emissions on new motor vehicles.

- PPP GHG-10 SB 375 requires the reduction of GHG emissions from light trucks and automobiles through land use and transportation efforts that will reduce vehicle miles traveled. In essence, SB 375's goal is to control GHGs by curbing urban sprawl and through better land use planning. SB 375 essentially becomes the land use contribution to the GHG reduction requirements of AB 32, California's global warming bill enacted in 2006, and SB 32.
- PPP GHG-11 The heavy-heavy duty tractors and trailers (i.e., trucks that are 53-foot or longer) must use US EPA SmartWay certified tractors and trailers or retrofit their existing fleet with SmartWay verified technologies in accordance with CARB's Heavy-Duty (Tractor-Trailer) GHG Regulation. Owners are responsible for replacing or retrofitting their affected vehicles with compliant aerodynamic technologies and low rolling resistance tires. Sleeper cab tractors model year 2011 and later must be SmartWay certified. All other tractors must use SmartWay verified low rolling resistance tires. Trailers must have low rolling resistance tires and aerodynamic devices.
- PPP GHG-12 The medium-duty and heavy-duty vehicle engines are required to comply with the USEPA's GHG and fuel efficiency standards. The federal and California Phase 1 standards took effect with model year 2014 tractors, vocational vehicles, and heavy-duty pick-up trucks and vans and the engines powering such vehicles (the Phase 1 standards excludes trailers). The federal Phase 2 standards cover model years 2018-2027 for certain trailers and model years 2021-2027 for semi-trucks and large pick-up trucks, vans and all types and sizes of buses and work trucks. California is aligned with the federal Phase 2 standards in structure, timing, and stringency, but with some minor California differences. The California Phase 2 regulations became effective April 1, 2019.
- PDF GHG-1 Indoor material handling equipment used throughout the project area would be electric and would not be propane or diesel-powered.
- PDF GHG-2 The tilt-up concrete warehouse buildings would have rooftops that can support tenant improvements for solar panels (i.e., solar ready).
- PDF GHG-3 All outdoor water demands would be served with recycled water.

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**Impact 5.7-1: Operation of the proposed project would generate emissions from mobile and other sources that would exceed the bright-line significance threshold and would have a significant impact on the environment. [Threshold GHG-1]**

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Annual GHG emissions were calculated for construction and operation of the proposed project and are shown in Table 5.7-6, *Operational Phase GHG Emissions*, on page 5.7-28 of the DEIR. The project operational phase emissions are from operation of the proposed land uses, off-road equipment used for daily operations, and from project-related vehicle trips. Construction emissions were amortized into the operational phase in accordance with SCAQMD's proposed methodology.

As shown in the Table, the project would generate 26,906 MTCO<sub>2</sub>e per year. The primary sources of project-related emissions would be from mobile-source emissions generated from the project-related passenger vehicles and trucks. The next largest sources of emissions would be from energy usage followed by solid waste. Overall, development of the proposed project would result in a net increase in GHG emissions of 8,596 MTCO<sub>2</sub>e per year when compared to the existing conditions, and would exceed the bright-line threshold of 3,000 MTCO<sub>2</sub>e per year. Therefore, GHG emissions generated by the project would be considered to cumulatively contribute to statewide GHG emissions and impacts are potentially significant.

### **Mitigation Measures**

#### *Transportation Sector*

GHG-1 The applicant/developer shall design the proposed surface parking lots to provide parking for low-emitting, fuel-efficient, and carpool/van vehicles. At minimum, the number of preferential parking spaces shall equal to the Tier 2 Nonresidential Voluntary Measures of California's Green Building Standards Code Section A5.106.5.1.2.

GHG-2 The applicant/developer shall design the proposed surface parking lots to provide electric vehicle (EV) charging stations. At minimum, the number of EV charging stations shall equal to the Tier 2 Nonresidential Voluntary Measures of California's Green Building Standards Code Section A5.106.5.3.2.

Mitigation Measures AQ-5 through AQ-15 from Section 5.3, *Air Quality*, of the DEIR, apply and would reduce GHG emissions of the proposed project.

#### *Off-Road Equipment*

AQ-5 Only electric-powered off-road equipment (e.g., yard trucks/hostlers) shall be utilized onsite for daily warehouse and business operations. The project developer/facility owner shall disclose this requirement to all

tenants/business entities prior to the signing of any lease agreement. In addition, the limitation to use only electric-powered off-road equipment shall be included all leasing agreements.

Prior to issuance of a Business License for a new tenant/business entity, the project developer/facility owner and tenant/business entity shall provide to the City of Ontario Planning Department and Business License Department a signed document (verification document) noting that the project development/facility owner has disclosed to the tenant/business entity the requirement to use only electric-powered equipment for daily operations.

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- Required facility operator management and employee to attend courses approved by the California Air Resources Board.
- The facility operators shall maintain records on-site demonstrating compliance with training and shall make records available for inspection by the City of Ontario upon request.

AQ-15 The City of Ontario shall require that check-in points for trucks provide sufficient stacking distance within the individual parcels to ensure that there are no trucks queuing outside of the facility and that truck traffic does not idle on public streets. The applicant for a warehouse project that includes check-in points for trucks shall submit a queuing analysis to the City of Ontario Engineering Division prior to approval of grading permits.

**Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified above.

The City finds that there are no other mitigation measures that are feasible, taking into consideration specific economic, legal, social, technological or other factors, that would mitigate this impact to a less-than-significant level, and further, that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the EIR, as discussed in Section G of these Findings (Public Resources Code §§ 21081(a)(1), (3); Guidelines §§ 15091(a)(1), (3)). As



described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable because specific overriding economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the proposed project outweigh its significant effects on the environment.

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**Impact 5.7-2: Implementation of the proposed project would conflict with the City's Community Climate Action Plan. [Threshold GHG-2]**

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### **CARB Scoping Plan**

CARB's Scoping Plan is the State's strategy to achieve the GHG emissions reduction goals under the AB 32 and SB 32, as well as a long-term strategy to achieve the state overall carbon neutrality goals for 2050 under Executive Order S-03-05.

#### *Transportation Sector*

##### **Trucks**

Approximately 76 percent of the project's emissions are from the transportation sector, and over 50 percent of the project's emissions are associated with VMT generated by trucks. CARB's strategies to reduce GHG emissions would contribute in controlling heavy duty truck GHG emissions associated with the proposed project. The proposed project would not conflict with the statewide strategies. Furthermore, Mitigation Measure AQ-6 implemented to reduce GHG emissions under Impact 5.7-1, would require use of 2014 or newer trucks, which is also consistent with the state's goal to expedite turnover of older trucks with newer, more efficient trucks.

##### **Passenger Vehicles**

Approximately 23 percent of the emissions associated with the project are associated with VMT generated by passenger vehicles. Statewide strategies to reduce GHG emissions from passenger vehicles and the transportation sector in general include the LCFS and changes in the corporate average fuel economy standards (e.g., Pavley I and Pavley California Advanced Clean Cars program).

#### *Energy/Commercial-Residential Sector*

Energy use generated by the project represents the second largest source of emissions (15 percent) after the transportation sector. New buildings under the proposed project would meet the current CALGreen and Building Energy Efficiency standards and would be solar-ready (PDF GHG-2). In addition to being energy-efficient, over the long-term, energy demand generated by the project would continue to meet with energy from sources with lower carbon intensity as a result of the state's carbon neutrality goals established under Executive Order B-55-18. SB 100 sets the RPS at 60 percent by 2030 and 100 percent by 2040. As a result, over time, GHG emissions from the energy sector will decrease. Therefore, the proposed project would be consistent with the state's goals for this sector.

### *Other Sources*

Other sources of GHG emissions represent approximately 9 percent of the emissions inventory, with the vast majority from solid waste disposal (8 percent), which is associated with landfilling municipal solid waste. The amount of methane emitted to the atmosphere as a fraction of the total amount of methane generated from the decomposition of accumulated waste has gradually declined over time as more landfills install landfill gas collection and control systems and existing systems are operated more efficiently as a result of CARB's Landfill Methane Control Measure. Therefore, the proposed project would be consistent with the state's goals for the recycling and waste sector.

### **SCAG's Regional Transportation Plan/Sustainable Communities Strategy**

SCAG's RTP/SCS is Southern California's regional transportation plan to achieve the passenger vehicle emissions reductions identified under SB 375. SCAG's 2016-2040 RTP/SCS was adopted April 7, 2016. The RTP/SCS identifies multimodal transportation investments.

Table 5.7-7, *Proposed Project Consistency with SCAG's 2016-2040 RTP/SCS*, on page 5.7-32 of the DEIR, provides an evaluation of the proposed project in comparison to the three-primary transportation-land-use strategies in the 2016-2040 RTP/SCS. As shown in the table, the proposed project would be consistent with the applicable strategies. Additionally, as demonstrated in Table 5.11-3, *Consistency with SCAG's 2016-2040 RTP/SCS Goals*, of Section 5.11, *Land Use and Planning*, of the DEIR, the proposed project would be consistent with the 2016-2040 RTP/SCS goals. Therefore, overall, implementation of the proposed project would not interfere with SCAG's ability to implement the regional strategies outlined in the 2016-2040 RTP/SCS.

### **City of Ontario Community Climate Action Plan**

The primary purpose of the City's Community CAP is to design a feasible strategy to reduce GHG emissions generated by community activities that is consistent with statewide Scoping Plan GHG reduction efforts. The GHG emissions reduction target established under the CAP is 30 percent under year 2020 business-as-usual (BAU) levels. To meet this goal and to supplement statewide initiatives, the City has identified a series of reduction measures to be implemented by the City before 2020.

Table 5.7-8, *Consistency with the Community Climate Action Plan*, on page 5.7-34 of the DEIR, evaluates the consistency of the proposed project to the applicable measures of the Community CAP. As discussed in the Table, the proposed project would generally be consistent with the applicable measures. However, as discussed in Table 5.7-8, the proposed project would be inconsistent with Measure PS-1, which requires projects that exceed 3,000 MTCO<sub>2</sub>e/yr to reduce emissions by 25 percent. As discussed below in Section 5.7.8 of this DEIR, the identified mitigation measures would reduce overall project-related emissions by 1.1 percent. Therefore, the project would be inconsistent

with measure no. PS-1. As discussed within the CAP, projects that generate less than 3,000 MTCO<sub>2</sub>e/yr. would have a less-than-significant GHG emissions impact. Conversely, projects that generate more than 3,000 MTCO<sub>2</sub>e/yr. are presumed to have a potentially significant GHG emissions impact. Project GHG emissions would exceed the CAP 3,000 MTCO<sub>2</sub>e/yr. significance threshold. Per the CAP, this is a potentially significant impact.

### **Mitigation Measures**

GHG-3 All individual projects accommodated under the proposed project shall be designed in such a manner to include features that achieve at minimum, 100 cumulative points on the City of Ontario Community Climate Action Plan GHG Screening Threshold Table (Community CAP, Appendix B, Greenhouse Gas Emissions CEQA Thresholds and Screening Tables). Prior to discretionary approval, the project applicant shall provide the completed GHG Screening Threshold Table and supporting documentation to the City of Ontario Planning Department for verification of a project achieving the minimum 100 points.

### **Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified above.

The City finds that there are no other mitigation measures that are feasible, taking into consideration specific economic, legal, social, technological or other factors, that would mitigate this impact to a less-than-significant level, and further, that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the EIR, as discussed in Section G of these Findings (Public Resources Code §§ 21081(a)(1), (3); Guidelines §§ 15091(a)(1), (3)). As described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable because specific overriding economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the proposed project outweigh its significant effects on the environment.

## 4. Transportation

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**Impact 5.12-1: The project could potentially conflict with a program, plan, ordinance, or policy addressing the circulation system, including roadway facilities. [Threshold T-1]**

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### Existing Plus Project

This scenario includes Existing traffic volumes plus Project traffic. The lane configurations and traffic controls assumed to be in place for Existing + Project conditions are consistent with those shown on Exhibit 3-1 in the TIA (Appendix L1 of the DEIR) with the exception of the following:

- Project driveways and those facilities assumed to be constructed by the project to provide site access are also assumed to be in Existing + Project conditions only (e.g., intersection and roadway improvements at the project's frontage and driveways).

### *Intersection Analysis*

The ADT and weekday AM and PM peak hour intersection turning movement volume which can be expected for Existing + Project traffic conditions are shown on Exhibit 5-1 and Exhibit 5-2 of the TIA, respectively. Table 5.14-10, *Existing Intersection Delay and Level of Service*, on page 5.14-32 of the DEIR, summarizes the intersection analysis results for Existing + Project conditions, which indicate that there are no additional study area intersections anticipated to operate at an unacceptable LOS, in addition to those previously identified for Existing traffic conditions.

Seven intersections were found to operate at an unacceptable LOS (LOS E or worse) during the peak hours under Existing traffic conditions and are anticipated to continue to operate at an unacceptable LOS during the one or more peak hours with the addition of project traffic. These seven intersections are:

- Euclid Avenue (SR-83) & Riverside Drive (#4)
- Grove Avenue & Edison Avenue (#30)
- Grove Avenue & Eucalyptus Avenue (#31)
- Grove Avenue & Merrill Avenue (#32)
- Walker Avenue & Edison Avenue (#33)
- Carpenter Avenue & Merrill Avenue (#38)
- Hamner Avenue & Ontario Ranch Road (#49)

## *Freeway Analysis*

As shown on Table 5.14-11, *Existing Freeway Facility Analysis*, on page 5.14-34 of the DEIR, there are no additional freeway segments or merge/diverge ramp junctions that are anticipated to operate at an unacceptable LOS (i.e., LOS E or worse) during the peak hours for Existing + Project traffic conditions, in addition to the location previously identified under Existing traffic conditions. Existing + Project freeway facility analysis worksheets are provided in Appendix 5.4 to the TIA. Additionally, Existing + Project mainline directional volumes for the AM and PM peak hours are provided on Exhibit 5-4 in the TIA. The queuing analysis for this scenario shows that there are no movements that are anticipated to experience queuing issues during the weekday AM or weekday PM peak 95th percentile traffic flows with the addition of project traffic. There no peak hour queuing issues at the study area interchanges.

## **Opening Year Cumulative (2022)**

The lane configurations and traffic controls assumed to be in place for Opening Year Cumulative (2022) conditions are consistent with those shown previously on Exhibit 3-1 of the TIA with the exception of the following:

- Project driveways and those facilities assumed to be constructed by the project to provide site access are also assumed to be in place for Opening Year Cumulative conditions only (e.g., intersection and roadway improvements along the project's frontage and driveways).
- Driveways and those facilities assumed to be constructed by cumulative developments to provide to provide site access are also assumed to be in place for Opening Year Cumulative conditions only.

The Opening Year Cumulative includes two scenarios: "With Project" and "Without Project." The "Without Project" scenario includes Existing traffic volumes plus an ambient growth of 6.12 percent plus traffic from pending and approved but not yet constructed known development projects in the area. The "With Project" scenario includes Opening Year Cumulative (2022) Without Project traffic in conjunction with the addition of project traffic. The weekday ADT and weekday AM and PM peak hour volumes which can be expected for Opening Year Cumulative (2022) With Project traffic conditions are shown on Exhibits 6-3 and 6-4 in the TIA, respectively.

Table 5.14-12, *Opening Year Cumulative (2022) Intersection Delay and Level of Service*, on page 5.14-38 of the DEIR, summarizes the intersection delay and LOS of the Opening Year Cumulative (2022) scenarios. For the "Without Project" scenario, the following study area intersections are anticipated to operate at an unacceptable LOS:

- Euclid Avenue (SR-83) & Riverside Drive (#4) – LOS E AM and PM peak hours
- Euclid Avenue (SR-83) & Merrill Avenue (#11) – LOS E PM peak hour only

- Euclid Avenue (SR-83) & Pine Avenue (#14) – LOS E PM peak hour only
- Grove Avenue & Edison Avenue (#30) – LOS F AM and PM peak hours
- Grove Avenue & Eucalyptus Avenue (#31) – LOS F PM peak hour only
- Grove Avenue & Merrill Avenue (#32) – LOS F AM and PM peak hours
- Walker Avenue & Edison Avenue (#33) – LOS F PM peak hour only
- Walker Avenue/Flight Avenue & Merrill Avenue (#34) – LOS E AM and PM peak hours
- Vineyard Avenue/Hellman Avenue & Merrill Avenue (#37) – LOS E AM peak hour only
- Carpenter Avenue & Merrill Avenue (#38) – LOS F AM and PM peak hours
- Archibald Avenue & Limonite Avenue (#43) – LOS E AM peak hour only
- Hamner Avenue & Ontario Ranch Road (#49) – LOS F PM peak hour only

As shown on Table 5.14-12, the following study area intersection is anticipated to operate at a deficient LOS during one or both peak hours for Opening Year Cumulative (2022) With Project traffic conditions with the addition of project traffic, in addition to the locations identified above for Opening Year Cumulative (2022) Without Project traffic conditions.

- Euclid Avenue (SR-83) & Edison Avenue (#7) – LOS E PM peak hour only

The intersection Vineyard Avenue/Hellman Avenue & Merrill Avenue (#37) is anticipated to warrant a peak hour volume-based traffic signal under Opening Year Cumulative (2022) Without Project traffic conditions beyond those previous mentioned under existing conditions. There are no additional traffic signals warranted for Opening Year Cumulative (2022) With Project traffic conditions beyond those previous mentioned under existing conditions.

#### *Freeway Analysis*

As shown on Table 5.14-13, *Opening Year Cumulative (2022) Freeway Capacity Analysis*, on page 5.14-41 of the DEIR, the following additional freeway segments and merge/diverge ramp junctions are anticipated to operate at an unacceptable LOS (i.e., LOS E or worse) during the peak hours for Opening Year Cumulative (2022) Without Project conditions, in addition to those previously identified under Existing and Existing + Project traffic conditions:

- SR-60 Freeway Westbound, West of Euclid Avenue (SR-83) (#5) – LOS E AM and PM peak hours
- SR-60 Freeway Westbound, East of Euclid Avenue (SR-83) (#8) – LOS E AM and PM peak hours
- SR-60 Freeway Eastbound, East of Euclid Avenue (#12) – LOS E AM peak hour only
- I-15 Freeway Northbound, On-Ramp at Cantu Galleano Ranch Road (#16) – LOS E AM peak hour only

The following additional freeway diverge ramp junction is anticipated to operate at an unacceptable LOS (i.e., LOS E or worse) during the peak hour with the addition of project traffic:

- SR-60 Freeway Eastbound, Off-Ramp at Euclid Avenue (SR-83) (#10) – LOS E AM peak hour only

Queuing analysis findings for Opening Year Cumulative (2022) Without and With Project traffic conditions are shown on Table 6.2 in the TIA (Appendix L1 of the DEIR). As shown on Table 6-2, there are no movements that are anticipated to experience queuing issues during the weekday AM or weekday PM peak 95th percentile traffic flows with the addition of project traffic. Worksheets for Opening Year Cumulative (2022) Without and With Project traffic conditions off-ramp queuing analysis are provided in Appendices 6.5 and 6.6 in the TIA, respectively.

### **Horizon Year (2040)**

The lane configurations and traffic controls assumed to be in place for Horizon Year (2040) conditions are consistent with those shown previously on Exhibit 3-1 in the TIA, with the exception of the following:

- Project driveways and those facilities assumed to be constructed by the project to provide site access are also assumed to be in place for Horizon Year conditions only (e.g., intersection and roadway improvements along the project's frontage and driveways).
- Driveways and those facilities assumed to be constructed by cumulative developments to provide site access are also assumed to be in place for Horizon Year conditions only (e.g., intersection and roadway improvements along the cumulative development's frontages and driveways such as the northern extension of Meadow Valley Avenue on Kimball Avenue and the northern extension of Hellman Avenue north of Kimball Avenue).
- The Pine Avenue extension between its El Prado Road and the SR-71 Freeway.
- The Kimball Avenue/Limonite Avenue extension between Hellman Avenue and Archibald Avenue.
- Other parallel facilities, that although not evaluated for the purposes of this analysis, are anticipated to be in place for Horizon Year traffic conditions and would affect the travel patterns within the study area (e.g., new future roadways within the New Model Colony area such as Schaefer Avenue east of Archibald Avenue, Eucalyptus Avenue east of Archibald Avenue, Merrill Avenue east of Archibald Avenue, The Preserve Specific Plan roadway network within the City of Chino, etc.).

As shown in Table 5.14-14, *Horizon Year (2040) Intersection Delay and Level of Service*, on page 5.14-46 of the DEIR, the following additional study area intersections are anticipated to operate at an unacceptable LOS under Horizon Year (2040) Without Project traffic conditions:

- Euclid Avenue (SR-83) & SR-60 Westbound Ramps (#1) – LOS E AM and PM peak hours
- Euclid Avenue (SR-83) & SR-60 Eastbound Ramps (#2) – LOS F AM peak hour; LOS E PM peak hour
- Euclid Avenue (SR-83) & Riverside Drive (#4) – LOS F AM and PM peak hours
- Euclid Avenue (SR-83) & Chino Avenue (#5) – LOS F PM peak hour only
- Euclid Avenue (SR-83) & Schaefer Avenue (#6) – LOS F AM and PM peak hours
- Euclid Avenue (SR-83) & Edison Avenue (#7) – LOS F AM and PM peak hours
- Euclid Avenue (SR-83) & Eucalyptus Avenue (#8) – LOS F PM peak hour only
- Euclid Avenue (SR-83) & Merrill Avenue (#11) – LOS F AM and PM peak hours
- Euclid Avenue (SR-83) & Kimball Avenue (#12) – LOS F AM and PM peak hours
- Euclid Avenue (SR-83) & Pine Avenue (#14) – LOS F AM and PM peak hours
- SR-71 Southbound Ramps & Butterfield Ranch Road (#16) – LOS E AM and PM peak hours
- Bon View Avenue & Eucalyptus Avenue (#28) – LOS F PM peak hour only
- Bon View Avenue & Merrill Avenue (#29) – LOS F AM and PM peak hours
- Grove Avenue & Edison Avenue (#30) – LOS F AM and PM peak hours
- Grove Avenue & Eucalyptus Avenue (#31) – LOS F AM and PM peak hours
- Grove Avenue & Merrill Avenue (#32) – LOS F AM and PM peak hours
- Walker Avenue & Edison Avenue (#33) – LOS F AM and PM peak hours
- Walker Avenue/Flight Avenue & Merrill Avenue (#34) – LOS F AM and PM peak hours
- Baker Avenue/Van Vliet Avenue & Merrill Avenue (#35) – LOS E AM peak hour; LOS F PM peak hour
- Vineyard Avenue & Edison Avenue (#36) – LOS F AM and PM peak hours
- Vineyard Avenue/Hellman Avenue & Merrill Avenue (#37) – LOS F AM and PM peak hours



- Carpenter Avenue & Merrill Avenue (#38) – LOS F AM and PM peak hours
- Hellman Avenue & Edison Avenue (#39) – LOS F AM and PM peak hours
- Archibald Avenue & Ontario Ranch Road (#40) – LOS F AM and PM peak hours
- Archibald Avenue & Eucalyptus Avenue (#41) – LOS F AM and PM peak hours
- Archibald Avenue & Merrill Avenue (#42) – LOS F AM and PM peak hours
- Archibald Avenue & Limonite Avenue (#43) – LOS F AM and PM peak hours
- Turner Avenue & Ontario Ranch Road (#44) – LOS F AM and PM peak hours
- Haven Avenue & Ontario Ranch Road (#46) – LOS F AM and PM peak hours
- Hamner Avenue & Ontario Ranch Road (#49) – LOS F AM and PM peak hours

In addition, the identified deficient intersections identified under the “Without Project” condition, the following intersection is anticipated to operate at a deficient LOS under the “With Project” condition:

- Sultana Avenue & Merrill Avenue (#27) – LOS F PM peak hour only

The following study area intersections are anticipated to meet peak hour or planning level (ADT) volume-based traffic signal warrants for Horizon Year (2040) Without Project traffic conditions (see Appendix 7.3 of the TIA, contained in Appendix L1 to this DEIR), in addition to those previously warranted under Existing, Existing + Project, and Opening Year Cumulative traffic conditions:

- Bon View Avenue & Eucalyptus Avenue (#28)
- Bon View Avenue & Merrill Avenue (#29)
- Baker Avenue/Van Vliet Avenue & Merrill Avenue (#35)
- Vineyard Avenue & Edison Avenue (#36)
- Hellman Avenue & Edison Avenue (#39)

The following study area intersections are anticipated to meet peak hour volume-based traffic signal warrant for Horizon Year (2040) With Project traffic conditions (see Appendix 7.4 of the TIA, contained in Appendix L1 to this DEIR), in addition to those previously warranted under Horizon Year (2040) Without Project traffic conditions:

- Sultana Avenue & Eucalyptus Avenue (#20)
- Sultana Avenue & Merrill Avenue (#27)

## *Freeway Analysis*

Horizon Year (2040) mainline directional volumes for the AM and PM peak hours are provided on Exhibits 7-7 and 7-8 of the TIA. As shown on Table 5.14-15, *Horizon Year (2040) Freeway Capacity Analysis*, on page 5.14-49 of the DEIR, the following freeway segments and merge/diverge ramp junctions analyzed for this study are anticipated to operate at an unacceptable LOS (i.e., LOS E or worse) during the peak hours for Horizon Year (2040) Without and With Project traffic conditions:

- SR-60 Freeway Westbound, West of Euclid Avenue (SR-83) (#5) – LOS E AM and PM peak hours
- SR-60 Freeway Westbound, Off-Ramp at Euclid Avenue (SR-83) (#7) – LOS E AM peak hour; LOS F PM peak hour
- SR-60 Freeway Westbound, East of Euclid Avenue (SR-83) (#8) – LOS E AM peak hour; LOS F PM peak hour
- SR-60 Freeway Eastbound, West of Euclid Avenue (SR-83) (#9) – LOS F PM peak hour only
- SR-60 Freeway Eastbound, Off-Ramp at Euclid Avenue (SR-83) (#10) – LOS E AM peak hour; LOS F PM peak hour
- SR-60 Freeway Eastbound, On-Ramp at Euclid Avenue (SR-83) (#11) – LOS F PM peak hour only
- SR-60 Freeway Eastbound, East of Euclid Avenue (#12) – LOS F PM peak hour only
- I-15 Freeway Southbound, Off-Ramp at Cantu Galleano Ranch Road (#14) – LOS E AM peak hour; LOS F PM peak hour
- I-15 Freeway Northbound, On-Ramp at Cantu Galleano Ranch Road (#16) – LOS E AM and PM peak hours

The queuing analysis for both the “Without Project” and “With Project” scenarios for the Horizon Year (2040) show that no movements are anticipated to experience queuing issues during the weekday AM or weekday PM peak 95th percentile traffic flows with the addition of project traffic. A summary table (Table 7-2) and corresponding worksheets (Appendices 7.5 and 7.6) are provided in the TIA.

## **Mitigation Measures**

- TRAF-1 Prior to issuance of occupancy permits for buildings that would be accommodated by the Ontario Ranch Business Park Specific Plan, the project applicant shall make fair-share payments to the City of Ontario, or agencies with jurisdiction over the improvement, toward the construction of the traffic improvements listed below. The following traffic improvements and facilities are necessary to mitigate impacts of the Ontario Ranch Business Park Specific Plan and shall be included in the fee mechanism(s):

### **Existing With Project Improvements**

- Euclid Avenue (SR-83) & Riverside Drive (#4): Add an eastbound right turn lane.
- Grove Avenue & Edison Avenue (#30): Install traffic signal.
- Grove Avenue & Eucalyptus Avenue (#31): Install traffic signal.
- Grove Avenue & Merrill Avenue (#32): Install traffic signal.
- Walker Avenue & Edison Avenue (#33): Install traffic signal.
- Carpenter Avenue & Merrill Avenue (#38): Install traffic signal.
- Hamner Avenue & Ontario Ranch Road (#49): (1) Modify the traffic signal to extend cycle length to 130-seconds. (2) Restripe the southbound approach to accommodate two left turn lanes, two through lanes, and one shared through-right turn lane.

### **Opening Year (2022) Cumulative With Project Improvements**

In addition to the improvements identified under Existing + Project, this scenario includes:

- Euclid Avenue (SR-83) & Riverside Drive (#4): Add 3rd southbound through lane.
- Euclid Avenue (SR-83) & Edison Avenue (#7): Add westbound right turn lane.
- Euclid Avenue (SR-83) & Pine Avenue (#14): (1) Add northbound free right turn lane; (2) Add 3rd northbound through lane; and (3) Add 3rd southbound through lane.
- Grove Avenue & Merrill Avenue (#32): (1) Add eastbound left turn lane.
- Walker Avenue/Flight Avenue & Merrill Avenue (#34): (1) Install traffic signal; (2) Add northbound left turn lane; (3) Restripe the northbound right turn lane to a shared through-right turn lane; (4) Add southbound left turn lane; (5) Add southbound shared through-right turn lane; (6) Add eastbound left turn lane
- Vineyard Avenue/Hellman Avenue & Merrill Avenue (#37): (1) Add northbound through lane; (2) Add southbound left turn lane; and (3) Add eastbound left turn lane.
- Archibald Avenue & Limonite Avenue (#43): (1) Add 2nd westbound right turn lane and (2) Add 2nd southbound left turn lane.

## Horizon Year (2040) With Project Improvements

In addition to the improvements identified under Existing + Project and Opening Year Cumulative with Project, this scenario includes:

- Euclid Avenue (SR-83) & Riverside Drive (#4): (1) Add 2nd eastbound through lane; (2) Add 2nd northbound left turn lane; (3) Add 2nd southbound left turn lane; and (4) Add northbound right turn lane
- Euclid Avenue (SR-83) & Chino Avenue (#5): (1) Add westbound left turn lane
- Euclid Avenue (SR-83) & Schaefer Avenue (#6): (1) Add 2nd northbound left turn lane; (2) Add 2nd southbound left turn lane; and (3) Add 2nd eastbound left turn lane
- Euclid Avenue (SR-83) & Edison Avenue (#7): (1) Add 2nd northbound left turn lane; (2) Add 2nd southbound left turn lane; (3) Add 2nd eastbound left turn lane; (4) Add 2nd eastbound through lane; (5) Add 3rd eastbound through lane; (6) Add 2nd westbound left turn lane; and (7) Modify the traffic signal to protect the eastbound and westbound left turns, and implement overlap phasing for the southbound and westbound right turn lanes.
- Euclid Avenue (SR-83) & Eucalyptus Avenue (#8): (1) Add 2nd westbound left turn lane; (2) Add westbound right turn lane
- Euclid Avenue (SR-83) & Merrill Avenue (#11): (1) Add 3rd northbound through lane; (2) Add eastbound left turn lane; (3) Add 2nd westbound left turn lane; and (4) Modify the traffic signal to implement overlap phasing for the northbound right turn lane
- Euclid Avenue (SR-83) & Kimball Avenue (#12): (1) Add 3rd northbound through lane; (2) Add 3rd southbound through lane; (3) Add 2nd westbound left turn lane; (4) Add eastbound right turn lane; (5) Add westbound right turn lane; and (6) Modify the traffic signal to implement overlap phasing for the westbound right turn lane
- Euclid Avenue (SR-83) & Pine Avenue (#14): (1) Add 2nd eastbound through lane; (2) Add 2nd northbound left turn lane; (3) Add 2nd southbound left turn lane; (4) Add southbound right turn lane; (5) Add 2nd westbound through lane; and (6) Add westbound right turn lane
- Sultana Avenue & Merrill Avenue (#27): (1) Install a stop control on the southbound approach and a southbound shared left-right turn lane; (2) Add an eastbound left turn lane with a minimum of 100-feet of storage; and (3) Add a westbound right turn lane with a minimum of 100-feet of storage.

- Bon View Avenue & Eucalyptus Avenue (#28): (1) Install a traffic signal; (2) Add eastbound left turn lane; and (3) Add westbound left turn lane
- Bon View Avenue & Merrill Avenue (#29): (1) Install a traffic signal and (2) Add eastbound left turn lane
- Grove Avenue & Edison Avenue (#30): (1) Install a traffic signal; (2) Add northbound left turn lane; (3) Add northbound right turn lane; (4) Add southbound left turn lane; (5) Add eastbound left turn lane; and (6) Add westbound left turn lane
- Grove Avenue & Eucalyptus Avenue (#31): (1) Add northbound left turn lane; (2) Add southbound left turn lane; (3) Add eastbound left turn lane; and (4) Add westbound left turn lane
- Grove Avenue & Merrill Avenue (#32): Add southbound left turn lane
- Walker Avenue & Edison Avenue (#33): (1) Add northbound left turn lane; (2) Add southbound left turn lane; (3) Add eastbound left turn lane; and (4) Add westbound left turn lane
- Baker Avenue/Van Vliet Avenue & Merrill Avenue (#35): (1) Add southbound shared left-through-right turn lane; (2) Add eastbound left turn lane; and (3) Install a traffic signal
- Vineyard Avenue & Edison Avenue (#36): (1) Add eastbound left turn lane; (2) Add westbound left turn lane; (3) Add northbound left turn lane; (4) Add northbound right turn lane; (5) Add southbound left turn lane; and (6) Install a traffic signal
- Vineyard Avenue/Hellman Avenue & Merrill Avenue (#37): (1) Install a traffic signal; (2) Add westbound right turn lane; and (3) Add southbound right turn lane
- Hellman Avenue & Edison Avenue (#39): (1) Add eastbound left turn lane; (2) Add westbound left turn lane; (3) Add northbound left turn lane; (4) Add southbound left turn lane; and (5) Install a traffic signal
- Archibald Avenue & Ontario Ranch Road (#40): (1) Add 2nd northbound left turn lane; (2) Add 2nd southbound left turn lane; and (3) Modify the traffic signal to implement overlap phasing for the southbound right turn lane
- Archibald Avenue & Merrill Avenue (#42): (1) Stripe southbound right turn lane (in place of defacto); (2) Modify the traffic signal to implement overlap phasing for the southbound right turn lane; (3) Add 2nd eastbound left turn lane; and (4) Add eastbound free right turn lane

- Archibald Avenue & Limonite Avenue (#43): (1) Add northbound left turn lane; (2) Add 2nd westbound left turn lane; (3) Add 2nd northbound through lane; (4) Add 3rd northbound through lane; (5) Add 2nd southbound through lane; (6) Add 3rd southbound through lane; (7) Add 2nd eastbound left turn lane; (8) Add 2nd eastbound through lane; and (9) Add 2nd westbound through lane; and (10) 2nd westbound right turn lane no longer needed
- Hamner Avenue & Ontario Ranch Road (#49): (1) Add 3rd westbound through lane; (2) Add eastbound right turn lane; and (3) Modify the traffic signal to implement overlap phasing for the northbound and eastbound right turn lanes

TRAF-2 Prior to issuance of occupancy permits for buildings that would be accommodated by the Ontario Ranch Business Park Specific Plan, the project applicant shall pay DIF fees to the City of Ontario toward construction of the traffic improvements listed below. The following traffic improvements and facilities are necessary to mitigate impacts of the Ontario Ranch Business Park Specific Plan:

#### **Opening Year (2022) Cumulative With Project Improvements**

In addition to the improvements identified under Existing + Project, this scenario includes:

- Euclid Avenue (SR-83) & Riverside Drive (#4): (1) Restripe the northbound approach to provide a left turn lane, two through lanes, and one shared through-right turn lane
- Grove Avenue & Eucalyptus Avenue (#31): (1) Add 2nd northbound through lane.
- Grove Avenue & Merrill Avenue (#32): (1) Add 2nd westbound through lane.
- Walker Avenue/Flight Avenue & Merrill Avenue (#34): (1) Add 2nd eastbound through lane and (2) Add 2nd westbound through lane.
- Vineyard Avenue/Hellman Avenue & Merrill Avenue (#37): (1) Add southbound through lane and (2) Add 2nd westbound through lane

#### **Horizon Year (2040) With Project Improvements**

In addition to the improvements identified under Existing + Project and Opening Year Cumulative with Project, this scenario includes:

- Euclid Avenue (SR-83) & SR-60 Westbound Ramps (#1): Add 2nd northbound left turn lane

- Euclid Avenue (SR-83) & SR-60 Eastbound Ramps (#2): (1) Add eastbound right turn lane and (2) Add 2nd left turn lane
- Euclid Avenue (SR-83) & Chino Avenue (#5): (1) Add 3rd northbound through lane and (2) Add 3rd southbound through lane
- Euclid Avenue (SR-83) & Schaefer Avenue (#6): (1) Add 3rd northbound through lane and (2) Add 3rd southbound through lane
- Euclid Avenue (SR-83) & Edison Avenue (#7): (1) Add 3rd northbound through lane; (2) Add 3rd southbound through lane; and (3) Add 2nd westbound through lane
- Euclid Avenue (SR-83) & Eucalyptus Avenue (#8): (1) Add 3rd northbound through lane and (2) Add 3rd southbound through lane.
- Euclid Avenue (SR-83) & Merrill Avenue (#11): Add 3rd southbound through lane
- Sultana Avenue & Merrill Avenue (#27): (1) Install a stop control on the southbound approach and a southbound shared left-right turn lane; (2) Add an eastbound left turn lane with a minimum of 100-feet of storage; and (3) Add a westbound right turn lane with a minimum of 100-feet of storage.
- Bon View Avenue & Merrill Avenue (#29): (1) Add 2nd eastbound through lane and (2) Add 2nd westbound through lane
- Grove Avenue & Edison Avenue (#30): (1) Add 2nd northbound through lane; (2) Add 2nd southbound through lane; (3) Add 2nd eastbound through lane; (4) Add 3rd eastbound through lane; (5) Add 2nd westbound through lane; and (6) Add 3rd westbound through lane
- Grove Avenue & Eucalyptus Avenue (#31): Add 2nd southbound through lane
- Grove Avenue & Merrill Avenue (#32): Add 2nd eastbound through lane
- Walker Avenue & Edison Avenue (#33): (1) Add 2nd eastbound through lane; (2) Add 3rd eastbound through lane; (3) Add 2nd westbound through lane; and (4) Add 3rd westbound through lane
- Baker Avenue/Van Vliet Avenue & Merrill Avenue (#35): Add 2nd westbound through lane
- Vineyard Avenue & Edison Avenue (#36): (1) Add 2nd eastbound through lane; (2) Add 3rd eastbound through lane (3) Add 2nd westbound through lane (4) Add 3rd westbound through lane (5) Add northbound through lane (6) Add southbound through lane

- Carpenter Avenue & Merrill Avenue (#38): (1) Add 2nd eastbound through lane and (2) Add 2nd westbound through lane
- Hellman Avenue & Edison Avenue (#39): (1) Add 2nd eastbound through lane; (2) Add 3rd eastbound through lane; (3) Add 2nd westbound through lane; (4) Add 3rd westbound through lane; (5) Add northbound through lane; and (6) Add southbound through lane
- Archibald Avenue & Ontario Ranch Road (#40): (1) Add 2nd westbound through lane; (2) Add 3rd northbound through lane; (3) Add 3rd southbound through lane; (4) Add 3rd eastbound through lane; (5) Add 4th eastbound through lane; (6) Add 3rd westbound through lane; and (7) Add 4th westbound through lane
- Archibald Avenue & Merrill Avenue (#42): (1) Add 3rd northbound through lane and (2) Add 3rd southbound through lane
- Turner Avenue & Ontario Ranch Road (#44): (1) Add 3rd eastbound through lane and (2) Add 3rd westbound through lane
- Haven Avenue & Ontario Ranch Road (#46): (1) Add 2nd northbound through lane; (2) Add 2nd southbound through lane; and (3) Add 3rd westbound through lane

**Finding:**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified above under *Mitigation Measures Considered and Determined to be Infeasible*.

The City finds that there are no other mitigation measures that are feasible, taking into consideration specific economic, legal, social, technological or other factors, that would mitigate this impact to a less-than-significant level, and further, that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the EIR, as discussed in Section G of these Findings (Public Resources Code §§ 21081(a)(1), (3); Guidelines §§ 15091(a)(1), (3)). As described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable because specific overriding economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the proposed project outweigh its significant effects on the environment.



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**Impact 5.14-3: The proposed project would not reduce total VMT/SP by at least 15 percent compared to the citywide average. [Threshold T-2]**

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Lead agencies have the option to immediately apply the new VMT based criteria, however statewide application of the new guidelines is not required until July 1, 2020. The City of Ontario has not formally adopted VMT thresholds of significance. However, a threshold of 15 percent below baseline average VMT/SP for the City to determine the project's impact. As such, a significant impact may occur if the proposed project's VMT/SP is less than the 15 percent reduction threshold when compared to the Citywide average.

The VMT Memo utilized South Coast Air Quality Management District (SCAQMD) documents for the implementation of the Facility-Based Mobile Source Measures to determine the average trip length for heavy trucks. For the proposed project, the VMT Memo determined that the average trip length for automobiles and heavy trucks are 16.5 and 40.0 miles, respectively.

The ITE Trip Generation Manual, 10th Edition (2017) provides trip generation rates in order to calculate daily vehicle trips. The proposed project is anticipated to generate a net total of 4,328 trip-ends per day with 3,532 daily automobile trips and 796 daily truck trips.

Table 5.14-16, *Project VMT*, on page 5.14-54 of the DEIR, provides the project's anticipated VMT based on the average trip lengths for passenger cars and heavy trucks along with the daily vehicle trips discussed above.

Since the proposed project does not have a residential component, the project SP consists of employees only. The number of jobs that the proposed project would generate was based on employment estimates using employment density factors of 0.65 Employees/Thousand Square Feet (TSF) for non-office portions and 2.86 Employees/TSF for office portions of industrial and business park, which is consistent with the Ontario General Plan Buildout Methodology document (April 2015). Based on these employment generation rates, the project is expected to create approximately 1,950 jobs. As shown on Table 5.14-17, *Project Automobile VMT/SP*, on page 5.14-54 of the DEIR, the project's VMT/SP is 29.89 for automobiles and 46.21 total VMT, which includes trucks.

The Citywide Average VMT was calculated based on select-zone model runs for all the TAZs within the City of Ontario using 2012 and 2040 SBTAM. The population and employment data were added for all the SBTAM TAZs within the City of Ontario to calculate the citywide service population. Table 5 in the VMT Memo (Appendix L2 of the DEIR) provides a summary of the citywide VMT, population and employment. Attachment A of the VMT Memo contains detail from the SBTAM 2012 and 2040 models. The baseline VMT/SP for the year 2019 was calculated by linearly interpolating between 2012 and 2040. As shown in Table 5.14-18, *Citywide Automobile VMT/SP*, on page 5.14-55 of the DEIR, the Baseline average VMT/SP for City of Ontario is 37.6 for automobiles and 42.3 total, including trucks. The threshold level of 15 percent below the baseline average based on OPR's 2018 Technical Advisory recommendation is 31.96 for automobile VMT/SP and 35.96 for total VMT/SP.

The project generates 29.89 VMT/SP, which is 2.07 VMT/SP lower than the 31.96 VMT/SP threshold based on OPR's 2018 Technical Advisory recommendation. Additionally, the project generates 46.21 total VMT/SP, which is 10.25 total VMT/SP higher than the 35.96 Total VMT/SP threshold. Therefore, project's transportation impact based on VMT would be potentially significant.

## Mitigation Measures

TRAF-2 Prior to issuance of occupancy permits, the project applicant shall prepare a Transportation Demand Management (TDM) strategy report for review and approval by the City Traffic/Transportation Manager. The TDM strategy shall include measures to reduce employee VMT, including but not limited to:

- **Measure 6: Encourage Telecommuting and Alternative Work Schedule.** Encouraging telecommuting and alternative work schedules reduces the number of commute trips and therefore VMT traveled by employees. Alternative work schedules could take the form of staggered starting times, flexible schedules, or compressed work weeks. The effectiveness of this measure is dependent on the ultimate building tenant(s) which are unknown at this time, however, this CAPCOA notes that implementation of this measure could reduce commute VMT by 0.07 – 5.50 percent (Quantifying Greenhouse Gas Mitigation Measures, p. 236).
- **Measure 7: Provide Ride-Sharing Programs. Encourage carpooling and vanpooling.** The effectiveness of this measure is dependent on the ultimate building tenant(s) which are unknown at this time, however, CAPCOA notes that implementation of this measure could reduce commute VMT by 1.0 – 15.0 percent (Quantifying Greenhouse Gas Mitigation Measures, p. 227).

### *Mitigation Measures Considered and Rejected*

Transportation demand management (TDM) strategies have been evaluated for reducing VMT impacts determined to be potentially significant. The effectiveness of TDM strategies to reduce VMT has been determined based on the SB 743 Implementation TDM Strategy Assessment (February 26, 2019, Fehr & Peers) prepared for the WRCOG. The memo evaluated 50 transportation measures presented in the CAPCOA 2010 report Quantifying Greenhouse Gas Mitigation Measures and indicated 41 are applicable at building and site level. The remaining measures are functions of, or depend on, site location and/or actions by local and regional agencies or funders.

Based on available research, WRCOG has determined that for projects located within a suburban context, a maximum 10 percent reduction in VMT is achievable when combining multiple mitigation strategies. Furthermore, to even achieve a 10 percent reduction in VMT, a project would need to contain a diverse land use mix, workforce housing and project-specific transit options.

Review of the 41 transportation measures identified by CAPCOA, indicates that only 7 of those measures may be effective at the project level, which is consistent with WRCOGs findings. Evaluation of potentially applicable TDM strategies in the context of the project is summarized below. As shown in Table 5.14-19, *Evaluation of Applicable TDM Strategies*, on page 5.14-63 of the DEIR, of the five of the seven TDMs with potential application to the project would not provide for any potentially meaningful reduction in VMT, the remaining two have been incorporated into the project as identified in Mitigation Measure TRAF-3.

**Finding:**

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified above under *Mitigation Measures Considered and Determined to be Infeasible*.

The City finds that there are no other mitigation measures that are feasible, taking into consideration specific economic, legal, social, technological or other factors, that would mitigate this impact to a less-than-significant level, and further, that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the EIR, as discussed in Section G of these Findings (Public Resources Code §§ 21081(a)(1), (3); Guidelines §§ 15091(a)(1), (3)). As described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable because specific overriding economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the proposed project outweigh its significant effects on the environment.

#### **IV. ALTERNATIVES TO THE PROPOSED PROJECT**

The City Council hereby declares that it has considered and rejected as infeasible the alternatives identified in the EIR and described below. Section 15126.6 of the State CEQA Guidelines requires an EIR to describe a range of reasonable alternatives to the Project, or to the location of the Project, which could feasibly achieve most of its basic objectives, but would avoid or substantially lessen any of the significant effects identified in the EIR analysis. An EIR is not required to consider every conceivable alternative to a proposed project. Rather, an EIR must consider a reasonable range of alternatives that are potentially feasible; an EIR is not required to consider alternatives that are infeasible. In addition, an EIR should evaluate the comparative merits of the alternatives. Therefore, this section sets forth the potential alternatives to the Project analyzed in the EIR and evaluates them in light of the objectives of the Project, as required by CEQA.

Key provisions of the State CEQA Guidelines relating to the alternatives' analysis (Section 15126.6 et seq.) are summarized below (Draft EIR at pp. 7-1 – 7-2.):

- The discussion of alternatives shall focus on alternatives to the Project or its location that are capable of avoiding or substantially lessening any significant effects of the Project, even if these alternatives would impede to some degree the attainment of the Project objectives or would be more-costly.
- The “No Project” alternative shall be evaluated along with its impact. The “No Project” analysis shall discuss the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the Project is not approved.
- The range of alternatives required in an EIR is governed by a “rule of reason”; therefore, the EIR must evaluate only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the Project.
- For alternative locations, only locations that would avoid or substantially lessen any of the significant effects of the Project need be considered for inclusion in the EIR.
- An EIR need not consider an alternative whose effects cannot be reasonably ascertained and whose implementation is remote and speculative.

#### **A. Rationale for Selecting Potentially Feasible Alternatives**

The alternatives must include a no-project alternative and a range of reasonable alternatives to the Project if those reasonable alternatives would attain most of the Project objectives while substantially lessening the potentially significant Project impacts. The range of alternatives discussed in an EIR is governed by a “rule of reason,” which the State CEQA Guidelines Section 15126.6(f)(3) defines as:

. . . set[ting] forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision-making.

Among the factors that may be taken into account when addressing the feasibility of alternatives (as described in the State CEQA Guidelines Section 15126.6(f)(1)) are environmental impacts, site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries, and whether the Project proponent could reasonably acquire, control, or otherwise have access to an alternative site. An EIR need not consider an alternative whose effects could not be reasonably identified, and whose implementation is remote or speculative.

For purposes of this analysis, the Project alternatives are evaluated to determine the extent to which they attain the basic Project objectives, while significantly lessening any significant effects of the Project.

## **B. ALTERNATIVES CONSIDERED AND REJECTED DURING THE SCOPING/PROJECT PLANNING PROCESS**

The following is a discussion of the alternatives considered during the scoping and planning process and the reasons why they were not selected for detailed analysis in the EIR.

### **1. Alternative Development Areas**

CEQA requires that the discussion of alternatives focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effects of the project. The key question and first step in the analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR (CEQA Guidelines § 15126[5][B][1]). In addition, an alternative site need not be considered when implementation is “remote and speculative,” such as when the alternative site is beyond the control of a project applicant.

There are no suitable alternative sites within the control of the project applicant. In the event land could be purchased of suitable size and developmental characteristics, based on the known general conditions in the southern portion of the City, an alternative site would likely have similar impacts after mitigation as the project. Given the size and nature of the proposed project and the project objectives, it would be impractical and infeasible to propose the project on an alternate site in the area with fewer environmental impacts.

Additionally, other land in the vicinity of the project site or within the southern portion of the City are similarly used for agricultural purposes and include agricultural soils, the loss of prime farmland would still occur with an alternative site. Given the size and type of the proposed development, similarly sized project and use elsewhere in the South Coast Air Basin would result in the same project-level and cumulative air quality and greenhouse gas emission impacts. Also, an alternative site would have similar traffic impacts in other jurisdictions that would be significant and unavoidable, because the City of Ontario cannot guarantee implementation of improvements outside of its jurisdiction. Therefore, analysis of an alternative site for the proposed 1,905,027 square feet of warehouse and office uses is neither meaningful nor necessary, because the significant impacts resulting from the project would not be avoided or substantially lessened by its implementation.

## **C. ALTERNATIVES SELECTED FOR FURTHER ANALYSIS**

The following alternatives were determined to represent a reasonable range of alternatives with the potential to feasibly attain most of the basic objectives of the project but avoid or substantially lessen any of the significant effects of the project.

### **1. No Project Alternative**

The project site contains an operational dairy farm, two single-family residential structures, a dairy barn, a storage structure, approximately 10 feed storage barns, and numerous livestock corrals. The dairy, structures, and single-family residential uses would remain. Accordingly, the No Project/No Build Alternative provides a comparison between the environmental impacts of the proposed project as compared to the environmental conditions, resulting from not approving or denying the proposed project.

The No Project/No Build Alternative would eliminate the significant and unavoidable impacts related to agriculture, air quality, greenhouse gas emissions, and traffic that would occur from implementation of the proposed project. This alternative would also reduce impacts related to biological resources, cultural resources, energy, geology and soils, land use and planning, noise, public services, tribal cultural resources, and utility and service systems. Impacts related to hazards and hazardous materials and hydrology and water quality would be greater under this alternative; impacts to population housing would be similar compared to the proposed project.

Implementation of the No Project/No Build Alternative new development is assumed to not occur on the project site, and none of the project objectives would be achieved under this alternative. The No Project/No Build Alternative would not create a professional, well-maintained and attractive environment for the development of a multi-purpose business park, light industrial and warehousing/logistics complex that is compatible with nearby residential neighborhoods (Objective 1); provide the entitlements and framework for the development of approximately 1.9 million square feet (sf) of business park and light industrial uses (Objective 2); provide employment opportunities for community residents (Objective 3); facilitate the construction of utilities, roads, and other major infrastructure investments that will be sufficiently sized to adequately serve the Specific Plan area (Objective 4); expand Ontario's industrial uses in proximity to local airports and regional transportation networks (Objective 5); nor would it create an economic engine to drive future growth in Ontario Ranch, spur infrastructure improvements in the area and implement the Specific Plan vision (Objective 6).

#### **Finding:**

This alternative is rejected because it would not provide any of the project benefits that would occur with the implementation of the proposed project, including creating a professional, well-maintained and attractive environment for development. As a result, specific economic, legal, social, technological, or other considerations, including provision

of employment opportunities for highly trained workers, make infeasible this project alternative for the reasons identified in the FEIR.

## **2. No Project/Existing General Plan Alternative**

Under the No Project/Existing General Plan Alternative, the current general plan land uses and zoning would remain in effect. Development in accordance with the existing general plan and zoning would occur. The City's General Plan designates the project site for development of general commercial at a maximum 0.4 FAR, office commercial at 0.75 FAR, and low-medium density residential at 5.1-11 dwelling units per acre. The existing land use designations would allow approximately 559,774 sf of general commercial 787,975 sf of office commercial, and 159 dwelling units at 8.5 dwelling units per acre. This alternative would generate approximately 2,267 employees and 635 residents.

The No Project/Existing General Plan Alternative would result in greater impacts to air quality, energy, greenhouse gas emissions, hazards and hazardous materials, noise, public services, transportation, and utilities and service systems. This alternative would exacerbate significant and unavoidable impacts related to air quality, greenhouse gas emissions, and transportation. Impacts related to agricultural resources, biological resources, cultural resources, geology and soils, hydrology and water quality, land use and planning, population and housing, and tribal cultural resources would be similar compared to the proposed project.

Implementation of the No Project/Existing General Plan Alternative would not meet four of the six project objectives for example this alternative would not create a professional, well-maintained and attractive environment for the development of a multi-purpose business park, light industrial and warehousing/logistics complex; (Objective 1); provide the entitlements and framework for the development of approximately 1.9 million square feet (sf) of business park and light industrial uses (Objective 2); expand Ontario's industrial uses in proximity to local airports and regional transportation networks (Objective 5); nor would it create an economic engine to drive future growth in Ontario Ranch, spur infrastructure improvements in the area and implement the Specific Plan vision (Objective 6). This alternative would provide employment opportunities for community residents (Objective 3) and facilitate the construction of utilities, roads, and other major infrastructure investments that will be sufficiently sized to adequately serve the Specific Plan area (Objective 4).

### **Finding:**

This alternative is rejected because it would not create a professional, well-maintained and attractive environment for the development of a multi-purpose business park, light industrial and warehousing/logistics complex, nor create an economic engine for future growth. This alternative would not meet four of the six project objectives. As a result, specific economic, legal, social, technological, or other considerations, including provision

of employment opportunities for highly trained workers, make infeasible this project alternative for the reasons identified in the FEIR.

### **3. Reduced Intensity Alternative**

Under the Reduced Intensity Alternative, a 25 percent reduction in building area of the proposed industrial warehousing uses would occur. Under this alternative, a total of 1,428,770 square feet of industrial and warehouse uses, a reduction of 476,257 square feet, would be developed with 1,251,770 square feet of warehouse and 177,000 square feet of office uses. The development impact area would generally remain the same as the proposed project. This alternative would generate approximately 1,548 employees. Access to the site would be similar to the proposed project with a proportional reduction in the number of parking spaces.

The Reduced Intensity Alternative would result in reduced impacts related to air quality, energy, greenhouse gas emissions, noise, public service, transportation, and utilities and service systems due to the reduction in square footage and associated vehicular trips. However, significant and unavoidable impacts related to agricultural resources, air quality, greenhouse gas emissions, and transportation would continue to occur from implementation of this alternative. Impacts related to agricultural resources, biological resources, cultural resources, geology and soils, hazardous and hazardous materials, hydrology and water quality, land use and planning, population and housing, and tribal cultural resources would be similar to the proposed project.

Implementation of the Reduced Intensity Alternative would achieve the project objectives, but not to the extent as would be achieved by the proposed project. The Reduced Intensity Alternative would create a professional, well-maintained and attractive environment for the development of a multi-purpose business park, light industrial and warehousing/logistics complex (Objective 1); provide employment opportunities for community residents (Objective 3); facilitate the construction of utilities, roads, and other major infrastructure investments (Objective 4); expand Ontario's industrial uses in proximity to local airports and regional transportation networks (Objective 5); and create an economic engine to drive future growth in Ontario Ranch, spur infrastructure improvements in the area and implement the Specific Plan vision (Objective 6). However, the reduction of 476,529 sf would attract fewer or smaller businesses and less employment opportunities to area residents. In addition, the smaller development would provide less flexibility to meet the needs of an ever-changing business market. This alternative would not fully meet Objective 2 to provide the entitlements and framework for the development of approximately 1.9 million sf of business park and light industrial uses.

#### **Finding:**

This alternative is rejected because it would not achieve the project benefits to the extent the proposed project does since a reduction in intensity would generate less job



opportunities in the City. As a result, specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible this project alternative for the reasons identified in the FEIR.

## **V. GROWTH-INDUCING IMPACTS AND COMMITMENT OF RESOURCES**

### **A. Growth-Inducing Impacts**

Section 15126.2(d) of the State CEQA Guidelines requires the EIR to address the growth-inducing impact of the Project. DEIR Section 10 evaluates the potential for the proposed Project to affect economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.

There are direct and indirect growth inducing impacts that a project may have. To assess the potential for growth-inducing impacts, the project's characteristics that may encourage and facilitate activities that individually or cumulatively affect the environment must be evaluated.

Direct growth inducing impacts occur when the development of a project imposes new burdens on a community by directly inducing population growth, or by leading to the construction of additional developments in the same area. Also included in this category are projects that remove physical obstacles to population growth, such as a new road into an undeveloped area or a wastewater treatment plant with excess capacity that could allow additional development in the service area. Construction of these types of infrastructure projects cannot be considered isolated from the development they facilitate and serve. Projects that physically remove obstacles to growth or projects that indirectly induce growth are those which may provide a catalyst for future unrelated development in an area such as a new residential community that requires additional commercial uses to support residents.

Implementation of the Specific Plan would require the improvement of roadways and intersections and the extension of major infrastructure into areas off-site that will facilitate additional planned growth pursuant to TOP. Although the infrastructure improvements are planned for in the City's water and sewer master plans, the improvements would allow further development to occur within the Ontario Ranch area. Therefore, the project would remove obstacles to growth to accommodate the demands of this project at full buildout, which could allow for future development in the area once adequate infrastructure is in place and would be considered growth inducing.

As the City of Ontario continues to develop, it requires the further commitment of public services in the form of fire protection, police services, and other public facilities. As discussed in DEIR Section 5.13, Public Services, none of the public service agencies consulted during the preparation of this DEIR indicated that the proposed project would necessitate the immediate expansion of their existing resources in order to maintain

desired levels of service. The proposed project would not, therefore, have significant growth-inducing consequences with respect to public services.

The proposed project would result in the creation of up to 2,064 new long-term jobs. As the number of employees in the Specific Plan area grows, these employees would seek shopping, entertainment, auto maintenance, and other economic opportunities in the surrounding area. This would facilitate economic goods and services and could, therefore, encourage the creation of new businesses and/or the expansion of existing businesses to address these economic needs. However, the increase in opportunities for employees would not create substantial growth inducement because it would improve the jobs-housing ratio, growth could be accommodated within regional and local projections, and jobs would be filled by the local workforce. As stated in DEIR Section 5.12, Population and Housing, the proposed project would result in an improvement in the jobs-household ratio, which currently in a housing-rich area. The majority of new jobs that would be created by implementation of the Specific Plan would be positions that do not require a specialized workforce, and this type of workforce exists in the City and surrounding areas. Thus, due to the availability of a workforce within the City, it is anticipated that new jobs would be filled by people within Ontario and the immediately surrounding communities and would not induce an unanticipated influx of new labor into the region. Although, the proposed project would result in new permanent employment opportunities and stimulate economic activity, it would meet future employment demands anticipated in SCAG's regional growth projections. Overall, the proposed Specific Plan would not result in increased levels of growth that would otherwise not occur. Therefore, the project would not encourage or facilitate economic effects that could significantly affect the environment.

Although the requirement for a general plan amendment may be considered a precedent-setting action, the impacts of subsequent similar actions would require environmental analysis and associated mitigation to ensure that such subsequent impacts would not significantly affect the environment. Pressures to develop other land in the surrounding area would derive from regional economic conditions and market demands for housing, commercial, and industrial land uses that are not directly or indirectly influenced by zoning actions on a particular property. Approval of the proposed project would not, therefore, involve a precedent-setting action that could be applied to other properties and thereby encourage or facilitate growth that would not otherwise occur.

Implementation of the proposed project would provide development to accommodate regional and City forecasted employment demands. All physical environmental effects from construction of development have been analyzed in all technical sections of this EIR. For example, activities such as excavation, grading, and construction as required for the proposed industrial warehousing and office uses were analyzed in DEIR Sections 5.2, Air Quality, 5.6, Greenhouse Gas Emissions, 5.11, Noise, and 5.14, Transportation. Therefore, construction of the proposed project has been analyzed in this EIR and would

be adequately mitigated either through implementation of PPPs and/or mitigation measures contained within DEIR Chapter.

## **B. Commitment of Resources**

Section 15126.2(c) of the CEQA Guidelines requires that an EIR describe any significant irreversible environmental changes that would be caused by the proposed project should it be implemented. DEIR Section 9 evaluates significant irreversible changes resulting from the project.

Generally, a project would result in significant irreversible environmental changes if: 1) The primary and secondary impacts would generally commit future generations to similar uses; 2) the project would involve a large commitment of nonrenewable resources; 3) the project would involve uses in which irreversible damage could result from any potential environmental accidents associated with the project; or 4) the proposed irretrievable commitments of nonrenewable resources is not justified (e.g., the project involves the wasteful use of energy).

In the case of the proposed Ontario Ranch Business Park Specific Plan project, its implementation would involve a land use, development, and implementation framework to support 1,905,027 square feet of warehouse and office uses within the City of Ontario. Significant irreversible changes that would be caused by implementation of the proposed project would be:

- Construction activities that would entail the commitment of nonrenewable and/or slowly renewable energy resources; human resources; and natural resources such as lumber and other forest products, sand and gravel, asphalt, steel, copper, lead, other metals, water, and fossil fuels.
- Operation that would require the use of natural gas and electricity, petroleum-based fuels, fossil fuels, and water. The commitment of resources required for the operation of the project would limit the availability of such resources for future generations or for other uses during the life of the project.
- Increased traffic on area roadways (see DEIR Section 5.14, Transportation);
- Emissions of air pollutants associated with operation (see DEIR Section, 5.2, Air Quality);
- Consumption of non-renewable energy associated with operation of the Specific Plan due to the use of automobiles, lighting, heating and cooling systems, and appliances (see DEIR Sections 5.5, Energy, and 5.7, Greenhouse Gas Emissions).
- An increased commitment of social services and public maintenance services (e.g., police, fire, sewer, and water services) would also be required. The energy and

social service commitments would be long-term obligations in view of the low likelihood of returning the land to its original condition once it has been developed.

- Employment growth related to project implementation would increase vehicle trips over the long term. Emissions associated with such vehicle trips would continue to contribute to the South Coast Air Basin's nonattainment designations for ozone, particulate matter (PM10 and PM2.5), under the California and National Ambient Air Quality Standards (AAQS), and nonattainment for nitrogen dioxide (NO2) under the California AAQS.

Given the low likelihood that the land would revert to lower intensity uses or to its current form, the proposed project would generally commit future generations to these environmental changes. However, as discussed in DEIR Chapter 3, Project Description, Ontario Ranch Business Park is committed to sustainable design strategies that integrate principles of environmental stewardship into the design and construction process.

## **VI. STATEMENT OF OVERRIDING CONSIDERATIONS**

CEQA requires decision makers to balance the benefits of the proposed project against its unavoidable environmental risks when determining whether to approve the project. If the benefits of the project outweigh the unavoidable adverse effects, those effects may be considered "acceptable" (State CEQA Guidelines § 15093[a]). CEQA requires the agency to support, in writing, the specific reasons for considering a project acceptable when significant impacts are infeasible to mitigate. Such reasons must be based on substantial evidence in the FEIR or elsewhere in the administrative record (State CEQA Guidelines § 15093 [b]). The agency's statement is referred to as a Statement of Overriding Considerations.

The following provides a description of the project's significant and unavoidable adverse impact and the justification for adopting a statement of overriding considerations.

### **A. SIGNIFICANT AND UNAVOIDABLE IMPACTS**

Although most potential project impacts have been substantially avoided or mitigated, as described above, there remains nine project impacts for which complete mitigation is not feasible. The DEIR identified the following significant unavoidable adverse impacts of the project, which would continue to be applicable upon implementation of the proposed project:

#### **Agriculture and Forestry Resources**

- **Impact 5.1-1:** The proposed project would convert approximately 60 acres of California Resource Agency designated Prime Farmland to Specific Plan, which would allow for development of business park and industrial land uses.

- **Impact 5.1-2:** The proposed project would involve other changes in the existing environment, which due to the location and nature, would convert Prime Farmland to a non-agricultural use.

### **Air Quality**

- **Impact 5.2-1:** Construction activities associated with the proposed project would generate short-term VOC and NO<sub>x</sub> emissions in exceedance of SCQMD's threshold criteria.
- **Impact 5.2-2:** Long-term operation of the project would generate emissions in exceedance of SCAQMD's threshold criteria and would cumulatively contribute to the nonattainment designations of the air basin.
- **Impact 5.2-7:** The proposed project would be inconsistent with the applicable air quality plan.

### **Greenhouse Gas Emissions**

- **Impact 5.7-1:** Operation of the proposed project would generate emissions from mobile and other sources that would exceed the bright-line significance threshold and would have a significant impact on the environment.
- **Impact 5.7-2:** Implementation of the proposed project would conflict with the City's Community Climate Action Plan.

### **Transportation**

- **Impact 5.14-1:** The proposed project would have a significant impact on 7 intersections in the Existing plus Project scenarios, 13 intersections in the Opening Year Cumulative with Project scenario, and 31 intersections in the Horizon Year with Project scenario. Additionally, the project would have a significant impact to 1 freeway segment in the Existing Plus Project scenario, 6 freeway ramps/segments in the Opening Year Cumulative with Project scenario, and 9 freeway ramps/segments in the Horizon Year with Project scenario.
- **Impact 5.14-3:** The proposed project would not reduce total VMT/SP by at least 15 percent compared to the citywide average.

## **B. PROJECT BENEFITS IN SUPPORT OF THE STATEMENT OF OVERRIDING CONSIDERATIONS**

The following section describes the benefits of the proposed project that outweigh the project's unavoidable adverse effects and provides specific reasons for considering the

project acceptable even though the FEIR has indicated that there will be nine significant and unavoidable project impacts if the mitigation measures for Impacts 5.1-1, 5.1-2, 5.2-1, 5.2-2, 5.2-7, 5.7-1, 5.7-2, 5.14-1, and 5.14-3 are implemented. Accordingly, this Statement of Overriding Considerations regarding potentially significant adverse environmental impacts resulting from the proposed project, as set forth below, has been prepared. Pursuant to CEQA Guidelines §15093(c), the Statement of Overriding Considerations will be included in the record of the project approval and will also be noted in the Notice of Determination. Each of the benefits identified below provides a separate and independent basis for overriding the significant environmental effects of the proposed project.

Having reduced the potential effects of the proposed project through all feasible mitigation measures as described previously herein, and balancing the benefits of the proposed project against its potential unavoidable adverse impacts, the City finds that the following legal requirements and benefits of the proposed project individually and collectively outweigh the potentially significant unavoidable adverse impacts for the following reasons:

### **1. Implements the Objectives Established for the Proposed Project**

The project objectives include creating a professional, well-maintained, and attractive environment for development; providing entitlements and framework for development of business park and light industrial uses; providing employment opportunities for community residents; facilitating the construction of utilities, roads, and other major infrastructure; expanding Ontario's industrial uses in proximity to local airports and regional transportation networks; and creating an economic engine to drive future growth and spur improvements in the area.

### **2. Provides Employment Opportunities**

The project would provide for high-quality industrial uses within the City and the TOP area and would increase employment opportunities for City and area residents. The proposed project would include eight warehouse buildings totaling a maximum development of 1,905,027 square feet of warehouse and office uses, and would generate 2,064 employment opportunities.

### **3. Provides Substantial Infrastructure Improvements**

The project will be responsible for the construction of area-wide infrastructure construction within the Ontario Ranch area, including roadway, water, sewer and storm drains as set forth in the DEIR and Ontario Ranch Business Park Specific Plan. The project would construct improvements and infrastructure consistent with the TOP and the City's various master plans for roadways and sewers, among others. The total estimated costs for these improvements are identified in DEIR Appendix N, as follows:

- The total estimated cost of the proposed water infrastructure is \$13.1 million.
- The total estimated cost of the proposed recycled water infrastructure is approximately \$800,000.
- The total estimated cost of the proposed sewer infrastructure is \$9.4 million.
- The total estimated cost of the proposed stormwater infrastructure is \$9.1 million.

#### **4. Consistency with the Regional Goals in the RTP/SCS**

SCAG's 2016-2040 RTP/SCS was adopted April 7, 2016. The RTP/SCS identifies that land use strategies that focus on new housing and job growth in areas served by high quality transit and other opportunity areas would be consistent with a land use development pattern that supports and complements the proposed transportation network. The overarching strategy in the 2016-2040 RTP/SCS is to provide for a plan that allows the southern California region to grow in more compact communities in existing urban areas; provide neighborhoods with efficient and plentiful public transit and abundant and safe opportunities to walk, bike, and pursue other forms of active transportation; and preserve more of the region's remaining natural lands.

The proposed project would create an economic engine to drive future growth in Ontario Ranch, spur infrastructure improvements in the area, and would allow for the development of urban uses on currently underutilized land. The implementation of the proposed project would facilitate the construction of roads and other major infrastructure investments that will ensure that mobility accessibility for people and goods would be maximized. The Specific Plan would expand Ontario's industrial uses in proximity to local airports and regional networks, and the vehicular and pedestrian improvements called for in the Specific Plan would be implemented and maintained to meet the needs of employees and visitors. Additionally, all modes of public and commercial transit throughout the project area would be required to follow safety standards set by state, regional, and local regulations. The proposed Specific Plan would preserve and ensure access to the local public transportation near the project site. The proposed project would improve and maintain local and area-serving transportation systems to maximize efficiency and productivity. Moreover, the proposed project would incorporate energy efficiency and sustainability strategies.

#### **5. Consistency with the City's Community Climate Action Plan**

The project will implement greenhouse gas (GHG) reduction measures specified in the DEIR and will comply with the City's adopted Climate Action Plan, which strives to achieve GHG reductions City-wide that comply with the State's reduction requirements. The primary purpose of the City's Community CAP is to design a feasible strategy to reduce GHG emissions generated by community activities that is consistent with statewide Scoping Plan GHG reduction efforts. The GHG emissions reduction target established under the CAP is 30 percent under year 2020 business-as-usual (BAU) levels. To meet this goal and to supplement statewide initiatives, the City has identified a series of

reduction measures to be implemented by the City before 2020. These reduction measures include programs that improve building energy efficiency, increase use of public and active transit and decrease VMT, increase use of alternative-fueled vehicles, increase use of renewable energy, reduce water consumption, and reduce waste.

Table 5.7-8 in the DEIR evaluates the consistency of the proposed project to the applicable measures of the Community CAP. As discussed in the Table, the proposed project would be consistent with the applicable measures. For example, the proposed project would construct recycled water infrastructure and utilize recycled water for 40 percent of its total water demand and 100 percent of its outdoor use. In addition, approximately 90 percent of the demolition debris generated from project-related demolition activities is anticipated to be reprocessed and reused. Additionally, the project would be consistent with the CAP Appendix B, Greenhouse Gas Emissions CEQA Thresholds and Screening Tables (CAP Screening Tables), which establishes a points system that assigns values for each GHG emissions mitigation design element or operational program feature incorporated into a given development project. The CAP Screening Tables point values correspond to the minimum GHG emissions reduction expected from each feature. Projects with features that yield at least 100 Screening Table points are considered consistent with the reduction quantities anticipated in the City's CAP.

## **6. Remediates On-site Contamination**

The project would remediate existing site conditions, which consist of historic agricultural and dairy-related uses that contributed on site contamination.

### **C. Conclusion**

The City Council of Ontario has balanced the project's benefits against the significant unavoidable impacts. The City Council finds that the proposed project's benefits, which aim to meet the goals and policies of the City of Ontario General Plan (TOP), outweigh project's significant unavoidable impacts, and these impacts, therefore, are considered acceptable in the light of the project's benefits. The City Council finds that each of the benefits described above is an overriding consideration, independent of the other benefits, that warrants approval of the project notwithstanding the project's significant unavoidable impact.

## **VII. FINDINGS ON RESPONSES TO COMMENTS ON THE DEIR AND REVISIONS TO THE FEIR**

The FEIR contains response to comments, revisions, clarifications, and corrections to the DEIR. The focus of the response to comments is on the disposition of significant environmental issues as raised in the comments, as specified by State CEQA Guidelines Section 15088(b). The City provided written responses to each comment made by a



public agency, as set forth in Section 2 of the FEIR, pursuant to State CEQA Guidelines Section 15088(b).

City staff has reviewed this material and determined that none of this material constitutes the type of significant new information that requires recirculation of the DEIR for further public comment under CEQA Guidelines Section 15088.5. None of this new material indicates that the project will result in a significant new environmental impact not previously disclosed in the DEIR. Additionally, none of this material indicates that there would be a substantial increase in the severity of a previously identified environmental impact that will not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15088.5 of the CEQA Guidelines.

### **VIII. CERTIFICATION OF THE EIR**

The City Council finds that it has reviewed and considered the FEIR in evaluating the proposed Specific Plan, that the FEIR is an accurate and objective statement that fully complies with CEQA, State CEQA Guidelines and the City's local CEQA Guidelines and that the Final EIR reflects the independent judgment of the City Council.

The City Council declares that no new significant information as defined by State CEQA Guidelines, section 15088.5 has been received by the City after circulation of the Draft EIR that would require recirculation.

The City Council certifies the Environmental Impact Report based on the entirety of the record of proceedings, including but not limited to the following findings and conclusions:

#### **A. Findings**

The following significant environmental impacts have been identified in the EIR and will require mitigation as set forth in Section III, E of this Resolution but cannot be mitigated to a level of insignificance: Agricultural Resources (project-related and cumulative), Air Quality (project-related and cumulative), Greenhouse Gas Emissions (cumulative), and Transportation (project-related and cumulative).

#### **B. Conclusions**

1. Except as to those impacts stated above relating to Agricultural Resources, Air Quality, Greenhouse Gas Emissions, and Transportation, all significant environmental impacts from the implementation of the proposed project have been identified in the EIR and, with implementation of the mitigation measures identified, will be mitigated to a level of insignificance.
2. Other alternatives to the proposed Specific Plan, which could potentially achieve the basic objectives of the proposed Specific Plan, have been considered and rejected in favor of the proposed Specific Plan.

3. Environmental, economic, social and other considerations and benefits derived from the development of the proposed Specific Plan override and make infeasible any alternatives to the proposed Specific Plan or further mitigation measures beyond those incorporated into the proposed project.

**IX. MITIGATION MONITORING AND REPORTING PLAN**

Pursuant to Public Resources Code section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Plan attached to this Resolution as Exhibit A. In the event of any inconsistencies between the mitigation measures as set forth herein and the Mitigation Monitoring and Reporting Plan, the Mitigation Monitoring and Reporting Plan shall control.

**X. STAFF DIRECTION**

A Notice of Determination shall be filed with the County of San Bernardino within five (5) working days of final Project approval.

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

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-    was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2020-    duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

**EXHIBIT "A"**

Ontario Ranch Business Park Specific Plan  
Mitigation Monitoring and Reporting Plan  
*(Document follows this page)*

**EXHIBIT "A"**

August 2020 | Mitigation Monitoring and Reporting Program  
State Clearinghouse No. 2019050018

**ONTARIO RANCH BUSINESS PARK SPECIFIC  
PLAN**  
for City of Ontario

*Prepared for:*

**City of Ontario**

Contact: Richard Ayala, Senior Planner  
303 East "B" Street  
Ontario, California 91761  
909.395.2036

*Prepared by:*

**PlaceWorks**

Contact: Nicole Vermilion, Principal  
3 MacArthur Place, Suite 1100  
Santa Ana, California 92707  
714.966.9220  
info@placeworks.com  
www.placeworks.com



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# 1. Introduction

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## 1.1 PURPOSE OF MITIGATION MONITORING PROGRAM

This Mitigation Monitoring Program has been developed to provide a vehicle by which to monitor mitigation measures and conditions of approval outlined in the Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019050018. The Mitigation Monitoring Program has been prepared in conformance with Section 21081.6 of the Public Resources Code and City of Ontario Monitoring Requirements. Section 21081.6 states:

- (a) When making findings required by paragraph (1) of subdivision (a) of Section 21081 or when adopting a mitigated negative declaration pursuant to paragraph (2) of subdivision (c) of Section 21080, the following requirements shall apply:
  - (1) The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead or responsible agency, prepare and submit a proposed reporting or monitoring program.
  - (2) The lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.

## 1.2 PROJECT LOCATION

The Ontario Ranch Business Park project site (project site) encompasses eleven parcels totaling 85.6 acres in the City of Ontario. The City of Ontario is located approximately 40 miles east of downtown Los Angeles, 20 miles west of downtown San Bernardino, and 30 miles east from the Orange County line.

Regional access to the project site is provided by State Route 83 (SR-83; Euclid Avenue), which connects to State Route 60 (SR-60) and Interstate (I-10) to the north, I-15 approximately 5.5 miles to the east, and State Route 71 (SR-71) approximately 3 miles to the southwest. SR-71 connects the project to Interstate 91 (I-91) in unincorporated Riverside County.

The project site is in the southwestern portion of Ontario, immediately north of the City of Chino in San Bernardino County. The project site is located east of Euclid Avenue, north of Merrill Avenue, west of the unimproved right-of-way of Sultana Avenue, and south of Eucalyptus Avenue.



## 1. Introduction

### 1.3 PROJECT DESCRIPTION

The project includes a general plan amendment, specific plan, development plan review, tentative parcel map, and development agreement to develop a warehouse facility on 85.6 acres of land. The general plan amendment is proposed to change the site's land use designation from general commercial, office commercial, and low-medium density residential to approximately 24 acres of business park (0.6 FAR) and 62 acres of industrial (0.55 FAR). The facility would be comprised of eight warehouse buildings with areas ranging from 46,900 square feet to 618,353 square feet, for a maximum development of 1,905,027 square feet of warehouse and office uses. Office uses are ancillary to the warehouses and are included in each of the eight buildings. The Specific Plan will provide zoning regulations for development of the project. It will establish permitted land use, development standards, infrastructure requirements, and implementation requirements for development consistency.

### 1.4 ENVIRONMENTAL IMPACTS

#### 1.4.1 Impacts Considered No Impact or Less Than Significant

The EIR identified various thresholds from the CEQA Guidelines among a number of environmental categories that would not significantly impact the proposed project as identified in Chapter 5, *Environmental Analysis*, and therefore, did not require mitigation. Impacts to the following environmental resources were found to be less than significant or no impact:

- Energy
- Hydrology and Water Quality
- Land Use and Planning
- Population and Housing
- Public Services
- Utilities and Service Systems

#### 1.4.2 Potentially Significant Adverse Impacts That Can Be Mitigated, Avoided, or Substantially Lessened

The EIR concluded that the proposed project could result in one or more potentially significant impacts in the following topic areas:

- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Noise
- Tribal Cultural Resources

However, the EIR also found these impacts would be reduced, avoided, or substantially lessened through the implementation of mitigation measures, which are listed in Table 2-1, *Mitigation Monitoring Requirements*.

## 1. Introduction

### 1.4.3 Unavoidable Significant Adverse Impacts

The following impacts would remain significant and unavoidable after implementation of required mitigation, as identified in the EIR:

- Agriculture and Forestry Resources
- Air Quality
- Greenhouse Gas Emissions
- Transportation

# 1. Introduction

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## 2. Mitigation Monitoring Requirements

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### 2.1 MITIGATION MONITORING PROGRAM ORGANIZATION

Project-specific mitigation measures have been categorized in a matrix format, as show in Table 2-1. The matrix identifies the environmental factor, specific mitigation measures, schedule, and responsible monitor. The mitigation matrix will serve as the basis for scheduling the implementation of, and compliance with, all mitigation measures.

## 2. Mitigation Monitoring Requirements

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## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<b>5.2 AIR QUALITY</b>				
<p>AQ-1 Construction contractors shall, at minimum, use equipment that meets the United States Environmental Protection Agency's (EPA) Tier 4 Final emissions standards for off-road diesel-powered construction equipment with more than 50 horsepower for all Phase 1 rough grading and rough grading soil hauling activities, unless it can be demonstrated to the City of Ontario Building Department that such equipment is not available. Where equipment is not available, the next available engine Tier (e.g., US EPA Tier 4 Interim equipment) shall be used. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by Tier 4 Final emissions standards for a similarly sized engine, as defined by the California Air Resources Board's regulations. For construction equipment 25 horsepower or less (e.g., plate compactors, pressure washers), the Construction Contractor shall use battery-powered or alternative fuel-powered equipment. During construction activity, electrical hook-ups or other charging mechanisms (including generators) for electric construction tools, such as saws, drills and compressors, shall be provided where feasible.</p> <p>Prior to construction, the project engineer shall ensure that all construction (e.g., demolition and grading) plans clearly show the requirement for EPA Tier 4 Final emissions standards for construction equipment over 50 horsepower and battery-powered or alternative fuel-powered equipment for engines under 25 horsepower for the specific activities stated above. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City of Ontario. The construction equipment list shall state the makes, models, Equipment Identification Numbers, and number of construction equipment onsite. Equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations. Construction contractors shall also ensure that all nonessential idling of construction equipment</p>	<p>Construction Contractor, Project Engineer</p>	<p>Prior to, and during, construction activities</p>	<p>City of Ontario Building Department</p>	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

	<b>Responsibility for Implementation</b>	<b>Timing</b>	<b>Responsibility for Monitoring</b>	<b>Monitor (Signature Required) (Date of Compliance)</b>
<p><b>Mitigation Measure</b></p> <p>is restricted to 5 minutes or less in compliance with Section 2449 of the California Code of Regulations, Title 13, Article 4.8, Chapter 9.</p>				
<p>AQ-2</p> <p>During building construction, the construction contractor shall, at minimum, use paints with a volatile organic compound (VOC) content of 20 grams per liter or less for all interior and exterior coatings of the Phase 1 buildings (i.e., Buildings 1 through 3). This requirement shall be noted on all construction management plans verified by the City of Ontario prior to issuance of any construction permits and during interior coating activities and verified by the City of Ontario during construction activities.</p>	Construction Contractor	Prior to issuance of any construction permits and during interior coating activities	City of Ontario Building Department	
<p>AQ-3</p> <p>During building construction, the construction contractor shall, at minimum, use paints with a volatile organic compound (VOC) content of 50 grams per liter or less for all interior and exterior coatings of the Phase 2 buildings (i.e., Buildings 4 through 8). This requirement shall be noted on all construction management plans verified by the City of Ontario prior to issuance of any construction permits and during interior coating activities and verified by the City of Ontario during construction activities.</p>	Construction Contractor	Prior to issuance of any construction permits and during interior coating activities	City of Ontario Building Department	
<p>AQ-4</p> <p>During Phase 1 and Phase 2 construction, the construction contractor shall, at minimum, use paints with a volatile organic compound (VOC) content of 50 grams per liter or less for all surface parking lot striping. This requirement shall be noted on all construction management plans verified by the City of Ontario prior to issuance of any construction permits and during interior coating activities and verified by the City of Ontario during construction activities.</p>	Construction Contractor	Prior to issuance of any construction permits and during interior coating activities	City of Ontario Building Department	
<p>AQ-5</p> <p>Only electric-powered off-road equipment (e.g., yard trucks/hostlers) shall be utilized onsite for daily warehouse and business operations. The project developer/facility owner shall disclose this requirement to all tenants/business entities prior to the signing of any lease agreement. In addition, the limitation to use only electric-powered off-road equipment shall be included all leasing agreements.</p> <p>Prior to issuance of a Business License for a new tenant/business entity, the project developer/facility owner and tenant/business entity shall provide to the City of Ontario Planning Department and Business</p>	Project Developer/Facility Owner	Prior to issuance of a Business License for a new tenant/business entity	City of Ontario Planning Department	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

	Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
	License Department a signed document (verification document) noting that the project development/facility owner has disclosed to the tenant/business entity the requirement to use only electric-powered equipment for daily operations.				
AQ-6	All truck/dock bays that serve cold storage facilities within the proposed buildings shall be electrified to facilitate plug-in capability and support use of electric standby and/or hybrid electric transport refrigeration units. All site and architectural plans submitted to the City of Ontario Planning Department shall note all the truck/dock bays designated for electrification. Prior to the issuance of a Certificate of Occupancy, the City of Ontario Building Department shall verify electrification of the designated truck/dock bays.	Project Developer/Facility Owner	Prior to the issuance of a Certificate of Occupancy	City of Ontario Building Department	
AQ-7	To reduce idling emissions from transport trucks, signage shall be placed at truck access gates, loading docks, and truck parking areas that identify applicable California Air Resources Board (CARB) anti-idling regulations (e.g., Rule 2485). At minimum, each sign shall include: 1) instructions for truck drivers to shut off engines when not in use; 2) instructions for drivers of diesel trucks to restrict non-essential idling to no more than two (2) consecutive minutes; and 3) telephone numbers of the building facilities manager and CARB to report violations. All signage shall be made of weather-proof materials. All site and architectural plans submitted to the City of Ontario Planning Department shall note the locations of these signs. Prior to issuance of the Certificate of Occupancy, the City of Ontario Building Department shall verify the installation of these signs.	Project Developer/Facility Owner	Prior to issuance of the Certificate of Occupancy	City of Ontario Building Department	
AQ-8	For tenants that require use of trucks with transport refrigeration units (TRUs), all TRU operating onsite shall be required to meet the US Environmental Protection Agency (EPA) Tier 4 standard, which requires engines to achieve 0.02 grams per brake horsepower hour (g/bhp-hr) of particulate matter (PM). The project developer/facility owner shall disclose this requirement to all tenants/business entities that require cold storage and use of TRUs prior to the signing of any lease agreement. In addition, the limitation to use only Tier 4 off-road equipment shall be included all leasing agreements.	Project Developer/Facility Owner	Prior to issuance of the Building License	City of Ontario Building Department	



## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>Prior to issuance of a Business License for a new tenant/business entity, the project developer/facility owner and tenant/business entity shall provide to the City of Ontario Planning Department and Business License Department a signed document (verification document) noting that the project development/facility owner has disclosed to the tenant/business entity the requirement to use only Tier 4 TRUs for daily operations. .</p>				
<p>AQ-9 All landscaping equipment (e.g., leaf blower) used for property management shall be electric-powered only. The property manager/facility owner shall provide documentation (e.g., purchase, rental, and/or services agreement) to the City of Ontario Planning Department to verify, to the City's satisfaction, that all landscaping equipment utilized will be electric-powered.</p>	Property Manager/Facility Owner	Prior to issuance of the Certificate of Occupancy	City of Ontario Building Department	
<p>AQ-10 All paints used for interior and exterior architectural re-coatings of all buildings shall at minimum, have a volatile organic compound (VOC) content of 20 grams per liter or less.</p>	Construction Contractor	Prior to issuance of the Certificate of Occupancy	City of Ontario Building Department	
<p>AQ-11 Paints used in re-stripping of the parking lot shall, at minimum, have a volatile organic compound (VOC) content of 50 grams per liter or less.</p>	Construction Contractor	Prior to issuance of the Certificate of Occupancy	City of Ontario Building Department	
<p>AQ-12 The project shall install the necessary infrastructure (e.g., conduit in parking lots) to support the future transition to zero emissions (ZE) and near zero emission (NZE) trucks. These requirements shall be noted on all site plans and verified by the City of Ontario during site inspections prior to issuance of occupancy permits.</p>	Property Manager/Facility Owner	Prior to issuance of the Certificate of Occupancy	City of Ontario Building Department	
<p>AQ-13 The City of Ontario shall require phased-in use of on-road trucks that have zero-emissions or near-zero emissions—such as trucks with natural gas engines that meet the California Air Resources Board's (CARB) adopted optional nitrogen oxides (NOX) emissions standard of 0.02 gram per break horsepower-hour (g/bhp-hr). At a minimum, operators on-site shall commit to using year 2010 or newer trucks with engines that meet CARB's 2010 emissions standards—which are 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr for NOx—or newer, cleaner trucks or equipment. These requirements shall be noted on all site plans and verified by the City of Ontario during site inspections during project operation. During operation, the building</p>	Property Manager/Facility Owner	Prior to issuance of the Certificate of Occupancy	City of Ontario Building Department	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

	<b>Mitigation Measure</b>	<b>Responsibility for Implementation</b>	<b>Timing</b>	<b>Responsibility for Monitoring</b>	<b>Monitor (Signature Required) (Date of Compliance)</b>
	tenant and/or building owner shall maintain records of all truck deliveries to the warehouse on an annual basis. These records shall be made available to the City of Ontario upon request.				
AQ-14	<p>Prior to the issuance of occupancy permit, the applicant and/or building operators shall submit an employee training handbook to the City of Ontario that includes the following:</p> <ul style="list-style-type: none"> <li>• Required facility operator management and employee training on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.</li> <li>• Required facility operator management and employee training on keeping vehicle records in diesel technologies and compliance with CARB regulations.</li> <li>• Required facility operator management and employee to attend courses approved by the California Air Resources Board.</li> <li>• The facility operators shall maintain records on-site demonstrating compliance with training and shall make records available for inspection by the City of Ontario upon request.</li> </ul>	Property Manager/Facility Owner	Prior to issuance of the Certificate of Occupancy	City of Ontario Building Department	
AQ-15	The City of Ontario shall require that check-in points for trucks provide sufficient stacking distance within the individual parcels to ensure that there are no trucks queuing outside of the facility and that truck traffic does not idle on public streets. The applicant for a warehouse project that includes check-in points for trucks shall submit a queuing analysis to the City of Ontario Engineering Division prior to approval of grading permits.	Property Manager/Facility Owner	Prior to issuance of the Grading Permit	City of Ontario Engineering Division	
AQ-16	Construction contractors shall, at minimum, use equipment that meets the United States Environmental Protection Agency's (EPA) Tier 4 Final emissions standards for off-road diesel-powered construction equipment with more than 50 horsepower for all Phase 2 building construction activities, unless it can be demonstrated to the City of Ontario Building Department that such equipment is not available. Where equipment is not available, the next available engine Tier (e.g., US EPA Tier 4 Interim equipment) shall be used. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by Tier 4 Final emissions standards for a similarly sized engine, as defined by	Construction Contractor, Project Engineer	Prior to, and during, construction activities	City of Ontario Building Department	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p><b>Mitigation Measure</b></p> <p>the California Air Resources Board's regulations. For construction equipment 25 horsepower or less (e.g., plate compactors, pressure washers), the Construction Contractor shall use battery-powered or alternative fuel-powered equipment. During construction activity, electrical hook-ups or other charging mechanisms (including generators) for electric construction tools, such as saws, drills and compressors, shall be provided where feasible.</p> <p>Prior to construction, the project engineer shall ensure that all construction (e.g., demolition and grading) plans clearly show the requirement for EPA Tier 4 Final emissions standards for construction equipment over 50 horsepower and battery-powered or alternative fuel-powered equipment for engines under 25 horsepower for the specific activity stated above. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City of Ontario. The construction equipment list shall state the makes, models, Equipment Identification Numbers, and number of construction equipment onsite. Equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations. Construction contractors shall also ensure that all nonessential idling of construction equipment is restricted to 5 minutes or less in compliance with Section 2449 of the California Code of Regulations, Title 13, Article 4.8, Chapter 9.</p>				
<p>AQ-17</p> <p>Prior to future discretionary approval, if it is determined that a project has the potential to emit nuisance odors beyond the property line, an odor management plan shall be prepared by the project applicant, subject to review and approval by the City of Ontario Planning Department. Facilities that have the potential to generate nuisance odors include but are not limited to:</p> <ul style="list-style-type: none"> <li>• Wastewater treatment plants</li> <li>• Composting, green waste, or recycling facilities</li> <li>• Fiberglass manufacturing facilities</li> <li>• Painting/coating operations</li> <li>• Large-capacity coffee roasters</li> <li>• Food-processing facilities</li> </ul>	Project Applicant	Prior to future discretionary approval	City of Ontario Planning Department	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>The odor management plan shall show compliance with the South Coast Air Quality Management District's Rule 402 for nuisance odors. The Odor Management Plan shall identify the best available control technologies for toxics (T-BACTs) that will be utilized to reduce potential odors to acceptable levels, including appropriate enforcement mechanisms. T-BACTs may include, but are not limited to scrubbers (i.e., air pollution control devices) at the industrial facility. T-BACTs identified in the odor management plan shall be identified as mitigation measures in the environmental document and/or incorporated into the site plan.</p>				
<b>5.3 BIOLOGICAL RESOURCES</b>				
<p>BIO-1</p> <p>Prior to the issuance of permits for any construction activity, the project applicant shall demonstrate compliance with the federal MBTA and Fish and Game Code Sections 3503 and 3503 to the satisfaction of the City of Ontario that either of the following has been accomplished:</p> <ul style="list-style-type: none"> <li>• Conduct pre-construction nesting bird surveys within three days prior to any disturbance of the site, including staging, site preparation, diking, demolition activities, and grading. If active nests are found, they shall be flagged and the biologist shall establish suitable buffers around the nest (generally a minimum of 200 feet up to 500 feet for raptors and a minimum of 50 feet up to 300 feet for passerine species, with specific buffer widths to be determined by a qualified biologist). The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests.</li> </ul>	Project Applicant	Prior to the issuance of permits for any construction activity	City of Ontario Planning Department	
<p>BIO-2</p> <p>Three days prior to any ground disturbing activities or vegetation removal, a qualified biologist shall conduct a pre-construction survey to identify the southern California legless lizard and California glossy snake. Any reptile species found to be present within the project area shall be relocated outside of the impact areas under the supervision of a qualified biologist. Biological monitors shall be on-call to relocate</p>	Qualified Biologist	Three days prior to any ground disturbing activities or vegetation removal	City of Ontario Planning Department	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>any reptile or amphibian that is encountered during construction activities.</p>				
<p>BIO-3</p> <p>Prior to issuance of a demolition or grading permit for any ground disturbing activity, a qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls within 14 days prior to site disturbance. Surveys shall be conducted consistent with the procedures in outlined in the "California Department of Fish and Wildlife (CDFW) 2012 Staff Report on Burrowing Owl Mitigation." If the species is absent, no additional mitigation will be required. City of Chino, RMP Boundary. If burrowing owl(s) is(are) detected within the Project's disturbance footprint in the City of Chino RMP boundary, the owl(s) are required to be handled as indicated by the RMP:</p> <p><b>Areas Outside of the Chino RMP Boundary.</b> If burrowing owl(s) are observed onsite during the pre-construction clearance survey;</p> <ul style="list-style-type: none"> <li>• Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within designated off-site conserved lands to be identified through coordination with CDFW and the City in which the burrowing owl(s) is(are) detected (either the City of Ontario or the City of Chino). A qualified biologist shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls.</li> <li>• Until suitable replacement burrows have been provided/confirmed within the off-site conserved lands to be identified through coordination with CDFW and the City of Ontario or the City of Chino, no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31). If reduced setbacks are implemented, a broad-scale, long-term, scientifically-rigorous monitoring program shall be implemented by the City to ensure that burrowing owls are not detrimentally affected by the project.</li> </ul>	<p>Qualified Biologist</p>	<p>Prior to the issuance of a demolition or grading permit for any ground disturbing activity</p>	<p>City of Ontario Planning Department</p>	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>• Occupied burrows should not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</p> <p>• If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report.</p> <p><b>City of Chino, RMP Boundary.</b> If burrowing owl(s) is(are) detected within the Project's disturbance footprint in the City of Chino RMP boundary, the owl(s) are required to be handled as indicated by the RMP:</p> <p>The RMP addresses mitigation requirements for impacts to burrowing owls. The RMP states that the 1995 CDFG Staff Report on Burrowing Owl Mitigation (as supplemented by the RMP) shall be followed when burrowing owls are detected on properties. If avoidance of occupied habitat is infeasible, provisions shall be made to passively relocate owls from sites in accordance with the current 2012 CDFG Staff Report (supersedes 1995 CDFG Staff Report).</p> <p>According to the Preserve EIR and RMP, Burrowing Owls to be relocated from properties within the City's Subarea 2 are intended to be accommodated within a "300-acre conservation area" and/or additional Candidate Relocation Areas as described on Page 4-16 and 4-21 of the RMP. One such contingency conservation area is identified in the RMP as "Drainage Area B."</p> <p>Drainage Area B consists of a series of Natural Treatment System (NTS) facilities that were constructed south of Kimball Avenue and west of Mill Creek Road. When the NTS facilities were constructed,</p>				

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>approximately 50 artificial owl burrows were installed within the basins to accommodate relocated owls and additional owls dispersing to the site. This location was given top priority as an owl relocation site by the RMP due to its proximity to areas that have been and will be converted to urban development. If Burrowing Owls are present at the Project site at time of site disturbance, the Burrowing Owls would be more likely to initially relocate to the immediately surrounding properties, including additional locations within the Chino Airport. However, the NTS basins represent the nearest conservation area providing regional mitigation for the loss of burrowing owl habitat.</p> <p>Consistent with the RMP, the following measures shall apply to the portion of the Project site within the RMP boundary regarding burrowing owl mitigation:</p> <ul style="list-style-type: none"> <li>• Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within the City of Chino designated relocation area (e.g. the NTS basins). A qualified biologist through coordination with the City shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls.</li> <li>• Until suitable replacement burrows have been provided/confirmed within the designated relocation area (e.g. the NTS basins), no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).</li> <li>• Occupied burrows should not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</li> </ul>				

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p><b>Mitigation Measure</b></p> <ul style="list-style-type: none"> <li>• If Burrowing Owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report and Table 4-6 of the RMP.</li> <li>• Pursuant to mitigation measure B-3(8) of The Preserve EIR, and as noted on Page 4-39 of the RMP, the Project shall pay the required mitigation fee prior to initiation of ground disturbing activities. One priority for funding supported by the mitigation fees is the establishment and long-term management of burrowing owl habitat within the Drainage Area B conservation area.</li> </ul>				
<p>BIO-4</p> <p>Prior to implementation of project activities, a qualified biologist shall be retained to determine whether potential roosting sites for bats may be affected. For large ornamental trees suitable for bat roosting/nursery, exit counts and acoustic surveys shall be performed prior to initial ground disturbance and vegetation removal to determine whether the project footprint and a 300-foot buffer supports a nursery or roost, and by which species. This survey work will occur between late-spring and late summer and/or in the fall (generally mid-March through late October).</p> <p>If the results of the bat survey finds a total of a single roosting individual of a special-status bat species or 25 or more individuals of non-special-status bat species with potential to be present in the study area (i.e., western Mastiff bat, big free-tailed bat, pallid bat, western red bat, and western yellow bat), a Bat Management Plan shall be developed to ensure mortality to bats does not occur. For each location confirmed to be occupied by bats, the plan will provide details both in text and graphically where exclusion devices/and or staged tree removal will need to occur, the timing for exclusion work, and the timeline and methodology needed to exclude the bats. The plan will need to be reviewed and approved by CDFW prior to disturbance of the roost(s).</p>	<p>Qualified Biologist</p>	<p>Prior to implementation of project activities</p>	<p>City of Ontario Planning Department</p>	
<p>BIO-5</p> <p>Within the breeding season (May- July) prior to the onset of construction activities, a qualified biologist shall conduct pre-</p>	<p>Qualified Biologist</p>	<p>Within 14 days prior to the onset construction activities</p>	<p>City of Ontario Planning Department</p>	



## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>construction visual surveys, following U.S. Geological Survey visual survey protocol, for western pond turtle within all areas of any suitable aquatic habitat for this species (retention ponds). If Western pond turtles are observed during the pre-construction survey, the Applicant shall prepare for CDFW review and approval, a translocation plan identifying proposed protocol for trapping and relocating turtles, including identifying potential, appropriate receiver sites to relocate western pond turtles. If no western pond turtles are observed during the pre-construction survey, then construction activities may begin. If construction is delayed or halted for more than 30 days, another pre-construction survey for western pond turtle shall be conducted. Within seven days of the pre-construction survey, a report of findings from the survey shall be submitted to the CDFW.</p> <p>During construction, a qualified biological monitor who has been approved by the CDFW to relocate western pond turtles shall be onsite to ensure that no western pond turtles are harmed. If western pond turtles are observed in the construction area at any time during construction, the onsite biological monitor shall be notified and construction in the vicinity of the sighting shall be halted until such a time as a turtle has been removed from the construction zone, and relocated by an approved biologist. If a sighting occurs during construction, the biologist shall prepare a report of the event and submit it to CDFW.</p>				
<b>5.4 CULTURAL RESOURCES</b>				
<p>CUL-1 Prior to issuance of any permits allowing ground-disturbing activities for the proposed project, the City of Ontario shall ensure that an archeologist who meets the Secretary of the Interior's Standards for professional archaeology has been retained for the project and will be on-call during all grading and other significant ground-disturbing activities. The Qualified Archaeologist shall ensure that the following measures are followed for the project:</p> <ul style="list-style-type: none"> <li>• Prior to any ground disturbance, the Qualified Archaeologist, or their designee, shall provide worker environmental awareness protection</li> </ul>	Qualified Archaeologist	Prior to issuance of any permits allowing ground-disturbing activities	City of Ontario Planning Department	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)	
<p>training to construction personnel regarding regulatory requirements for the protection of cultural (prehistoric and historic) resources. As part of this training, construction personnel shall be briefed on proper procedures to follow should unanticipated cultural resources be made during construction.</p> <ul style="list-style-type: none"> <li>• In the event that unanticipated cultural material is encountered during any phase of project construction, all construction work within 50 feet (15 meters) of the find shall cease and the Qualified Archaeologist shall assess the find for importance. Construction activities may continue in other areas. If the discovery is determined to not be important by the Qualified Archaeologist, work will be permitted to continue in the area.</li> <li>• If a find is determined to be important by the Qualified Archaeologist, additional investigation would be required, or the find can be preserved in place and construction may be allowed to proceed.</li> <li>• Additional investigation work would include scientific recording and excavation of the important portion of the find.</li> <li>• If excavation of a find occurs, the Qualified Archaeologist shall draft a report within 60 days of conclusion of excavation that identifies the find and summarizes the analysis conducted. The completed report shall be approved by the City's Planning Director and filed with the County and with the South Central Coastal Information Center at California State University, Fullerton.</li> <li>• Excavated finds shall be curated at a repository determined by the Qualified Archaeologist and approved by the City.</li> </ul>					
<b>5.6 GEOLOGY AND SOILS</b>					
GEO-1	The project applicant shall retain an on-call paleontologist to prepare a Paleontological Resources Impact Mitigation Program consistent with the guidelines of the Society of Vertebrate Paleontology. The	Paleontological Monitor	During ground-disturbing activities	City of Ontario Planning Department	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)	
<p>report shall include the methods that will be used to protect paleontological resources, as well as procedures for monitoring, fossil preparation and identification, curation into a repository, and preparation of a report at the conclusion of grading. Excavation and grading activities at a depth of 10 feet below surface or within areas of older Quaternary deposits, shall require a full-time paleontological monitor. If paleontological resources are encountered during the course of ground disturbance, the paleontological monitor shall have the authority to temporarily redirect construction away from the area of the find in order to assess its significance. In the event that paleontological resources are encountered when a paleontological monitor is not present, work in the immediate area of the find shall be redirected, and a paleontologist should be contacted to assess the find for significance. If determined to be significant, the fossil shall be collected and prepared to the point of identification, identified to the lowest taxonomic level possible, cataloged, and curated into the permanent collections of a museum repository. At the conclusion of curation, a report of findings shall be prepared to document the results of the monitoring program.</p>					
<b>5.7 GREENHOUSE GAS EMISSIONS</b>					
GHG-1	<p>The applicant/developer shall design the proposed surface parking lots to provide parking for low-emitting, fuel-efficient, and carpool/van vehicles. At minimum, the number of preferential parking spaces shall equal to the Tier 2 Nonresidential Voluntary Measures of California's Green Building Standards Code Section A5.106.5.1.2.</p>	Applicant/Developer	During design phase	City of Ontario Planning Department	
GHG-2	<p>The applicant/developer shall design the proposed surface parking lots to provide electric vehicle (EV) charging stations. At minimum, the number of EV charging stations shall equal to the Tier 2 Nonresidential Voluntary Measures of California's Green Building Standards Code Section A5.106.5.3.2.</p>	Applicant/Developer	During design phase	City of Ontario Planning Department	
GHG-3	<p>All individual projects accommodated under the proposed project shall be designed in such a manner to include features that achieve at minimum, 100 cumulative points on the City of Ontario Community Climate Action Plan GHG Screening Threshold Table (Community</p>	Applicant/Developer	Prior to discretionary approval	City of Ontario Planning Department	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

	Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
	CAP, Appendix B, Greenhouse Gas Emissions CEQA Thresholds and Screening Tables). Prior to discretionary approval, the project applicant shall provide the completed GHG Screening Threshold Table and supporting documentation to the City of Ontario Planning Department for verification of a project achieving the minimum 100 points.				
<b>5.8 HAZARDS AND HAZARDOUS MATERIALS</b>					
HAZ-1	Prior to the issuance of grading permits, the project applicant shall conduct further testing for the presence of methane on the project site, in accordance with DTSC methane assessment guidelines. The project applicant shall prepare a methane gas soil survey and implement grading activity recommendations to the satisfaction of the City Building Department. This shall include a post-construction soil gas investigation and installation of methane gas mitigation systems where post-grading methane levels exceed 5,000 ppmv, should any such levels occur.	Project Applicant	Prior to issuance of grading permits	City of Ontario Building Department	
HAZ-2	Following drainage of the on-site ponds, the project applicant shall conduct a limited Phase II subsurface assessment of sediments to evaluate the sediments for chemical risks to human health and the environment. If contamination from dairy and animal-related wastes is encountered at a level above Environmental Screening Levels (ESLs) for non-residential uses, the appropriate environmental agency (RWQCB, DTSC, SCAQMD) shall be notified. Any contamination identified as a result of such testing/sampling shall be investigated, and removed or remediated to the satisfaction of the environmental agency with evidence provided to the City.	Project Applicant	After drainage of on-site ponds	City of Ontario Planning Department	
HAZ-3	<b>Soil Management Plan.</b> Prior to issuance of a grading permit, the project applicant shall retain a qualified environmental consultant to prepare a Soil Management Plan (SMP) that details procedures and protocols for onsite management of soils containing potentially hazardous materials. The SMP would be implemented during grading activities onsite to ensure that soils containing residual levels of hydrocarbons or arsenic are properly identified, monitored, and managed onsite, and include the following:	Project Applicant/Qualified Environmental Consultant	Prior to issuance of a grading permit	City of Ontario Planning Department	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<ul style="list-style-type: none"> <li>• A certified hazardous waste hauler shall remove all potentially hazardous soils. In addition, sampling of soil shall be conducted during excavation to ensure that all petroleum hydrocarbon and arsenic impacted soils are removed, and that Environmental Screening Levels (ESLs) for non-residential uses are not exceeded. Excavated materials shall be transported per California Hazardous Waste Regulations to a landfill permitted by the State to accept hazardous materials.</li> <li>• Any subsurface materials exposed during construction activities that appear suspect of contamination, either from visual staining or suspect odors, shall require immediate cessation of excavation activities. Soils suspected of contamination shall be tested for potential contamination. If contamination is found to be present per the Department of Toxic Substances Control Screening Levels for industrial/commercial land use (DTSC-SLi) and the EPA Regional Screening Levels for industrial/commercial land use (EPA-RSLi), it shall be transported and disposed of per state regulations to an appropriately permitted landfill.</li> <li>• The SMP shall include a Health and Safety Plan (HSP) addresses potential safety and health hazards and includes the requirements and procedures for employee protection; each contractor will be required to have their own HSP tailored to their particular trade that addresses the general project safety requirements. The HSP shall also outline proper soil handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction.</li> <li>• The SMP shall be prepared and executed in accordance with South Coast Air Quality Management District (SCAQMD) Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil. The SMP shall require the timely testing and sampling of soils so that contaminated soils can be separated from inert soils for proper disposal. The SMP shall specify the testing parameters and sampling</li> </ul>				

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>frequency. Anticipated testing includes total petroleum hydrocarbons (TPH), volatile organic compounds (VOCs), and semi-volatile organic compounds (SVOCs). During excavation, Rule 1166 requires that soils identified as contaminated shall be sprayed with water or another approved vapor suppressant, or covered with sheeting during periods of inactivity of greater than an hour, to prevent contaminated soils from becoming airborne. Under Rule 1166, contaminated soils shall be transported from the project site by a licensed transporter and disposed of at a licensed storage/treatment facility to prevent contaminated soils from becoming airborne or otherwise released into the environment.</p> <ul style="list-style-type: none"> <li>All SMP measures shall be printed on the construction documents, contracts, and project plans prior to issuance of grading permits.</li> </ul>				
<p>HAZ-4 Construction period testing: Construction at the project site shall be conducted under a project-specific Construction Risk Management Plan (CRMP) to protect construction workers, the general public, and the environment from subsurface hazardous materials previously identified and to address the possibility of encountering unknown contamination or hazards in the subsurface. The CRMP shall summarize soil and groundwater analytical data collected on the project sites during past investigations and during site investigation activities; delineate areas of known soil and groundwater contamination, if applicable; and identify soil and groundwater management options for excavated soil and groundwater, in compliance with local, state, and federal statutes and regulations. The CRMP shall:</p> <ul style="list-style-type: none"> <li>Provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively.</li> <li>Require the preparation of a project-specific Health and Safety Plan that identifies hazardous materials present, describes required health and safety provisions and training for all workers potentially exposed to hazardous materials in accordance with State and Federal worker</li> </ul>	Construction Contractor	During construction activities	City of Ontario Planning Department	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>safety regulations, and designates the personnel responsible for Health and Safety Plan implementation.</p> <ul style="list-style-type: none"> <li>Require the preparation of a contingency plan that shall be applied should previously unknown hazardous materials be encountered during construction activities. The contingency plan shall include provisions that require collection of soil and/or groundwater samples in the newly discovered affected area by a qualified environmental professional prior to further work, as appropriate. The analytical results of the sampling shall be reviewed by the qualified environmental professional and submitted to the appropriate regulatory agency. The environmental professional shall provide recommendations, as applicable, regarding soil/waste management, worker health and safety training, and regulatory agency notifications, in accordance with local, state, and federal requirements. Work shall not resume in the area(s) affected until these recommendations have been implemented under the oversight of the County or regulatory agency, as appropriate.</li> <li>Designate personnel responsible for implementation of the CRMP. The CRMP shall be submitted to the County for review and approval prior to the issuance of construction and demolition permits. This measure would reduce the hazards and hazardous materials impact to a less-than-significant level.</li> </ul>				
<p>HAZ-5 Prior to the commencement of any construction related site activities (clearing, demolition, grading etc.), all above ground storage tanks (ASTs) shall be removed. ASTs storing diesel shall be disposed of by a State of California licensed contractor and in compliance with the required San Bernardino County Fire Department (SBCFD) Hazardous Materials Division regulations for tank removals. For stained soils in the vicinity of diesel containing ASTs, as identified in the Phase I Environmental Site Assessment (ESA) dated March 15, 2017, soil samples shall be collected, as directed by the SBCFD inspector, for chemical analysis at a laboratory licensed by the State of California. If contaminated soils are encountered, a soil</p>	<p>Construction Contractor, San Bernardino County Fire Department Inspector</p>	<p>Prior to the commencement of any construction related site activities</p>	<p>City of Ontario Planning Department</p>	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

	Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
	management plan shall be prepared to manage the stained soils during redevelopment.				
HAZ-6	Prior to the issuance of a demolition permit for any buildings or structures onsite, the project applicant shall conduct a comprehensive ACM survey to identify the locations and quantities of ACM in above-ground structures. The project applicant shall retain a licensed or certified asbestos consultant to inspect buildings and structures onsite. The consultant's report shall include requirements for abatement, containment, and disposal of ACM, if encountered, in accordance with the South Coast Air Quality Management District's Rule 1403.	Project Applicant	Prior to issuance of a demolition permit	City of Ontario Planning Department	
<b>5.11 NOISE</b>					
N-1	<p>Prior to issuance of demolition, grading and/or building permits, a note shall be provided on construction plans indicating that during grading, demolition, and construction, the project applicant shall be responsible for requiring contractors to implement the following measures to limit construction-related noise:</p> <ul style="list-style-type: none"> <li>• Construction activity is limited to the daytime hours between 7:00 AM to 6:00 PM on weekdays and between 9:00 AM to 6:00 PM on Saturday per the City of Ontario Municipal Code. Construction is prohibited on Sundays and federal holidays per the City of Chino Municipal Code.</li> <li>• During the entire active construction period, equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds), wherever feasible.</li> <li>• Require that impact tools (e.g., jack hammers and hoe rams) be hydraulically or electrically powered wherever possible. Where the use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used along with external noise jackets on the tools.</li> </ul>	Project Applicant	Prior to issuance of demolition, grading and/or building permits	City of Ontario Planning Department	



## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<ul style="list-style-type: none"> <li>• Stationary equipment such as generators, air compressors shall be located as far as feasible from nearby noise-sensitive uses.</li> <li>• Stockpiling of materials shall be located as far as feasible from nearby noise-sensitive receptors.</li> <li>• Construction traffic shall be limited to approved haul routes established by the City and other agencies and shall be prohibited during nighttime hours (10:00 PM to 7:00 AM).</li> <li>• At least 10 days prior to the start of construction activities, a sign shall be posted at the entrance(s) to the job site, clearly visible to the public, that includes permitted construction days and hours, as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, he/she shall investigate, take appropriate corrective action, and report the action to the City.</li> <li>• Signs shall be posted at the job site entrance(s), within the on-site construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment shall be turned off if not in use for more than 5 minutes.</li> <li>• During the entire active construction period and to the extent feasible, the use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only. The construction manager shall use smart back-up alarms, which automatically adjust the alarm level based on the background noise level, or switch off back-up alarms and replace with human spotters in compliance with all safety requirements and laws.</li> <li>• Erect temporary noise barriers (at least as high as the exhaust of equipment and breaking line-of-sight between noise sources and</li> </ul>				

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>sensitive receptors) to maintain construction noise levels at or below the performance standard of 65 dBA. Barriers shall be constructed with a solid material that has a density of at least 4 pounds per square foot with no gaps from the ground to the top of the barrier. Effective locations for barriers are along Euclid Avenue and Eucalyptus Avenue where residences are directly across the street.</p>				
<p>N-2 Prior to the issuance of building permits, the project applicant shall and maintain rubberized or special asphalt paving, such as open grade asphalt concrete (OGAC) along Eucalyptus Avenue from Euclid Avenue to Grove Avenue.</p>	Project Applicant	Prior to the issuance of building permits	City of Ontario Building Department	
<p><b>5.14 TRANSPORTATION</b></p>				
<p>TRAF-1 Prior to issuance of occupancy permits for buildings that would be accommodated by the Ontario Ranch Business Park Specific Plan, the project applicant shall make fair-share payments to the City of Ontario, or agencies with jurisdiction over the improvement, toward the construction of the traffic improvements listed below. The following traffic improvements and facilities are necessary to mitigate impacts of the Ontario Ranch Business Park Specific Plan and shall be included in the fee mechanism(s):</p> <p><b>Existing With Project Improvements</b></p> <ul style="list-style-type: none"> <li>• Euclid Avenue (SR-83) &amp; Riverside Drive (#4): Add an eastbound right turn lane.</li> <li>• Grove Avenue &amp; Edison Avenue (#30): Install traffic signal.</li> <li>• Grove Avenue &amp; Eucalyptus Avenue (#31): Install traffic signal.</li> <li>• Grove Avenue &amp; Merrill Avenue (#32): Install traffic signal.</li> <li>• Walker Avenue &amp; Edison Avenue (#33): Install traffic signal.</li> <li>• Carpenter Avenue &amp; Merrill Avenue (#38): Install traffic signal.</li> <li>• Hamner Avenue &amp; Ontario Ranch Road (#49): (1) Modify the traffic signal to extend cycle length to 130-seconds. (2) Restripe the southbound approach to accommodate two left turn lanes, two through lanes, and one shared through-right turn lane.</li> </ul> <p><b>Opening Year (2022) Cumulative With Project Improvements</b></p>	Project Applicant	Prior to the issuance of occupancy permits	City of Ontario Traffic and Transportation Division	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>In addition to the improvements identified under Existing + Project, this scenario includes:</p> <ul style="list-style-type: none"> <li>• Euclid Avenue (SR-83) &amp; Riverside Drive (#4): Add 3rd southbound through lane.</li> <li>• Euclid Avenue (SR-83) &amp; Edison Avenue (#7): Add westbound right turn lane.</li> <li>• Euclid Avenue (SR-83) &amp; Pine Avenue (#14): (1) Add northbound free right turn lane; (2) Add 3rd northbound through lane; and (3) Add 3rd southbound through lane.</li> <li>• Grove Avenue &amp; Merrill Avenue (#32): (1) Add eastbound left turn lane.</li> <li>• Walker Avenue/Flight Avenue &amp; Merrill Avenue (#34): (1) Install traffic signal; (2) Add northbound left turn lane; (3) Restripe the northbound right turn lane to a shared through-right turn lane; (4) Add southbound left turn lane; (5) Add southbound shared through-right turn lane; (6) Add eastbound left turn lane</li> <li>• Vineyard Avenue/Hellman Avenue &amp; Merrill Avenue (#37): (1) Add northbound through lane; (2) Add southbound left turn lane; and (3) Add eastbound left turn lane.</li> <li>• Archibald Avenue &amp; Limonite Avenue (#43): (1) Add 2nd westbound right turn lane and (2) Add 2nd southbound left turn lane.</li> </ul> <p><b>Horizon Year (2040) With Project Improvements</b></p> <p>In addition to the improvements identified under Existing + Project and Opening Year Cumulative With Project, this scenario includes:</p> <ul style="list-style-type: none"> <li>• Euclid Avenue (SR-83) &amp; Riverside Drive (#4): (1) Add 2nd eastbound through lane; (2) Add 2nd northbound left turn lane; (3) Add 2nd southbound left turn lane; and (4) Add northbound right turn lane</li> <li>• Euclid Avenue (SR-83) &amp; Chino Avenue (#5): (1) Add westbound left turn lane</li> <li>• Euclid Avenue (SR-83) &amp; Schaefer Avenue (#6): (1) Add 2nd northbound left turn lane; (2) Add 2nd southbound left turn lane; and (3) Add 2nd eastbound left turn lane</li> </ul>				

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<ul style="list-style-type: none"> <li>• Euclid Avenue (SR-83) &amp; Edison Avenue (#7): (1) Add 2nd northbound left turn lane; (2) Add 2nd southbound left turn lane; (3) Add 2nd eastbound left turn lane; (4) Add 2nd eastbound through lane; (5) Add 3rd eastbound through lane; (6) Add 2nd westbound left turn lane; and (7) Modify the traffic signal to protect the eastbound and westbound left turns, and implement overlap phasing for the southbound and westbound right turn lanes.</li> <li>• Euclid Avenue (SR-83) &amp; Eucalyptus Avenue (#8): (1) Add 2nd westbound left turn lane; (2) Add westbound right turn lane</li> <li>• Euclid Avenue (SR-83) &amp; Merrill Avenue (#11): (1) Add 3rd northbound through lane; (2) Add eastbound left turn lane; (3) Add 2nd westbound left turn lane; and (4) Modify the traffic signal to implement overlap phasing for the northbound right turn lane</li> <li>• Euclid Avenue (SR-83) &amp; Kimball Avenue (#12): (1) Add 3rd northbound through lane; (2) Add 3rd southbound through lane; (3) Add 2nd westbound left turn lane; (4) Add eastbound right turn lane; (5) Add westbound right turn lane; and (6) Modify the traffic signal to implement overlap phasing for the westbound right turn lane</li> <li>• Euclid Avenue (SR-83) &amp; Pine Avenue (#14): (1) Add 2nd eastbound through lane; (2) Add 2nd northbound left turn lane; (3) Add 2nd southbound left turn lane; (4) Add southbound right turn lane; (5) Add 2nd westbound through lane; and (6) Add westbound right turn lane</li> <li>• Sultana Avenue &amp; Merrill Avenue (#27): (1) Install a stop control on the southbound approach and a southbound shared left-right turn lane; (2) Add an eastbound left turn lane with a minimum of 100-feet of storage; and (3) Add a westbound right turn lane with a minimum of 100-feet of storage.</li> <li>• Bon View Avenue &amp; Eucalyptus Avenue (#28): (1) Install a traffic signal; (2) Add eastbound left turn lane; and (3) Add westbound left turn lane</li> <li>• Bon View Avenue &amp; Merrill Avenue (#29): (1) Install a traffic signal and (2) Add eastbound left turn lane</li> <li>• Grove Avenue &amp; Edison Avenue (#30): (1) Install a traffic signal; (2) Add northbound left turn lane; (3) Add northbound right turn lane; (4)</li> </ul>				

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>Add southbound left turn lane; (5) Add eastbound left turn lane; and (6) Add westbound left turn lane</p> <ul style="list-style-type: none"> <li>• Grove Avenue &amp; Eucalyptus Avenue (#31): (1) Add northbound left turn lane; (2) Add southbound left turn lane; (3) Add eastbound left turn lane; and (4) Add westbound left turn lane</li> <li>• Grove Avenue &amp; Merrill Avenue (#32): Add southbound left turn lane</li> <li>• Walker Avenue &amp; Edison Avenue (#33): (1) Add northbound left turn lane; (2) Add southbound left turn lane; (3) Add eastbound left turn lane; and (4) Add westbound left turn lane</li> <li>• Baker Avenue/Van Vliet Avenue &amp; Merrill Avenue (#35): (1) Add southbound shared left-through-right turn lane; (2) Add eastbound left turn lane; and (3) Install a traffic signal</li> <li>• Vineyard Avenue &amp; Edison Avenue (#36): (1) Add eastbound left turn lane; (2) Add westbound left turn lane; (3) Add northbound left turn lane; (4) Add northbound right turn lane; (5) Add southbound left turn lane; and (6) Install a traffic signal</li> <li>• Vineyard Avenue/Hellman Avenue &amp; Merrill Avenue (#37): (1) Install a traffic signal; (2) Add westbound right turn lane; and (3) Add southbound right turn lane</li> <li>• Hellman Avenue &amp; Edison Avenue (#39): (1) Add eastbound left turn lane; (2) Add westbound left turn lane; (3) Add northbound left turn lane; (4) Add southbound left turn lane; and (5) Install a traffic signal</li> <li>• Archibald Avenue &amp; Ontario Ranch Road (#40): (1) Add 2nd northbound left turn lane; (2) Add 2nd southbound left turn lane; and (3) Modify the traffic signal to implement overlap phasing for the southbound right turn lane</li> <li>• Archibald Avenue &amp; Merrill Avenue (#42): (1) Stripe southbound right turn lane (in place of defacto); (2) Modify the traffic signal to implement overlap phasing for the southbound right turn lane; (3) Add 2nd eastbound left turn lane; and (4) Add eastbound free right turn lane</li> <li>• Archibald Avenue &amp; Limonite Avenue (#43): (1) Add northbound left turn lane; (2) Add 2nd westbound left turn lane; (3) Add 2nd northbound through lane; (4) Add 3rd northbound through lane; (5) Add 2nd southbound through lane; (6) Add 3rd southbound through</li> </ul>				

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>lane; (7) Add 2nd eastbound left turn lane; (8) Add 2nd eastbound through lane; and (9) Add 2nd westbound through lane; and (10) 2nd westbound right turn lane no longer needed</p> <ul style="list-style-type: none"> <li>• Hamner Avenue &amp; Ontario Ranch Road (#49): (1) Add 3rd westbound through lane; (2) Add eastbound right turn lane; and (3) Modify the traffic signal to implement overlap phasing for the northbound and eastbound right turn lanes.</li> </ul>				
<p>TRAF-2</p> <p>Prior to issuance of occupancy permits for buildings that would be accommodated by the Ontario Ranch Business Park Specific Plan, the project applicant shall pay DIF fees to the City of Ontario toward construction of the traffic improvements listed below. The following traffic improvements and facilities are necessary to mitigate impacts of the Ontario Ranch Business Park Specific Plan:</p> <p><b>Opening Year (2022) Cumulative With Project Improvements</b></p> <ul style="list-style-type: none"> <li>• Euclid Avenue (SR-83) &amp; Riverside Drive (#4): (1) Restripe the northbound approach to provide a left turn lane, two through lanes, and one shared through-right turn lane</li> <li>• Grove Avenue &amp; Eucalyptus Avenue (#31): (1) Add 2nd northbound through lane.</li> <li>• Grove Avenue &amp; Merrill Avenue (#32): (1) Add 2nd westbound through lane.</li> <li>• Walker Avenue/Flight Avenue &amp; Merrill Avenue (#34): (1) Add 2nd eastbound through lane and (2) Add 2nd westbound through lane.</li> <li>• Vineyard Avenue/Hellman Avenue &amp; Merrill Avenue (#37): (1) Add southbound through lane and (2) Add 2nd westbound through lane.</li> </ul> <p><b>Horizon Year (2040) With Project Improvements</b></p> <ul style="list-style-type: none"> <li>• Euclid Avenue (SR-83) &amp; SR-60 Westbound Ramps (#1): Add 2nd northbound left turn lane</li> <li>• Euclid Avenue (SR-83) &amp; SR-60 Eastbound Ramps (#2): (1) Add eastbound right turn lane and (2) Add 2nd left turn lane</li> <li>• Euclid Avenue (SR-83) &amp; Chino Avenue (#5): (1) Add 3rd northbound through lane and (2) Add 3rd southbound through lane</li> </ul>	<p>Project Applicant</p>	<p>Prior to issuance of occupancy permits</p>	<p>City of Ontario Traffic and Transportation Division</p>	

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<ul style="list-style-type: none"> <li>• Euclid Avenue (SR-83) &amp; Schaefer Avenue (#6): (1) Add 3rd northbound through lane and (2) Add 3rd southbound through lane</li> <li>• Euclid Avenue (SR-83) &amp; Edison Avenue (#7): (1) Add 3rd northbound through lane; (2) Add 3rd southbound through lane; and (3) Add 2nd westbound through lane</li> <li>• Euclid Avenue (SR-83) &amp; Eucalyptus Avenue (#8): (1) Add 3rd northbound through lane and (2) Add 3rd southbound through lane.</li> <li>• Euclid Avenue (SR-83) &amp; Merrill Avenue (#11): Add 3rd southbound through lane</li> <li>• Sultana Avenue &amp; Merrill Avenue (#27): (1) Install a stop control on the southbound approach and a southbound shared left-right turn lane; (2) Add an eastbound left turn lane with a minimum of 100-feet of storage; and (3) Add a westbound right turn lane with a minimum of 100-feet of storage.</li> <li>• Bon View Avenue &amp; Merrill Avenue (#29): (1) Add 2nd eastbound through lane and (2) Add 2nd westbound through lane</li> <li>• Grove Avenue &amp; Edison Avenue (#30): (1) Add 2nd northbound through lane; (2) Add 2nd southbound through lane; (3) Add 2nd eastbound through lane; (4) Add 3rd eastbound through lane; (5) Add 2nd westbound through lane; and (6) Add 3rd westbound through lane</li> <li>• Grove Avenue &amp; Eucalyptus Avenue (#31): Add 2nd southbound through lane</li> <li>• Grove Avenue &amp; Merrill Avenue (#32): Add 2nd eastbound through lane</li> <li>• Walker Avenue &amp; Edison Avenue (#33): (1) Add 2nd eastbound through lane; (2) Add 3rd eastbound through lane; (3) Add 2nd westbound through lane; and (4) Add 3rd westbound through lane</li> <li>• Baker Avenue/Van Vliet Avenue &amp; Merrill Avenue (#35): Add 2nd westbound through lane</li> <li>• Vineyard Avenue &amp; Edison Avenue (#36): (1) Add 2nd eastbound through lane; (2) Add 3rd eastbound through lane (3) Add 2nd westbound through lane (4) Add 3rd westbound through lane (5) Add northbound through lane (6) Add southbound through lane</li> <li>• Carpenter Avenue &amp; Merrill Avenue (#38): (1) Add 2nd eastbound through lane and (2) Add 2nd westbound through lane</li> </ul>				

## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p><b>Mitigation Measure</b></p> <ul style="list-style-type: none"> <li>• Hellman Avenue &amp; Edison Avenue (#39): (1) Add 2nd eastbound through lane; (2) Add 3rd eastbound through lane; (3) Add 2nd westbound through lane; (4) Add 3rd westbound through lane; (5) Add northbound through lane; and (6) Add southbound through lane</li> <li>• Archibald Avenue &amp; Ontario Ranch Road (#40): (1) Add 2nd westbound through lane; (2) Add 3rd northbound through lane; (3) Add 3rd southbound through lane; (4) Add 3rd eastbound through lane; (5) Add 4th eastbound through lane; (6) Add 3rd westbound through lane; and (7) Add 4th westbound through lane</li> <li>• Archibald Avenue &amp; Merrill Avenue (#42): (1) Add 3rd northbound through lane and (2) Add 3rd southbound through lane</li> <li>• Turner Avenue &amp; Ontario Ranch Road (#44): (1) Add 3rd eastbound through lane and (2) Add 3rd westbound through lane</li> <li>• Haven Avenue &amp; Ontario Ranch Road (#46): (1) Add 2nd northbound through lane; (2) Add 2nd southbound through lane; and (3) Add 3rd westbound through lane.</li> </ul>				
<p>TRAF-3</p> <p>Prior to issuance of occupancy permits, the project applicant shall prepare a Transportation Demand Management (TDM) strategy report for review and approval by the City Traffic Engineer. The TDM strategy shall include measures to reduce employee VMT, including but not limited to:</p> <ul style="list-style-type: none"> <li>• <b>Measure 6: Encourage Telecommuting and Alternative Work Schedule.</b> Encouraging telecommuting and alternative work schedules reduces the number of commute trips and therefore VMT traveled by employees. Alternative work schedules could take the form of staggered starting times, flexible schedules, or compressed work weeks. The effectiveness of this measure is dependent on the ultimate building tenant(s) which are unknown at this time, however, this CAPCOA notes that implementation of this measure could reduce commute VMT by 0.07 – 5.50 percent (Quantifying Greenhouse Gas Mitigation Measures, p. 236).</li> <li>• <b>Measure 7: Provide Ride-Sharing Programs. Encourage carpooling and vanpooling.</b> The effectiveness of this measure is</li> </ul>	Project Applicant	Prior to issuance of occupancy permits	City of Ontario Traffic and Transportation Division	



## 2. Mitigation Monitoring Requirements

**Table 2-1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
dependent on the ultimate building tenant(s) which are unknown at this time, however, CAPCOA notes that implementation of this measure could reduce commute VMT by 1.0 – 15.0 percent (Quantifying Greenhouse Gas Mitigation Measures, p. 227).				
<b>5.15 TRIBAL CULTURAL RESOURCES</b>				
TCR-1 Prior to commencement of any excavation activities, the project developer shall retain a Native American Monitor of Gabrieleño Ancestry to: <ul style="list-style-type: none"> <li>• Conduct a Native American Indian Sensitivity Training for construction personnel. The training session shall include a handout and focus on how to identify Native American resources encountered during earthmoving activities and the procedures followed if resources are discovered, the duties of the Native American Monitor of Gabrieleño Ancestry, and the general steps the Monitor would follow in conducting a salvage investigation.</li> <li>• Monitor all project-related, ground-disturbing construction activities (e.g., pavement removal, auguring, boring, grading, excavation, potholing, trenching, and grubbing) of previously undisturbed native soils to a maximum depth of 30 feet below ground surface. At their discretion and expense, a Native American Monitor of Gabrieleño Ancestry can be present during the removal of dairy manure to native soil.</li> </ul>	Native American Monitor of Gabrieleño Ancestry	Prior to commencement of any excavation activities	City of Ontario Planning Department	

## 3. Report Preparation

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### 3.1 LIST OF PREPARERS

#### **City of Ontario**

Richard Ayala, Senior Planner

#### **PlaceWorks**

Nicole Vermilion, Principal

Jasmine A. Osman, Project Planner

### 3. Report Preparation

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PGPA18-008, AN AMENDMENT TO THE LAND USE ELEMENT OF THE POLICY PLAN (GENERAL PLAN), REVISING EXHIBIT LU-01 (OFFICIAL LAND USE PLAN) AND EXHIBIT LU-03 (FUTURE BUILDOUT), AFFECTING PROPERTIES BOUNDED BY EUCALYPTUS AVENUE ON THE NORTH, MERRILL AVENUE ON THE SOUTH, SULTANA AVENUE ON THE EAST, AND EUCLID AVENUE ON THE WEST, FROM GENERAL COMMERCIAL (0.4 FAR), OFFICE COMMERCIAL (0.75 FAR), AND LOW-MEDIUM DENSITY RESIDENTIAL (5.1-11 DWELLING UNITS PER ACRE) TO BUSINESS PARK (0.6 FAR) AND INDUSTRIAL (0.55 FAR), AND MAKING FINDINGS IN SUPPORT THEREOF — APNS: 1054-011-01, 1054-011-02, 1054-011-04; 1054-021-01, 1054-021-02; 1054-271-01, 1054-271-02, 1054-271-03, 1054-281-01, 1054-281-02, AND 1054-281-03 (PART OF CYCLE 2 FOR THE 2020 CALENDAR YEAR).

WHEREAS, REDA, OLV ("Applicant") has filed an Application for the approval of a General Plan Amendment, File No. PGPA18-008, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the City of Ontario adopted the Policy Plan (General Plan) as part of The Ontario Plan in January 2010. Since the adoption of The Ontario Plan, the City has evaluated Exhibits LU-01: Official Land Use Plan and LU-03: Future Buildout further and is proposing modifications; and

WHEREAS, the proposed changes to Exhibit LU-01 Official Land Use Plan include changes to land use designations of certain properties shown on Exhibit A to make the land use designations of these properties consistent with the proposed Ontario Ranch Business Park Specific Plan (File No. PSP18-002); and

WHEREAS, Policy Plan Exhibit LU-03 (Future Buildout) specifies the expected buildout for the City of Ontario, incorporating the adopted land use designations. The proposed changes to Exhibit LU-01 (Official Land Use Plan) will require that Exhibit LU-03 (Future Buildout-Attachment B) is modified to be consistent with Exhibit LU-01 (Official Land Use Plan), as depicted on Attachment A, attached; and

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

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to review and act on the subject Application; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies

and criteria set forth in the Ontario International Airport Land Use Compatibility Plan (“ALUCP”), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on July 28, 2020 the Planning Commission of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date, voting to issue Resolution No. PC20-049, recommending the City Council approve the Application; and

WHEREAS, as the first action on the Project, on September 15, 2020, the City Council approved a Resolution adopting the Ontario Ranch Business Park Specific Plan Environmental Impact Report (State Clearinghouse No. 2019050018), including the adoption of a Mitigation Monitoring and Reporting Plan and a Statement of Overriding Considerations; and

WHEREAS, on September 15, 2020 the City Council of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date; and

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

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

**SECTION 1. Environmental Determination and Findings.** As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Ontario Ranch Business Park Specific Plan Environmental Impact Report (EIR) (SCH#: 2019050018), the Mitigation Monitoring and Reporting Program (“MMRP”), and a Statement of Overriding Considerations, prepared for the project and supporting documentation. Based upon the facts and information contained in the EIR, the MMRP, the Statement of Overriding Considerations and supporting documentation, and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

(1) The Ontario Ranch Business Park Specific Plan EIR, MMRP, Statement of Overriding Considerations, and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

(2) The Ontario Ranch Business Park Specific Plan EIR, MMRP, and Statement of Overriding Considerations contain a complete and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment of the City Council.

**SECTION 2. *Ontario International Airport Land Use Compatibility Plan (“ALUCP”) Compliance.*** The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT. The project site is located in the Chino Airport’s airport influence area (AIA) but outside the Chino Airport zoning overlay. Land use compatibility assessments are part of the Chino Airport Master Plan. The project site is within Safety Zone 6, Traffic Pattern Zone of the Chino Airport Overlay (Generic Safety Zones for General Aviation Airports from the Caltrans Division of Aeronautics – California Airport Land Use Planning Handbook). Zone 6 compatibility criteria prohibit people intensive uses such as stadiums, large day care centers, hospitals, and nursing homes. In the San Bernardino County Chino Airport Comprehensive Land Use Plan, the site is within Safety Zone III, Traffic Pattern/Overflight Zone. Light industrial and manufacturing uses are acceptable within this zone, provided they do not generate any visual, electronic or physical hazards to aircraft (Vidal 1991). The Airport Land Use Compatibility Plan (ALUCP) for Chino Airport completed by the County of Riverside in 2008 provides additional guidance for development around Chino Airport. The project site is not within an existing or current airport noise hazard zone and is in Zone D as designated in the ALUCP (Mead and Hunt 2004a). As a result, the City Council, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 3. *Concluding Facts and Reasons.*** Based upon the substantial evidence presented to the City Council during the above-referenced hearing, and upon the specific findings set forth in Sections 1 and 2, above, the City Council hereby concludes as follows:

(1) The proposed General Plan Amendment is consistent with the goals and policies of The Ontario Plan as follows:

(a) **LU2-1 Land Use Decisions.** We minimize adverse impacts on adjacent properties when considering land use and zoning requests.

Compliance: The proposed General Plan Amendment closely coordinates with land use designations in the surrounding area which will not increase adverse impacts on adjacent properties. The project site is also impacted by aircraft traffic patterns from Runway 3-21, where aircraft fly directly over the project site from (TGL) Touch-and-Go Landings (a maneuver where aircraft are landing on a runway and taking off again without coming to a full stop and the pilot then circles the airport in a defined pattern to allow many landings to be practiced in a short time). The existing General Commercial, Office Commercial and Medium Density Residential are not considered compatible land uses with Chino Airport, per the City’s draft ALUCP for Chino Airport and therefore staff is in support of the proposed GPA. In addition, the State Division of Aeronautics prohibits the development of new incompatible land uses surrounding existing airports, the proposed project would create land use consistency with Chino Airport and satisfy the criteria set forth in the Handbook.

(b) **LU4-1 Commitment to Vision.** We are committed to achieving our Vision but realize that it may take time and several interim steps to get there.

Compliance: The proposed land use designation change from General Commercial (0.4 FAR), Office Commercial (0.75 FAR), and Low-Medium Density Residential (5.1-11 dwelling units per acre) to Business Park and Industrial and will provide consistency between the TOP Policy Plan Land Use Plan and the proposed Ontario Ranch Business Park Specific Plan and will result in a logical land use pattern in and around the affected areas.

(c) **LU5-7 ALUCP Consistency with Land Use Regulations.** We comply with state law that required general plans, specific plans and all new development by consistent with the policies and criteria set forth within an Airport Land Use Compatibility Plan for any public use airport.

Compliance: The proposed project is located within the Safety, Noise, Airspace Protection and Overflight Zones of the ALUCP. A consistency determination was completed and the proposed project is consistent with the policies and criteria of the ALUCP, subject to conditions. However, the project site is located within the Chino Airport's airport influence area (AIA) but outside the Chino Airport zoning overlay. Land use compatibility assessments are part of the Chino Airport Master Plan. The project site is within Safety Zone 6, Traffic Pattern Zone of the Chino Airport Overlay (Generic Safety Zones for General Aviation Airports from the Caltrans Division of Aeronautics – California Airport Land Use Planning Handbook). Zone 6 compatibility criteria prohibit people intensive uses such as stadiums, large day care centers, hospitals, and nursing homes. In the San Bernardino County Chino Airport Comprehensive Land Use Plan, the site is within Safety Zone III, Traffic Pattern/Overflight Zone. Light industrial and manufacturing uses are acceptable within this zone, provided they do not generate any visual, electronic or physical hazards to aircraft (Vidal 1991). The Airport Land Use Compatibility Plan (ALUCP) for Chino Airport completed by the County of Riverside in 2008 provides additional guidance for development around Chino Airport. The project site is not within an existing or current airport noise hazard zone and is in Zone D as designated in the ALUCP (Mead and Hunt 2004a).

(d) **S4-6 Airport Noise Compatibility.** We utilize information from Airport Land Use Compatibility Plans to prevent the construction of new noise sensitive land uses within airport noise impact zones.

Compliance: The project site is located entirely within the 70-75 dB CNEL Noise Impact Zone of the ALUCP. The proposed uses include warehouse, light manufacturing and ancillary office/commercial uses. These uses are consistent with ALUCP Table 2-3 (Noise Criteria); provided, the light manufacturing and office/commercial uses are able to meet noise attenuating criteria of 50 dB interior noise levels. The proposed land use designations are compatible with the Noise Impact area

(2) The proposed General Plan Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City; and

(3) The Land Use Element is a mandatory element allowed four general plan amendments per calendar year and this general plan amendment is the second amendment to the Land Use Element of the 2020 calendar year consistent with Government Code Section 65358; and

(4) The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

Senate Bill 330 – Housing Accountability Act (Govt. Code § 65589.5 et seq.) (SB 330) was passed by the California Legislature, signed by the Governor and became effective on January 1, 2020. The bill is the result of the Legislature’s extensive findings regarding the California “housing supply crisis” with “housing demand far outstripping supply.”

SB 330 amends Govt. Code Sections 65589.5, adds Govt. Code Sections 65940, 65943 and 65950, and repeals and readopts Sections 65906.5, 65913.10 and 65941.1. To summarize, no city may disapprove a residential housing development project for low- to moderate-income households (as defined therein) unless it makes a finding that the housing development project “would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households...” such as where the housing development project is proposed on land “which does not have adequate water or wastewater facilities to serve the project.” (Govt. Code § 65589.5(d)(2), (4)).

In addition, the legislation adds Chapter 12 to Division 1 of Title 7 of the Government Code (Section 66300 et seq.) that applies to “affected cities,” which are identified as cities in urbanized areas as determined by the most recent census. In accordance with SB 330, the Department of Community Development and Housing (“HCD”) has prepared a list of affected cities and has determined that Ontario is an “affected city.” Therefore, pursuant to Government Code section 66300(b)(1)(A) and (b):

*(b) (1) Notwithstanding any other law except as provided in subdivision (i), with respect to land where housing is an allowable use, an \ affected city shall not enact a development policy, standard, or condition that would have any of the following effects:*

*(A) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018...”*

except when approved by HCD or when the following exception is set out in Govt. Code § 66300(i)(1) applies:



*(i) (1) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.*

As discussed in Section 2 of the staff report, the General Plan Amendment (GPA) is proposed to change the site's land use designations from General Commercial, Office Commercial and Low-Medium Density Residential to approximately 23.8 acres of Business Park (0.6 FAR) and 61.8 acres of Industrial (0.55 FAR). The General Plan Amendment will allow development of up to 236,000 square feet of business park and 1,669,027 square feet of industrial, for a maximum development of 1,905,027 square feet. The GPA would therefore eliminate the low-moderate density housing designation, thereby theoretically eliminating 159 units (as determined by the City's density determinations to be 8.5 dwelling units per acre [du/ac.]). In compliance with SB330, the EIR evaluated the elimination of 159 units and determined that based on SB 330 Exceptions for lack of water and sewer to serve a residential project and the no net loss of residential capacity, the project is consistent with HCD exception findings. The proposed project site does not have sufficient water or wastewater facilities to serve a residential project. As explained in Section 3.4.1.2, of the DEIR, at present there is no water or sewer infrastructure that could serve residential units because the land has been used for agricultural purposes with water provided by on-site wells and sewer provided by septic systems. The total estimated cost of the proposed water and sewer infrastructure is \$13.1 million and \$9.4 million, respectively (Murow 2020; Appendix N of this DEIR). This cost would be financially infeasible for the 159 units presently allowed under the current residential General Plan designation and therefore the cost of such improvements would make residential development on the site financially infeasible (see Govt. Code § 66589.5(d)(2) cited above).

To address the removal of 159 low-moderate residential units at a density of 8.5 dwelling units per acre and demonstrate a "No net loss", the project is in compliance with provisions of Section 66300(i)(1) have been met and there is no net loss of residential capacity. On December 17, 2019, the City Council approved an Amendment to the Meredith International Centre Specific Plan (File No. PSPA19-002) to establish a Mixed-Use Overlay district on 22.39 acres of land within a portion of Planning Area 2 (Urban Commercial) land use district, located at the southeast corner of Vineyard Avenue and Inland Empire Boulevard. The Meredith International Centre Specific Plan is listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The Specific Plan allowed 800 dwelling units at a density of 37 dwelling units per acre, which have all been constructed. The Specific Plan amendment approved in December 2019 provides for an additional 925 residential units at a density of 41 dwelling units per acre, which will add 925 units to the Available Land Inventory Table. The Addendum to the Meredith International Centre Specific Plan Amendment Environmental Impact Report (SCH# 2014051020) certified by the City Council on April 7, 2015, approved on December 17, 2019, supports that change in the Specific Plan that results in 975 additional residential units within the City. On March 30, 2020, the City Council approved a General Plan Amendment to The Ontario Plan ("TOP") Policy Plan Future Buildout Table (Exhibit LU-03) to reflect the addition of

975 residential units, assumed density and intensity for the Mixed-Use/Meredith section of the Buildout Table. The loss of 159 units under the current Policy Plan designation will be directly offset by the addition of 975 units and therefore resulting in a no net loss.

(5) During the amendment of the general plan, opportunities for the involvement of citizens, California Native American Indian tribes (Government Code Section 65352.3.), public agencies, public utility companies, and civic, education, and other community groups, through public hearings or other means were implemented consistent with Government Code Section 65351.

**SECTION 4. City Council Action.** Based upon the findings and conclusions set forth in Sections 1 through 3, above, the City Council hereby APPROVES the proposed General Plan Amendment, as depicted in Attachment 1 (Policy Plan Land Use Plan (Exhibit LU-01) Revision) and Attachment 2 (Future Buildout (Exhibit LU-03) Revision) of this Resolution.

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

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

**SECTION 7. Certification to Adoption.** The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

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

ATTEST:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-    was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020, by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

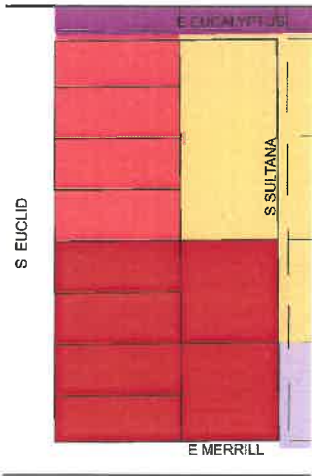
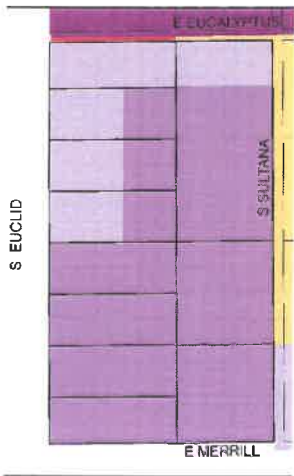
(SEAL)

The foregoing is the original of Resolution No. 2020-    duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

**ATTACHMENT A:  
Policy Plan Land Use Plan (Exhibit LU-01) Revision**

Existing Policy Plan Land Use	Assessor Parcel Numbers Involved	Proposed Policy Plan Land Use
 <p>Office Commercial (0.75 FAR) General Commercial (0.4 FAR) Low-Medium Density Residential (5.1-11 du/ac)</p>	<p>105428101 105428103 105428102 105427102 105427102 105427101 105401102 105401102 105402101 105427103 105427102 105427101 105401101 105402101 105401104 105402102</p> <p>Properties bound by Eucalyptus Avenue to the north, Sultana Avenue to the east, Merrill Avenue to the south, and Euclid Avenue to the west</p>	 <p>Business Park (0.60 FAR) Industrial (0.55 FAR)</p>

**ATTACHMENT B**  
**Future Buildout (Exhibit LU-03) Revision**

Land Use	Acres <sup>2</sup>	Assumed Density/Intensity <sup>3</sup>	Units	Population <sup>4</sup>	Non-Residential Square Feet	Jobs <sup>5</sup>
<b>Residential</b>						
Rural	529	2.0 du/ac	1,059	4,232		
Low Density <sup>4</sup>	7,255	4.0 du/ac (OMC) 4.5 du/ac (NMC)	30,584	122,244		
Low-Medium Density <sup>6</sup>	<del>1,899</del> 981	8.5 du/ac	<del>8,500</del> 8,339	<del>33,976</del> 33,331		
Medium Density	1,897	18.0 du/ac (OMC) 22.0 du/ac (NMC)	38,200	133,791		
High Density	183	35.0 du/ac	6,415	21,470		
<b>Subtotal</b>	<del>10,865</del> <b>10,845</b>		<del>84,758</del> <b>84,597</b>	<del>315,713</del> <b>315,068</b>		
<b>Mixed Use</b>						
• Downtown	113	<ul style="list-style-type: none"> <li>60% of the area at 35 du/ac</li> <li>40% of the area at 0.80 FAR for office and retail</li> </ul>	2,365	4,729	1,569,554	2,808
• East Holt Boulevard	57	<ul style="list-style-type: none"> <li>25% of the area at 30 du/ac</li> <li>50% of the area at 1.00 FAR office</li> <li>25% of area at 0.80 FAR retail</li> </ul>	428	856	1,740,483	3,913
• Meredith	93	<ul style="list-style-type: none"> <li>23% of the area at 37.4 du/ac</li> <li>72% at 0.35 FAR for office and retail uses</li> <li>5% at 0.75 FAR for Lodging</li> </ul>	800	1,600	1,172,788	1,462
• Transit Center	76	<ul style="list-style-type: none"> <li>10% of the area at 60 du/ac</li> <li>90% of the area at 1.00 FAR office and retail</li> </ul>	457	913	2,983,424	5,337
• Inland Empire Corridor	37	<ul style="list-style-type: none"> <li>50% of the area at 20 du/ac</li> <li>30% of area at 0.50 FAR office</li> <li>20% of area t 0.35 FAR retail</li> </ul>	368	736	352,662	768
• Guasti	77	<ul style="list-style-type: none"> <li>20% of the area at 30 du/ac</li> <li>30% of area at 1.00 FAR retail</li> <li>50% of area at 0.70 FAR office</li> </ul>	465	929	2,192,636	4,103
• Ontario Center	345	<ul style="list-style-type: none"> <li>30% of area at 40 du/ac</li> <li>50% of area at 1.00 FAR office</li> <li>20% of area at 0.50 FAR retail</li> </ul>	4,139	8,278	9,014,306	22,563
• Ontario Mills	240	<ul style="list-style-type: none"> <li>5% of area at 40 du/ac</li> <li>20% of area at 0.75 FAR office</li> <li>75% of area at 0.50 FAR retail</li> </ul>	479	958	5,477,126	7,285
• NMC West/South	315	<ul style="list-style-type: none"> <li>30% of area at 35 du/ac</li> <li>70% of area at 0.70 FAR office and retail</li> </ul>	3,311	6,621	6,729,889	17,188
• NMC East	264	<ul style="list-style-type: none"> <li>30% of area at 25 du/ac</li> <li>30% of area at 0.35 FAR for office</li> <li>40% of area at 0.3 FAR for retail uses</li> </ul>	1,978	3,956	2,584,524	4,439
• Euclid/Francis	10	<ul style="list-style-type: none"> <li>50% of the area at 30 du/ac</li> <li>50% of area at 0.80 FAR retail</li> </ul>	156	312	181,210	419
• SR-60/ Hamner Tuscana Village	41	<ul style="list-style-type: none"> <li>18% of the area at 25 du/ac</li> <li>57% of the area at 0.25 FAR retail</li> <li>25% of the area at 1.50 FAR office</li> </ul>	185	369	924,234	2,098
<b>Subtotal</b>	<b>1,668</b>		<b>15,129</b>	<b>30,257</b>	<b>34,922,836</b>	<b>72,383</b>

ATTACHMENT B Continued

## Future Buildout (Exhibit LU-03) Revision



### LU-03 Future Buildout<sup>1</sup>

Land Use	Acres <sup>2</sup>	Assumed Density/Intensity <sup>3</sup>	Units	Population <sup>4</sup>	Non-Residential Square Feet	Jobs <sup>5</sup>
<b>Retail/Service</b>						
Neighborhood Commercial <sup>6</sup>	281	0.30 FAR			3,671,585	8,884
General Commercial	<del>519</del> 476	0.30 FAR			<del>6,788,695</del> 6,220,368	<del>6,207</del> 5,799
Office/Commercial	<del>614</del> 490	0.75 FAR			<del>16,885,775</del> 16,008,300	<del>87,269</del> 35,497
Hospitality	142	1.00 FAR			6,177,679	7,082
<b>Subtotal</b>	<del>1,567</del> 1,389				<del>32,443,735</del> 32,077,932	<del>60,543</del> 57,262
<b>Employment</b>						
Business Park	<del>1,507</del> 1,531	0.40 FAR			<del>36,261,610</del> 26,676,144	<del>46,075</del> 46,817
Industrial	<del>6,284</del> 6,446	0.55 FAR			<del>152,047,806</del> 154,433,268	<del>134,383</del> 134,511
<b>Subtotal</b>	<del>7,891</del> 7,977				<del>179,209,416</del> 181,109,412	<del>180,459</del> 181,328
<b>Other</b>						
Open Space-Non-Recreation	1,232	Not applicable				
Open Space-Parkland <sup>6</sup>	950	Not applicable				
Open Space-Water	59	Not applicable				
Public Facility	97	Not applicable				
Public School	632	Not applicable				
LA/Ontario International Airport	1,677	Not applicable				
Landfill	137	Not applicable				
Railroad	251	Not applicable				
Roadways	4,871	Not applicable				
<b>Subtotal</b>	<b>9,906</b>					
<b>Total</b>	<b>31,786</b>		<del>60,897</del> 99,776	<del>345,924</del> 345,325	<del>347,676,080</del> 248,110,180	<del>313,303</del> 310,973

**Notes**

- 1 Historically, citywide buildout levels do not achieve the maximum allowable density/intensity on every parcel and are, on average, lower than allowed by the Policy Plan. Accordingly, the buildout projections in this Policy Plan do not assume buildout at the maximum density or intensity and instead are adjusted downward. To view the buildout assumptions, access the Methodology report.
- 2 Acres are given as adjusted gross acreages, which do not include the right-of-way for roadways, flood control facilities, or railroads.
- 3 Assumed Density/Intensity includes both residential density, expressed as units per acre, and non-residential intensity, expressed as floor area ratio (FAR), which is the amount of building square feet in relation to the size of the lot.
- 4 Projections of population by residential designation are based on a persons-per-household factor that varies by housing type. For more information, access the Methodology report.
- 5 To view the factors used to generate the number of employees by land use category, access the Methodology report.
- 6 Acreages and corresponding buildout estimates for these designations do not reflect underlying land uses within the Business Park, Industrial and Commercial Overlays. Estimates for these areas are included within the corresponding Business Park, Industrial and General Commercial categories.

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

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSP18-002, THE ONTARIO RANCH BUSINESS PARK SPECIFIC PLAN, TO ESTABLISH LAND USE DISTRICTS, DEVELOPMENT STANDARDS, DESIGN GUIDELINES, AND INFRASTRUCTURE IMPROVEMENTS FOR THE POTENTIAL DEVELOPMENT OF UP TO 1,905,027 SQUARE FEET OF GENERAL INDUSTRIAL AND BUSINESS PARK LAND USES ON 85.6 ACRES OF LAND. THE PROJECT SITE IS GENERALLY BORDERED BY EUCALYPTUS AVENUE ON THE NORTH, MERRILL AVENUE ON THE SOUTH, SULTANA AVENUE ON THE EAST, AND EUCLID AVENUE ON THE WEST, AND MAKING FINDINGS IN SUPPORT THEREOF— APNS: 1054-011-01, 1054-011-02, 1054-011-04; 1054-021-01, 1054-021-02; 1054-271-01, 1054-271-02, 1054-271-03, 1054-281-01, 1054-281-02, AND 1054-281-03.

WHEREAS, REDA, OLV ("Applicant") has filed an Application for the approval of a Specific Plan, File No. PSP18-002, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to approximately 85.6 acres of land, bounded by Eucalyptus Avenue to the north, Merrill Avenue to the south, Sultana Avenue on the east, and Euclid Avenue on the west, within the Business Park and Industrial land use designations, and is presently improved with agriculture/dairy and single-family residential uses; and

WHEREAS, the property to the north of the project site is within the SP(AG) zoning district and is currently developed with a plant nursery and a dairy farm. The property to the east is within the SP(AG) zoning district and is currently developed with a dairy farm. The property to the south of the project site is located within the City of Chino and is developed with the Chino Airport. The properties to the west of the project site are located within the City of Chino and are developed with single-family residential homes or are vacant; and

WHEREAS, the Ontario Ranch Business Park Specific Plan establishes a comprehensive set of design guidelines and development regulations to guide and regulate site planning, landscape, and architectural character, and ensuring that excellence in community design is achieved during project development. In addition, the Specific Plan will establish the procedures and requirements to approve new development within the project site to ensure TOP goals and policies are achieved; and

WHEREAS, the Ontario Ranch Business Park Specific Plan consists of approximately 85.6 acres of land, which includes the potential development of up to 1,905,027 square feet of business park and industrial development; and



WHEREAS, a request for approval of a General Plan Amendment (File No. PGPA18-008) to change the land use designations shown on the Land Use Plan Map (EXHIBIT LU-1) for 85.6 acres of land from General Commercial, Office Commercial, and Low-Medium Density Residential (5.1-11 dwelling units per acre) to Business Park and Industrial, and modify the Future Buildout Table (Exhibit LU-03) to be consistent with the land use designation changes has also been submitted as part of the proposed Ontario Ranch Business Park Specific Plan; and

WHEREAS, the land use intensity of the Ontario Ranch Business Park Specific Plan anticipated in the two planning areas is consistent with The Ontario Plan (TOP). The Specific Plan is proposing a maximum 0.45 Floor Area Ratio (FAR) within the Business Park land use designation (Planning Area 1) located along the northern portion of the Specific Plan area. Planning Area 1 is 23.8 acres in size and can be potentially developed with 457,904 square feet of business park development. In addition, buildings within the Business Park land use area that front onto a public right-of-way shall not exceed a 125,000 square-foot building footprint. The Specific Plan is proposing a maximum 0.54 Floor Area Ratio (FAR) within the Industrial land use designation (Planning Area 2) located along the southern portion of the Specific Plan. Planning Area 2 is 61.8 acres in size and can potentially be developed with 1,447,123 square feet of industrial development. The proposed FARs for each of the Planning Areas is consistent with the Policy Plan Land Use designations for Business Park and Industrial; and

WHEREAS, the Ontario Ranch Business Park Specific Plan has been prepared in conformance with the goals and policies of the City of Ontario Policy Plan (General Plan). The policy (General Plan) analysis in the Appendix "Policy Plan (General Plan) Consistency," of the Specific Plan describes the manner in which the Ontario Ranch Business Park Specific Plan complies with the Policy Plan goals and policies applicable to the Ontario Ranch Business Park Specific Plan; and

WHEREAS, the Ontario Ranch Business Park Specific Plan does not conflict with the Land Use Policies of the General Plan (TOP) and will provide for development, in a manner consistent with the General Plan. The policy (General Plan) analysis in the Appendix "Policy Plan (General Plan) Consistency," of the Specific Plan describes the manner in which the Ontario Ranch Business Park Specific Plan complies with the Policy Plan goals and policies applicable to the Ontario Ranch Business Park Specific Plan; and

WHEREAS, an Environmental Impact Report (EIR) (SCH# 2019050018), including the adoption of a Mitigation Monitoring and Reporting Program and a Statement of Overriding Consideration, have been prepared in accord with the California Environmental Quality (CEQA), the State CEQA Guidelines and the City of Ontario Guidelines to address the environmental effects of the Specific Plan (Ontario Ranch Business Park); and

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to review and act on the subject Application; and

WHEREAS, the Project has been reviewed for consistency with the Housing Element of the Policy Plan component of The Ontario Plan, as State Housing Element law (as prescribed in Government Code Sections 65580 through 65589.8) requires that development projects must be consistent with the Housing Element, if upon consideration of all its aspects, it is found to further the purposes, principals, goals, and policies of the Housing Element; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan ("ALUCP"), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, the project site is also located within the Airport Influence of Chino Airport and must be consistent with policies and criteria set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics, which addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on July 28, 2020, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Resolution No. PC20-050, recommending the City Council approve the Application; and

WHEREAS, on September 15, 2020, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

**SECTION 1. *Environmental Determination and Findings.*** As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Environmental Impact Report (EIR), Mitigation Monitoring and Reporting Program and a Statement of Overriding Consideration prepared for the project and supporting documentation. Based upon the facts and information contained in the EIR (SCH# 2019050018) and supporting documentation, the City Council finds as follows:

(1) The Ontario Ranch Business Park Specific Plan EIR, Mitigation Monitoring and Reporting Program and a Statement of Overriding Consideration contains a complete and accurate reporting of the environmental impacts associated with the Project; and

(2) The Ontario Ranch Business Park Specific Plan EIR, Mitigation Monitoring and Reporting Program and a Statement of Overriding Consideration was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

(3) The Ontario Ranch Business Park Specific Plan EIR, Mitigation Monitoring and Reporting Program and a Statement of Overriding Consideration reflects the independent judgment of the City Council.

**SECTION 2. Ontario International Airport Land Use Compatibility Plan (“ALUCP”) Compliance and Chino Airport Influence Area.** The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT. The project site is located in the Chino Airport’s airport influence area (AIA) but outside the Chino Airport zoning overlay. Land use compatibility assessments are part of the Chino Airport Master Plan. The project site is within Safety Zone 6, Traffic Pattern Zone of the Chino Airport Overlay (Generic Safety Zones for General Aviation Airports from the Caltrans Division of Aeronautics – California Airport Land Use Planning Handbook). Zone 6 compatibility criteria prohibit people intensive uses such as stadiums, large day care centers, hospitals, and nursing homes. In the San Bernardino County Chino Airport Comprehensive Land Use Plan, the site is within Safety Zone III, Traffic Pattern/Overflight Zone. Light industrial and manufacturing uses are acceptable within this zone, provided that they do not generate any visual, electronic or physical hazards to aircraft (Vidal 1991). The Airport Land Use Compatibility Plan (ALUCP) for Chino Airport completed by the County of Riverside in 2008 provides additional guidance for development around Chino Airport. The project site is not within an existing or current airport noise hazard zone and is in Zone D as designated in the ALUCP (Mead and Hunt 2004a).

**SECTION 3. Concluding Facts and Reasons.** 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 and 2, above, the City Council hereby concludes as follows:

(1) The approximately 85.6-acre Ontario Ranch Business Park Specific Plan is suitable for business park and industrial development and is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. The proposed land uses in the proposed districts will also be in harmony in terms of access, size, and compatibility with existing land use in the surrounding area; and

(2) The proposed Ontario Ranch Business Park Specific Plan is in conformance with the Land Use Policies and Goals of the Policy Plan and will provide standards and guidelines for the harmonious development within the districts, in a manner consistent with the Policy Plan. The Specific Plan is proposing business park and industrial type development for the approximately 85.6-acre site, which is what is mandated by the land use plan of the Policy Plan, therefore, the proposed industrial uses will be in conformance with the policies and goals of the Policy Plan; and

(3) During the Ontario Ranch Business Park Specific Plan review, opportunities for the involvement of citizens, California Native American Indian tribes (Government Code Section 65352.3.), public agencies, public utility companies, and civic, education, and other community groups, through public hearings or other means were implemented consistent with California Government Code Section 65351; and

(4) The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

Senate Bill 330 – Housing Accountability Act (Govt. Code § 65589.5 et seq.) (SB 330) was passed by the California Legislature, signed by the Governor and became effective on January 1, 2020. The bill is the result of the Legislature’s extensive findings regarding the California “housing supply crisis” with “housing demand far outstripping supply.”

SB 330 amends Govt. Code Sections 65589.5, adds Govt. Code Sections 65940, 65943 and 65950, and repeals and readopts Sections 65906.5, 65913.10 and 65941.1. To summarize, no city may disapprove a residential housing development project for low- to moderate-income households (as defined therein) unless it makes a finding that the housing development project “would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households...” such as where the housing development project is proposed on land “which does not have adequate water or wastewater facilities to serve the project.” (Govt. Code § 65589.5(d)(2), (4)).

In addition, the legislation adds Chapter 12 to Division 1 of Title 7 of the Government Code (Section 66300 et seq.) that applies to “affected cities,” which are identified as cities in urbanized areas as determined by the most recent census. In accordance with SB 330, the Department of Community Development and Housing (“HCD”) has prepared a list of affected cities and has determined that Ontario is an “affected city.” Therefore, pursuant to Government Code section 66300(b)(1)(A) and (b):

*(b) (1) Notwithstanding any other law except as provided in subdivision (i), with respect to land where housing is an allowable use, an \ affected city shall not enact a development policy, standard, or condition that would have any of the following effects:*

*(A) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018...”*

except when approved by HCD or when the following exception is set out in Govt. Code § 66300(i)(1) applies:

*(i) (1) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.*

As discussed in Section 2 of the staff report, the General Plan Amendment (GPA) is proposed to change the site's land use designations from General Commercial, Office Commercial and Low-Medium Density Residential to approximately 23.8 acres of Business Park and 61.8 acres of Industrial. The General Plan Amendment will allow development of up to 236,000 square feet of business park and 1,669,027 square feet of industrial, for a maximum development of 1,905,027 square feet. The GPA would therefore eliminate the low-moderate density housing designation, thereby theoretically eliminating 159 units (as determined by the City's density determinations to be 8.5 dwelling units per acre [du/ac.]). In compliance with SB330, the EIR evaluated the elimination of 159 units and determined that based on SB 330 Exceptions for lack of water and sewer to serve a residential project and the no net loss of residential capacity, the project is consistent with HCD exception findings. The proposed project site does not have sufficient water or wastewater facilities to serve a residential project. As explained in Section 3.4.1.2, of the DEIR, at present there is no water or sewer infrastructure that could serve residential units because the land has been used for agricultural purposes with water provided by on-site wells and sewer provided by septic systems. The total estimated cost of the proposed water and sewer infrastructure is \$13.1 million and \$9.4 million, respectively (Murow 2020; Appendix N of this DEIR). This cost would be financially infeasible for the 159 units presently allowed under the current residential General Plan designation and therefore the cost of such improvements would make residential development on the site financially infeasible (see Govt. Code § 66589.5(d)(2) cited above).

To address the removal of 159 low-moderate residential units at a density of 8.5 dwelling units per acre and demonstrate a "no net loss", the project is in compliance with provisions of Section 66300(i)(1) have been met and there is no net loss of residential capacity. On December 17, 2019, the City Council approved an Amendment to the Meredith International Centre Specific Plan (File No. PSPA19-002) to establish a Mixed-Use Overlay district on 22.39 acres of land within a portion of Planning Area 2 (Urban Commercial) land use district, located at the southeast corner of Vineyard Avenue and Inland Empire Boulevard. The Meredith International Centre Specific Plan is listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The Specific Plan allowed 800 dwelling units at a density of 37 dwelling units per acre, which have all been constructed. The Specific Plan amendment approved in December 2019 provides for an additional 925 residential units at a density of 41 dwelling units per acre, which will add 925 units to the Available Land Inventory Table. The Addendum to the Meredith International Centre Specific Plan Amendment Environmental Impact Report (SCH# 2014051020) certified by the City Council on April 7, 2015, approved on December 17, 2019, supports that change in the Specific Plan that results in 975 additional residential units within the City. On March 30, 2020, the City Council approved a General Plan Amendment to The Ontario Plan ("TOP") Policy Plan Future Buildout Table (Exhibit LU-03) to reflect the addition of

975 residential units, assumed density and intensity for the Mixed-Use/Meredith section of the Buildout Table. The loss of 159 units under the current Policy Plan designation will be directly offset by the addition of 975 units and therefore resulting in a no net loss.

**SECTION 4. City Council Action.** Based upon the findings and conclusions set forth in Sections 1 through 5, above, the City Council hereby APPROVES the herein described Ontario Ranch Business Park Specific Plan, attached hereto as "Attachment A," and incorporated herein by this reference.

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

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

**SECTION 7.** 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 \_\_\_\_\_ 2019.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, 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 September 15, 2020 and adopted at the regular meeting held \_\_\_\_\_, 2019 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, 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.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)



**ATTACHMENT A:**

**File No. PSP18-002;  
Ontario Ranch Business Park Specific Plan**

*(Document follows this page)*



City of Ontario  
Planning Department  
303 East B Street  
Ontario, California 91764  
Phone: 909.395.2036  
Fax: 909.395.2420

## ***Planning Department Land Development Division Conditions of Approval***

**Meeting Date:** July 28, 2020

**File No:** PSP18-002

**Related Files:** PGPA18-008

**Project Description:** A public hearing to consider certification of the Environmental Impact Report (SCH#2019050018), including the adoption of a Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations, for the following: 1) A General Plan Amendment (File No. PGPA18-008) to modify the Land Use Plan (Exhibit LU-01) of the Policy Plan (General Plan) of The Ontario Plan to change the land use designations for 85.6 acres of land, from General Commercial (0.4 FAR), Office Commercial (0.75 FAR), and Low-Medium Density Residential (5.1-11 dwelling units per acre) to Business Park (0.6 FAR) and General Industrial (0.55 FAR), and modify the Future Buildout Table (Exhibit LU-03) to be consistent with the land use designation changes; and 2) A Specific Plan (File No. PSP18-002 - Ontario Ranch Business Park) to establish the land use districts, development standards, design guidelines, and infrastructure improvements for the potential development of up to 1,905,027 square feet of General Industrial and Business Park land uses on 85.6 acres of land. The project site is generally bordered by Eucalyptus Avenue on the north, Merrill Avenue on the south, Sultana Avenue on the east, and Euclid Avenue on the west. (APNs: 1054-011-01, 1054-011-02, 1054-011-04; 1054-021-01, 1054-021-02; 1054-271-01, 1054-271-02, 1054-271-03, 1054-281-01, 1054-281-02, and 1054-281-03) **submitted by REDA, OLV**

**Prepared By:** Alexis Vaughn, Assistant Planner  
**Phone:** 909.395.2416 (direct)  
**Email:** [avaughn@ontarioca.gov](mailto:avaughn@ontarioca.gov)

The Planning Department, Land Development Section, conditions of approval applicable to the above-described Project, are listed below. The Project shall comply with each condition of approval listed below:

**1.0 Standard Conditions of Approval.** The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2017-027 on April 18, 2017. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or City Clerk/Records Management Department.

**2.0 Special Conditions of Approval.** In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

**2.1 Specific Plan.** The following shall be submitted to the Planning Department within 30 days following City Council approval of the Specific Plan/Specific Plan Amendment:

- (a)** Ten copies of the final Specific Plan document;
- (b)** One complete, unbound copy of the final Specific Plan document;
- (c)** One CD containing a complete Microsoft Word copy of the final Specific Plan document, including all required revisions;

(d) Five CDs, each containing a complete PDF copy of the final Specific Plan document, including all required revisions; and

(e) One CD containing a complete electronic website version of the final Specific Plan document, including all required revisions.

**2.2** Indemnification. 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 any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. 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.

**2.3** Additional Fees.

(a) Within 5 days following final application approval, the Notice of Determination (NOD) filing fee shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which shall be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in a 180-day extension to the statute of limitations for the filing of a CEQA lawsuit.

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
PUBLIC HEARINGS

**SUBJECT: RESOLUTIONS OF NECESSITY FOR THE ACQUISITION BY EMINENT DOMAIN OF FEE INTERESTS IN CERTAIN REAL PROPERTIES LOCATED ON GROVE AVENUE, BON VIEW AVENUE, AND MAIN STREET**

**RECOMMENDATION:** That the City Council conduct a public hearing and adopt Resolutions of Necessity declaring that the acquisition fee interests in certain real properties located on Grove Avenue, Bon View Avenue, and Main Street, more particularly described as Assessor Parcel Nos. 1049-161-18; 1049-161-19; 1049-121-26; 1049-121-27; 1049-121-28; and 1049-194-20 ("Properties"), for the mitigation of airport impacts and the elimination of blight ("Project") in Ontario, California.


**COUNCIL GOALS:** Focus Resources in Ontario's Commercial and Residential Neighborhoods  
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

**FISCAL IMPACT:** If approved, appropriations adjustments will be included in the next Quarterly Budget Report to the City Council to cover the acquisition costs. Deposits to file the Resolution of Necessity total \$1,749,000.

**BACKGROUND:** The Properties are in close proximity to the Ontario International Airport ("Airport"). They are located immediately west of the runways and are directly below arrival and departure flight paths. They are located in areas that have been designated as being within the Airport's designated Safety and Noise Impact Zones. State law requires that the City's land use policies for the relevant area be consistent with the Land Use Compatibility Plan for the Airport. Airport operations and applicable land use requirements have significantly impacted the properties and have contributed to the blighting of the area and the Properties.

The Properties are located within the former Cimarron Redevelopment Project Area. The existing blight conditions in Cimarron have been well documented in the Report to the City Council for the former Cimarron Redevelopment Project, Amendment No. 7. The current blight conditions around the Properties identified in the foregoing report remain largely unchanged. Presently, the Properties do not conform to applicable City and Airport land use requirements for development and suffer from impacts

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

Prepared by: Charity Hernandez  
Department: Economic Development  
City Manager Approval: 

Submitted to Council/O.H.A. 09/15/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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relating to Airport operations and general area blight. If acquired, the Properties will be assembled with other properties in the area and eventually developed into industrial uses that mitigate Airport impacts, eliminate blight in the area and conform to applicable City and Airport land use requirements.

The City obtained appraisals of the Properties from Benjamin V. Balos, MAI, of R. P. Laurain and Associates, Inc., and made offers of just compensation to the property owners for the acquisition pursuant to California Government Code section 7267.2. The City retained a consulting firm to assist with acquisitions and relocations, because occupants will be relocated or otherwise affected. Following standard public records and due diligence searches for ownership information, a notice of this public hearing was mailed to the property owners. The affected properties are owned by:

1. C&M Realty, LLC/C&M Metals, Inc. (APNs 1049-161-18 and 1049-161-19); and
2. JC Horizon LTD (APNs 1049-121-26, 1049-121-27, 1049-121-28 and 1049-194-20).

Notice as to APNs 1049-161-18 and 1049-161-19 was provided to C&M Metals, Inc. because it appears as an owner of record. Notice to C&M Realty, LLC, and its counsel, was provided based on representations made by the purported owner of this property.

The power of eminent domain is used by the City only as a last resort to obtain interests necessary for projects after 1) negotiations have stalled; or 2) the owner has requested that the City proceed directly to eminent domain for tax or other advantages; or 3) the eminent domain process is necessary to clear title to the property. In this case, offers of just compensation were made to the owners for the full Fair Market Value as determined by appraisals. City staff attempted to negotiate amicable settlements in good faith and will continue to do so throughout the process.

**DESCRIPTION OF PROPERTY TO BE ACQUIRED:** The properties affected by the proposed acquisitions are located on Grove Avenue, Bon View Avenue, and Main Street, more particularly described as Assessor Parcel Nos. 1049-161-18; 1049-161-19; 1049-121-26; 1049-121-27; 1049-121-28; and 1049-194-20, and must be acquired for the Project, which consists of the mitigation of Airport impacts and elimination of blight in the former Cimarron Redevelopment Project Area (Exhibit 1).

**HEARINGS AND REQUIRED FINDINGS:** The recommended actions of the City Council pertain to the acquisition properties owned by:

<u>Assessor Parcel No.</u>	<u>Record Owner</u>
1049-161-18 1049-161-19	C&M Realty, LLC/C&M Metals, Inc.
1049-121-26 1049-121-27 1049-121-28 1049-194-20	JC Horizon LTD

California eminent domain law provides that a public entity may not commence an eminent domain proceeding until its governing body has adopted a Resolution of Necessity, which resolution may only be adopted after the governing body has given each party with an interest in the affected property or their representatives a reasonable opportunity to appear and be heard on the following matters:

1. The public interest and necessity require the proposed project.
2. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The real property to be acquired is necessary for the project.
4. The offer of just compensation has been made to the property owner.

All notices of hearing were mailed on or before September 1, 2020, by first class mail to the property owners in accordance with Section 1245.235 of the California Code of Civil Procedure.

The above four required findings are addressed as follow:

**1. The Public Interest and Necessity Require the Proposed Project**

State law authorizes cities to condemn property necessary to carry out their municipal duties and functions. (Gov. Code § 37350.5.) That power must be exercised pursuant to Part 3, Title 7 of the California Code of Civil Procedure or some other statute. (Code Civ. Proc. § 1230.020.) Moreover, public agencies may condemn property only for a public use. (Code Civ. Proc. § 1240.010.)

Local agencies are obligated to adopt land use measures to protect the public health, safety and welfare of the community with regard to Airport development and operations. These measures are to minimize the public's exposure to excessive noise and safety hazards within areas around public airports. (Public Utilities Code § 21670 et seq.; See *Baker v. Burbank-Glendale-Pasadena Airport Auth.* (1985) 39 Cal.3d 862, 873 (public agency had a duty to reduce airport impacts).)

Local agencies are therefore authorized to acquire properties by eminent domain to promote airport development and mitigate airport impacts. (Gov. Code §§ 50470; 50474; *Miro v. Superior Court for San Bernardino* (1970) 5 Cal. App. 3d 87, 93.) In acquiring land for airport purposes, local agencies are further authorized to use such lands as parks or for recreational purposes until they are actually needed for airport purposes, the mitigation of resulting impacts, and the promotion of aeronautics and commerce and navigation by air. (Gov. Code §§ 50471; 50474.) An open space may qualify as a park. (See *Rindge Co. v. Los Angeles City* (1923) 262 U.S. 700, 707-08; see also Gov. Code § 65560 defining open space as land that is open for public and safety purposes, including areas that require special management and/or regulations because of special conditions.)

The City is authorized to acquire properties for the elimination of blight. State policy has declared the elimination of blight to be a public use. (Health & Safety Code § 33037.) This codification reflects the fact that the taking of private property for urban renewal has long been considered a valid public use. (See *Berman v. Parker*, 348 U.S. 26, 28 (the U.S. Supreme Court recognized the removal of blight as a public use justifying the use of eminent domain based on a redevelopment plan for slum clearance).) Although Assembly Bill 26 and subsequent implementing statutes have eliminated redevelopment agencies and the use of tax increment for financing redevelopment, the policy declaration stating that the elimination of blight is a public use and *Berman* and its progeny continue to be valid.

Because the promotion of airport related purposes and the mitigation of resulting impacts and the elimination of blight are declared public uses, projects representing the ultimate use of the Properties are not presently required. (See *City of Stockton v. Marina Towers* (2009) 171 Cal.App.4th 93, 111; see also Govt. Code § 50471 (local agencies may use acquired properties as a park or for recreational purposes before being used for airport purposes).)

If acquired, the Properties will be assembled with other properties in the area and eventually developed into industrial uses that conform to City and Airport land use requirements, mitigate Airport impacts and eliminate blight in the area. The fact that the Properties are to be acquired for the Project, the mitigation of Airport impacts and the elimination of blight, is sufficient to satisfy the public use and necessity requirement.

2. **The Project is Planned or Located in a Manner That Will be Most Compatible With the Greatest Public Good and the Least Private Injury**

The Properties are located within the former Cimarron Redevelopment Project Area. The blight conditions in the former Cimarron Redevelopment Project Area have been well documented in the Report to the City Council for the former Cimarron Redevelopment Project, Amendment No. 7. The current blight conditions around the Properties identified in the foregoing report remain largely unchanged. Presently, the Properties do not conform to applicable City and Airport land use requirements for development.

The C&M Realty, LLC/C&M Metals, Inc. property (APNs 1049-161-18 and 1049-161-19; "C&M Property") is comprised of two parcels. One of the parcels is vacant. The other parcel is improved with a residential triplex property located on the west side of Grove Avenue. The effective triplex contains 2,454 square feet of dwelling area. The unit mix is three 2-bedroom/1-bathroom units; each unit includes an attached one-car garage. Other site improvements include concrete paving, wood and chain link fencing and gating, plus grass, shrubbery, and tree landscaping. The C&M Property is located within the IG (General Industrial) zone district of the City of Ontario. The General Plan designation for the subject site is "Industrial (0.55 FAR)."

The JC Horizon LTD property (APNs 1049-121-26, 1049-121-27, 1049-121-28 and 1049-294-20; "JC Horizon Property") site is located at the northeast corner of Bon View Avenue and Main Street. The JC Horizon Property consists of three vacant open land parcels that together back up to an active railroad corridor. The JC Horizon Property site has an irregular, "L" shaped configuration and effectively level topography; the site contains 28,862 square feet of land area (0.66± acres). The JC Horizon Property is located within the IG (General Industrial) zone district of the City of Ontario. The General Plan designation for the JC Horizon Property is "Industrial (0.55 FAR)."

The Properties are in close proximity to the Airport. They are located immediately west of the runways and are directly below arrival and departure flight paths. They are located in areas that have been designated as being within the Airport's designated Safety and Noise Impact Zones. They experience noise levels above what is permissible. Moreover, due to land use restrictions on residential properties and the size, location and non-conforming nature of the Properties, they cannot be developed in accordance with applicable City and Airport land use requirements. The acquisition of the Properties and their assemblage with other properties for future development will mitigate Airport impacts, eliminate blight and bring them into conformance with applicable City and Airport land use requirements. Although the acquisition of the Properties without further development may mitigate some Airport impacts, it will not result in the elimination of blight because it will make permanent current blight conditions as it will result in two permanent nonconforming and unproductive vacant parcels that will further attract nuisances and undesired activities to an already blighted area. Since the acquisition of the Properties will mitigate Airport impacts and blight, and their future development will bring them into conformance with applicable City and Airport land use requirements, their acquisition for this Project satisfies the requirement that the Project be planned and located in a manner that will be most compatible with the greatest public good and least private injury.

**3. The Real Property to be Acquired is Necessary for the Proposed Project**

The Properties are located in an area that is negatively impacted by Airport operations and general area blight. The Properties are located immediately west of the runways and are directly below arrival and departure flight paths. They are located in areas that have been designated as being within the Airport's designated Safety and Noise Impact Zones. The blight conditions of the area have been well documented in the Report to the City Council for the former Cimarron Redevelopment Project, Amendment No. 7. The current blight conditions around the Properties identified in the foregoing report remain largely unchanged. Presently, the Properties do not conform to applicable City and Airport land use requirements for development. Mitigation of Airport impacts and blight in the area cannot be accomplished without the acquisition of the Properties and their eventual development into industrial uses that conform to applicable City and Airport land use requirements. They are therefore necessary for the Project.

**4. The Offer of Just Compensation Has Been Made**

Appraisals for the Properties were prepared by Benjamin V. Balos, MAI, of R. P. Laurain and Associates, Inc., to establish the fair market value of the fee interests the City is seeking to acquire. Offers of just compensation were made to the record owners to purchase the fee interests as established by the approved appraisals and as required by Section 7267.2 of the California Government Code. Although negotiated settlements may still be possible for the fee interests cited above, it would be appropriate to commence the procedures to acquire the fee interests through eminent domain.

**ENVIRONMENTAL ANALYSIS:** The Amendment No. 7 to the Cimarron Redevelopment Plan ("Plan") was approved in 2007 pursuant to an addendum to the certified Plan Environmental Impact Report ("EIR"), and expanded the Plan Area to include the Properties. The Plan contemplates the acquisition of the Properties. As such, the certified EIR and the Plan Amendment No. 7 addendum evaluate the environmental impacts of such acquisition pursuant to Public Resources Code section 21090 and CEQA Guidelines section 15180(b). As a project-level EIR was certified for the Plan, activities furthering the Plan are considered as one project under CEQA, and that project is considered to be approved when the Plan is adopted. Moreover, no further environmental review of the acquisition of the Properties by eminent domain is required pursuant to Public Resources Code section 21166 and CEQA Guidelines sections 15162 – 15163, as the acquisition of the Properties will not result in substantial changes in the project, or its circumstances, nor is there any significant new information that has surfaced.

**SUPPORTING DOCUMENTS:** Due to the voluminous quantity of documents and pages supporting the acquisition of the Properties, including documents relating to the Report to City Council for the Cimarron Redevelopment Project, Amendment No. 7, the EIR, the City's General Plan, the City's land use requirements, the Airport Land Use Compatibility Plan and the Ontario International Airport Part 150 Study - Noise Compatibility Program Report, it is impractical to present all such documents and pages at the hearing for the Resolutions of Necessity. They will therefore be made available to the public for viewing at the Records Management/City Clerk's Office.



# **EXHIBIT 1**

**EXHIBIT 1**



**C&M REALTY, LLC/C&M METALS, Inc.**

**STATE STREET**

**G R O V E   A V E N U E**

APN 1049-161-18

APN 1049-161-19

**C U C A M O N G A   A V E N U E**

C U C A M O N G A   A V E N U E

JC HORIZON, LTD

MAIN STREET

STATE STREET

APN'S

1049-121-26

1049-121-27

1049-121-28

APN

1049-194-20

B O N V I E W   A V E N U E



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

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION BY EMINENT DOMAIN OF FEE INTERESTS IN CERTAIN REAL PROPERTY LOCATED ON GROVE AVENUE IN ONTARIO, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NOS. 1049-161-18 AND 1049-161-19, FOR MITIGATION OF AIRPORT IMPACTS AND ELIMINATION OF BLIGHT IN THE CITY OF ONTARIO, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire, by eminent domain, fee interests in real property located on Grove Avenue, more particularly described as Assessor Parcel Nos. 1049-161-18 and 1049-161-19, for mitigation of airport impacts and elimination of blight in the City of Ontario, San Bernardino County, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, September 15, 2020, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public uses for which the real property interest is to be acquired are mitigation of airport impacts and elimination of blight in the City of Ontario, San Bernardino County, California. Sections 37350.5 and 50470 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The fee interest described in Exhibit "A" is necessary for the proposed project;
- (d) The offer required by section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use: Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the fee interest subject to such existing public use(s) pursuant to section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of

court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

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

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

---

PAUL S. LEON, MAYOR

ATTEST:

---

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

---

BEST BEST & KRIEGER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2020- duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT "A"

Legal Description and Map



EXHIBIT "A"

LEGAL DESCRIPTION

APN 1049-161-18 and 1049-161-19

**FEE**

Parcel 1:

NORTH 59.5 FEET OF EAST 130 FEET OF LOT 218, VILLA PLOTS SOUTHSIDE TRACT, PER MAP RECORDED IN BOOK 6, PAGE 11 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF SAN BERNARDINO, CALIFORNIA

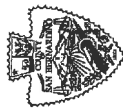
Assessor Parcel No. 1049-161-18

Parcel 2:

PORTION OF LOT 219, VILLA PLOTS SOUTHSIDE TRACT, PER MAP RECORDED IN BOOK 6, PAGE 11 OF MAPS. IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF SAN BERNARDINO, CALIFORNIA

Assessor Parcel No. 1049-161-19

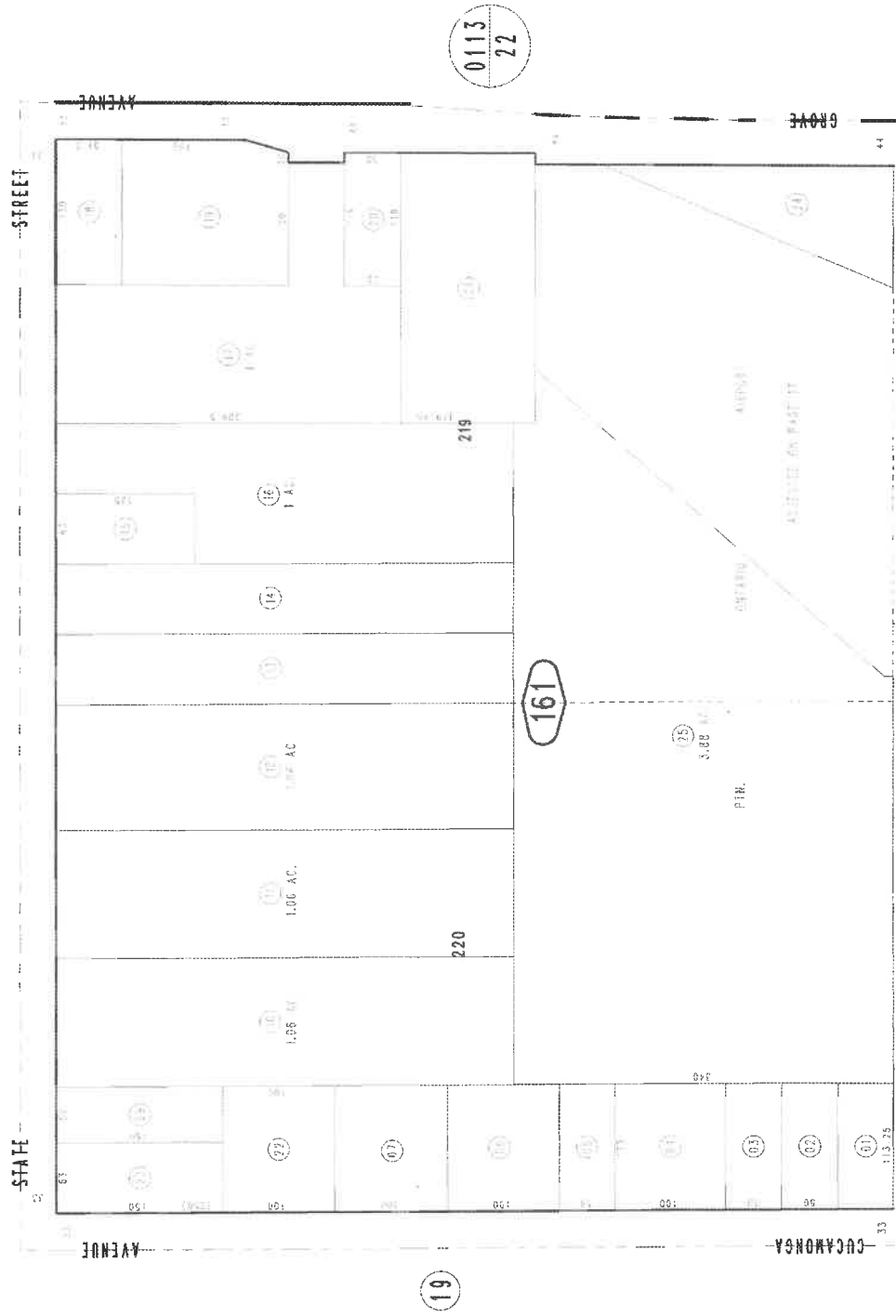
THIS MAP IS FOR THE PURPOSE  
OF AD VALOREM TAXATION ONLY



# Villa Plots South Side Tract Blks. 219, 220., M.B. 6/11

City of Ontario  
Tax Rate Area  
4083

1049 - 16



REVISED  
05/15/04  
05/15/04

Assessor's Map  
Book 1049 Page 16  
San Bernardino County

Ptn. N.E.1/4, Sec.29  
T.1S.,R.7W.

November 2004

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

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION BY EMINENT DOMAIN OF A FEE INTEREST IN CERTAIN REAL PROPERTY LOCATED ON BON VIEW AVENUE AND MAIN STREET IN ONTARIO, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NOS. 1049-121-26, 1049-121-27, 1049-121-28 AND 1049-194-20, FOR MITIGATION OF AIRPORT IMPACTS AND ELIMINATION OF BLIGHT IN THE CITY OF ONTARIO, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire, by eminent domain, a fee interest in real property located on Bon View Avenue and Main Street, more particularly described as Assessor Parcel Nos. 1049-121-26, 1049-121-27, 1049-121-28 and 1049-194-20, for mitigation of airport impacts and elimination of blight in the City of Ontario, San Bernardino County, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, September 15, 2020, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public uses for which the real property interest is to be acquired are for mitigation of airport impacts and elimination of blight in the City of Ontario, San Bernardino County, California. Sections 37350.5 and 50470 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The fee interest described in Exhibit "A" is necessary for the proposed project;
- (d) The offer required by section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use: Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the fee interest subject to such existing public use(s) pursuant to section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of

court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

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

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

---

PAUL S. LEON, MAYOR

ATTEST:

---

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

---

BEST BEST & KRIEGER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-    was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2020-    duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT "A"

Legal Description and Map

EXHIBIT "A"

LEGAL DESCRIPTION

APN 1049-121-26, 1049-121-27, 1049-121-28 and 1049-194-20

**FEE**

Parcel 1, Parcel 2, and Parcel 3:

LOTS 25, 26 AND 27, EXCEPT PORTION LYING WITHIN RAILROAD RIGHT OF WAY, BLOCK 1, TRACT NO. 1781, PER MAP RECORDED IN BOOK 26, PAGES 16 AND 17 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF SAN BERNARDINO, CALIFORNIA.

Assessor Parcel Nos. 1049-121-26, 1049-121-27, 1049-121-28

Parcel 4:

LOT 23 OF BLOCK 1, NORTH BON VIEW PARK TRACT, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 24 OF MAPS, PAGES 65 AND 66, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor Parcel Nos. 1049-194-20



THIS MAP IS FOR THE PURPOSE  
OF AD VALOREM TAXATION ONLY.

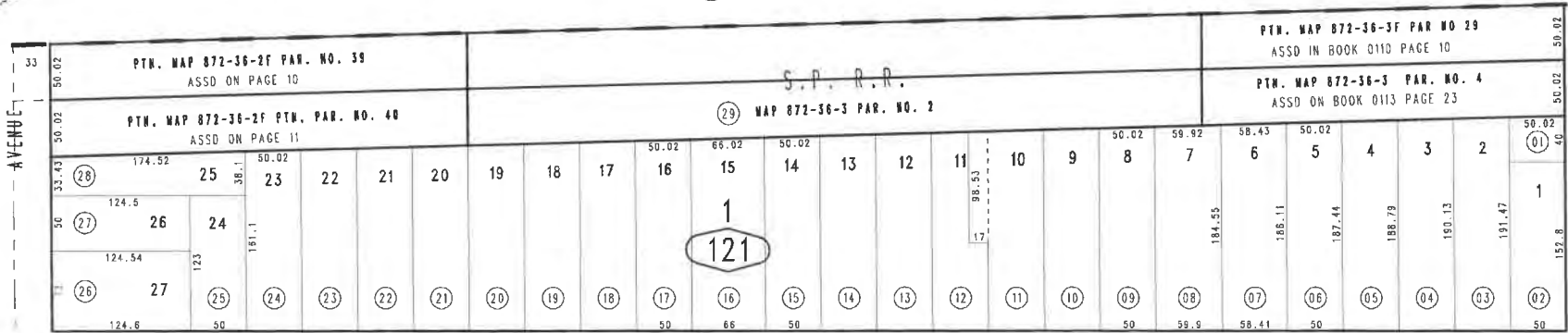
North Bon View Peach Orchard Tract No. 1781  
M.B. 26/16&17

City of Ontario  
Tax Rate Area  
4083

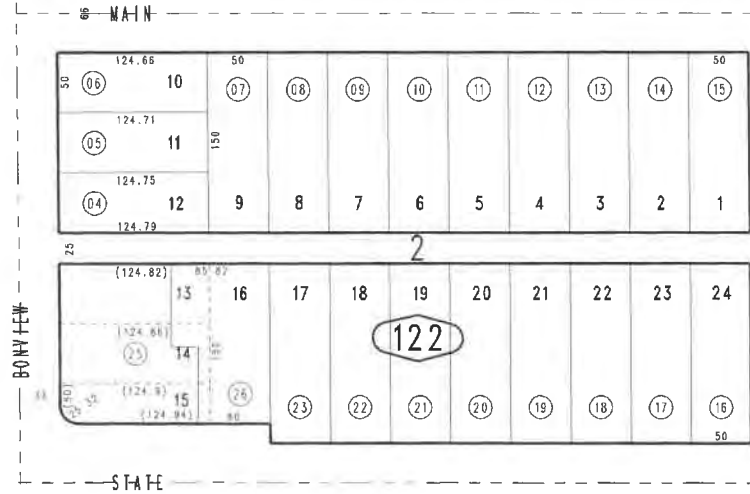
1049 - 12



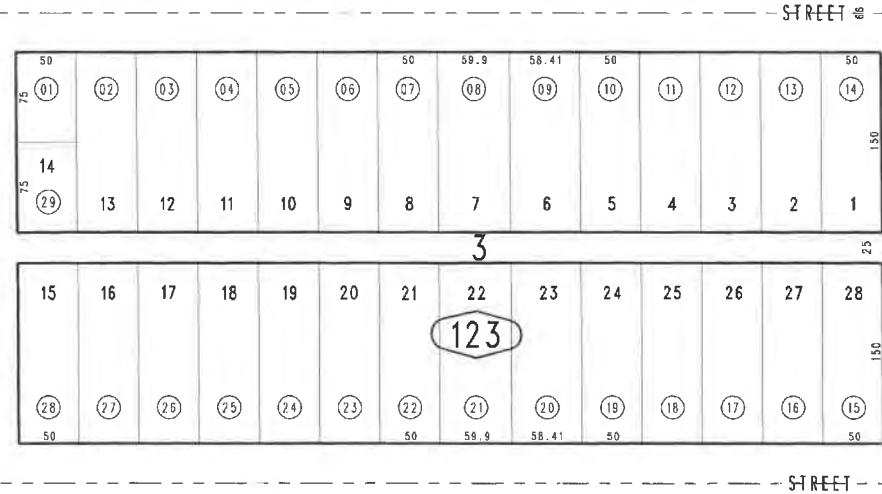
13



11



15



19

November 2004

Ptn. N.E.1/4, Sec.29  
T.1S.,R.7W.

Assessor's Map  
Book 1049 Page 12  
San Bernardino County

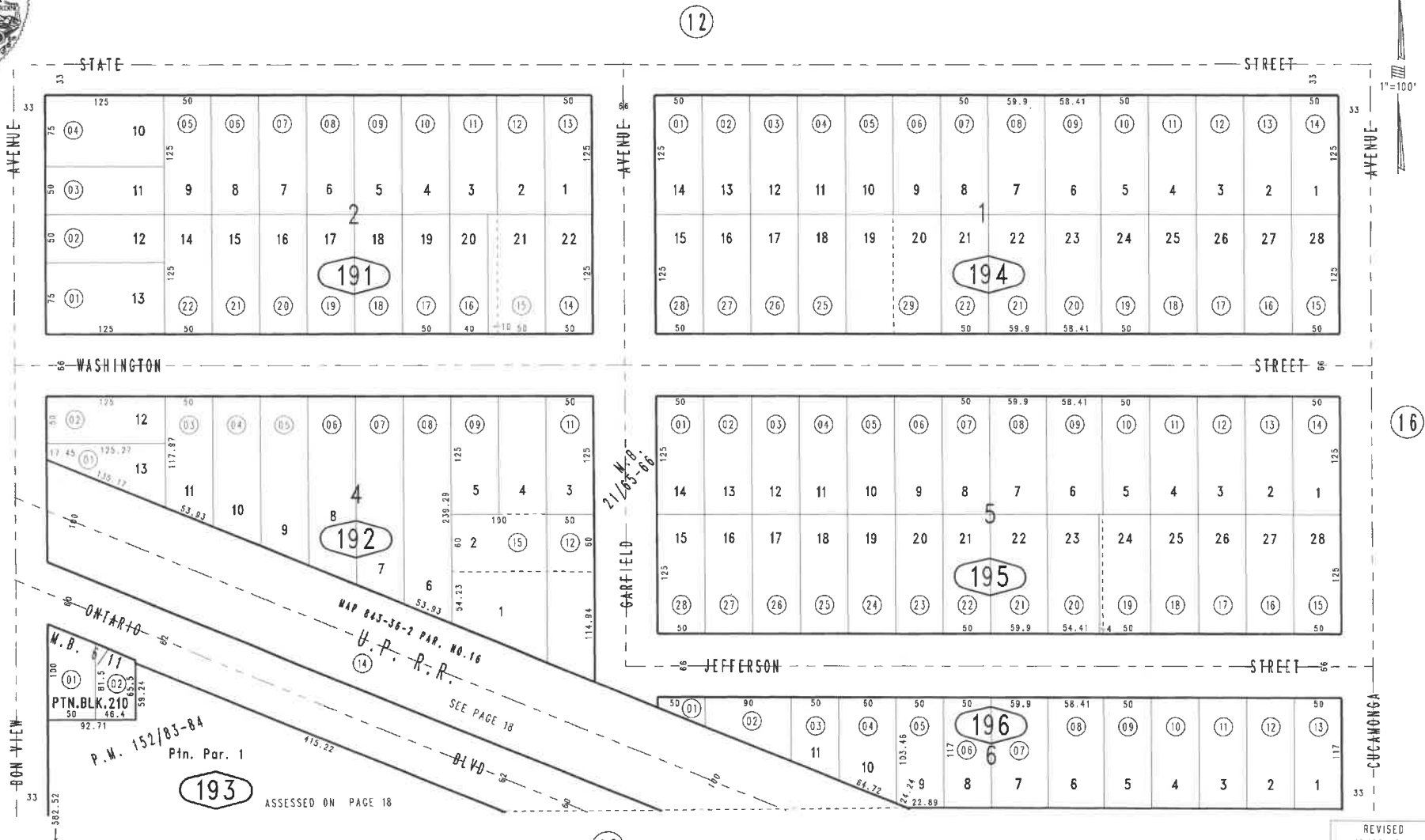
REVISED  
04/15/11 RM-MC

THIS MAP IS FOR THE PURPOSE OF AD VALOREM TAXATION ONLY.

# Villa Plots, South Side Tract Blks. 209, 210. M.B. 6/11

City of Ontario  
Tax Rate Area  
4083

1049 - 19



November 2004

Pln. Parcel Map No. 11929, P.M. 152/83-84  
Pln. North Bon View Park Tract, M.B. 24/65-66

Ptn. N.E.1/4, Sec.29  
T.1S.,R.7W.

Assessor's Map  
Book 1049 Page 19  
San Bernardino County

REVISED  
10/06/15 RU

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
PUBLIC HEARINGS

**SUBJECT: A PUBLIC HEARING REGARDING AN ECONOMIC DEVELOPMENT SUBSIDY REPORT AND OPERATING COVENANT AGREEMENT BETWEEN THE CITY OF ONTARIO AND NIKE RETAIL SERVICES, INC. PURSUANT TO GOVERNMENT CODE SECTION 53083.1; AND CONSIDERATION OF A RESOLUTION ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT, APPROVING THE OPERATING COVENANT AGREEMENT AND MAKING RELATED FINDINGS**

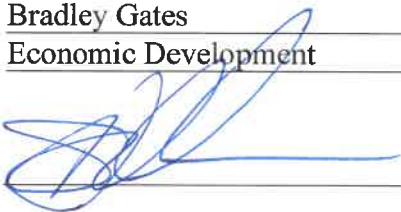
**RECOMMENDATION:** That the City Council take the following actions:

- (A) Hold the public hearing;
- (B) Adopt the resolution accepting the Economic Development Subsidy Report prepared pursuant to Government Code Section 53083.1 regarding an Operating Covenant Agreement (on file in the Records Management Department) by and between the City of Ontario and NIKE Retail Services, Inc., hereinafter referred to as "NIKE";
- (C) Adopt a resolution approving the Operating Covenant Agreement and authorizing the City Manager to execute the Agreement, and making related findings; and
- (D) Direct City staff to file a Notice of Exemption based upon the City Council's finding that the impacts for this agreement is not a project and subject to environmental review and that there is no possibility that the activity in question may have a significant effect on the environment.

**COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy  
Operate in a Businesslike Manner**

**FISCAL IMPACT:** Pursuant to the terms of the proposed Operating Covenant Agreement, the operating covenant payment between the City and NIKE is calculated based on NIKE's sales tax revenue during a computation quarter in an amount equal to the sum of fifty percent (50%) of the local

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

Prepared by: Bradley Gates  
Department: Economic Development  
City Manager Approval: 

Submitted to Council/O.H.A. 09/15/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

15

sales tax revenue received. Per the Economic Development Subsidy Report (Exhibit A), payment to NIKE is estimated at \$1,500,000 annually for the duration of the agreement.

Entering into the Operating Covenant Agreement (Exhibit B) ensures that local sales tax revenue generated by NIKE will remain in the city for no less than 11.5 years.

**BACKGROUND:** The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law. The City of Ontario receives one percent (1%) of all taxable sales generated within the City under this law. Sales and Use Tax revenues are an important source of revenue for the City, which are used to provide essential city services, such as police, fire, infrastructure maintenance and community facilities.

NIKE is global leader in the design and manufacture of athletic apparel, footwear and accessories. In consideration of this agreement, NIKE has leased a newly constructed, 580,000 square foot distribution center in Ontario Ranch. This distribution center will serve as the point of sale for all NIKE e-commerce sales in the State of California. The incentives provided in this Agreement are intended to ensure NIKE commences operations and remains in Ontario for no less than 11.5 years.

Entering into this Agreement will generate substantial revenue for the City and create approximately 325 new permanent jobs. In addition, consistent with NIKE's corporate mission and values, NIKE is committed to supporting local efforts that promote active health and well-being in Ontario's residents. Considering the potential benefits NIKE will have on the community, staff recommends the approval of an Operating Covenant Agreement to incentivize NIKE to establish its business operations in the City.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT PREPARED PURSUANT TO GOVERNMENT CODE SECTION 53083.1 REGARDING THE DEVELOPMENT OF AN E-COMMERCE DISTRIBUTION FACILITY BY NIKE RETAIL SERVICES, INC. IN THE CITY OF ONTARIO AND APPROVING AN OPERATING COVENANT AGREEMENT.

WHEREAS, the City of Ontario ("City") and NIKE Retail Services, Inc. ("Owner") have negotiated an Operating Covenant Agreement ("Agreement") for the establishment of an E-Commerce Distribution Facility within the City; and

WHEREAS, pursuant to that Agreement Owner is committed to opening and operating an E-Commerce Distribution Facility in the City for not less than 11.5 years; and

WHEREAS, Owner is also covenanted to, among other things, designate the City as the point of sale for certain merchandise transactions; and

WHEREAS, the City has agreed to purchase those covenants through quarterly payments equal to

- Fifty percent (50%) of the Sales Tax Revenues attributable to annual taxable sales allocated to the City.

WHEREAS, based on information provided by City staff, and other such written and oral evidence as presented to the City, the City finds and determines that the allocation of funds to Owner pursuant to the Agreement is reasonably related to a legitimate governmental purpose in that the establishment of the E-Commerce Distribution Facility will provide numerous public benefits including:

- Generating substantial revenue for the City through additional Local Sales Tax Revenue which may be used by the City for the funding of necessary public services and facilities, including but not limited to, public safety services and facilities, public improvements and recreational opportunities that otherwise may not be available to the community for many years; and
- The creation of high paying/management jobs and provide the opportunity for additional job growth throughout the term of this Agreement.
- Helping the City achieve the building blocks set forth in the Ontario Plan (adopted by the City Council in 2010) including taking actions that help to achieve a "Dynamic Balance" that enables the community to confront the continued dynamic growth of the region and technological change with confidence and a sense of opportunity and a "Prosperous Economy" that sustains prosperity across our entire community; and

- Entering into this Agreement and ensuring the establishment of the E-Commerce Distribution Facility may attract additional businesses and investment in the community due to increased services and economic activity in the area.

WHEREAS, in accordance with Government Code Section 53083.1, the City provided certain information in written form to the public and on its website, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference, and held a noticed public hearing on September 15, 2020 to consider all written and oral comments on the Economic Development Subsidy Report; and

WHEREAS, Owner is a duly formed corporation and the creation of an E-Commerce Distribution Facility serves Owner's business purposes in that the advantageous location of the City and its business conducive environment will permit Owner to operate more efficiently and effectively, will better serve its customers, and may provide an avenue for business expansion in the future; 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, CALIFORNIA, AS FOLLOWS:

SECTION 1.     Incorporation of Recitals. The foregoing recitals are true and correct and are incorporated herein and made an operative part of this Resolution.

SECTION 2.     Findings. The City Council hereby finds that:

(a)     Entering into this Agreement will serve the following public purposes:

(1)     Through this Agreement, Owner, will be committed to opening and operating an E-Commerce Distribution Facility in the City for transacting merchandise sales.

(2)     The establishment of the E-Commerce Distribution Facility within the City will generate substantial revenue for the City, create new jobs, revitalize an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years.

(3)     By having a company like NIKE establish a physical presence in the City, the City will be adding diversity to and generating new opportunities for economic growth.

(4)     Further, the establishment of the new E-Commerce Distribution Facility serves the public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom, thereby assisting the City in its goal of furthering the development of the community. The

increased economic activity resulting from the E-Commerce Distribution Facility and Owner's presence in the City will improve the economic and social viability and vitality of the local community.

(5) Entering into this Covenant Agreement will also further the City's efforts to achieve certain goals set forth in the 2010 Ontario Plan. The Ontario Plan included certain building blocks for the economic growth and improvement of the community. The Plan called upon the City to take actions that help to achieve a "Dynamic Balance" that enables the community to confront the continued dynamic growth of the region and technological change with confidence and a sense of opportunity and a "Prosperous Economy" that sustains prosperity across our entire community. The establishment of the E-Commerce Distribution Facility is another step in achieving those goals.

(b) Based upon these and other public benefits the public purposes of the Agreement outweigh any private benefit to private persons or entities.

(c) Contingent Obligations. The City finds that each City obligation is contingent upon separate consideration by Owner including but not limited to quarterly sales tax generation.

SECTION 3. CEQA. The City Council hereby finds that pursuant to the California Environmental Quality Act ("CEQA") (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), approval of the Agreement and acceptance of the Economic Development Subsidy Report is not a "project" for purposes of CEQA and therefore is not subject to CEQA review. The Agreement and acceptance of the Economic Development Subsidy Report is not a project pursuant to State CEQA Guidelines section 15378(b)(4), which states that government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant environmental impact are not subject to CEQA. Further, the Agreement and acceptance of the Economic Development Subsidy Report is not a project under State CEQA Guidelines section 15061(b)(3), which states that CEQA does not apply 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.

SECTION 4. Acceptance of Economic Development Subsidy Report. The City Council finds and determines that the Economic Development Subsidy Report (Exhibit A) is in compliance with applicable law and specifically Government Code Section 53083.1.

SECTION 5. Approve Agreement. The City Council hereby approves the Operating Covenant Agreement in substantially final form as attached to this Resolution as Exhibit B. The City Council hereby authorizes the City Manager, with the concurrence of the City Attorney, to make any non-financially substantive changes determined to be appropriate and in the City's interest and execute said Agreement. City Manager is hereby authorized to take any additional steps necessary to facilitate the intent of this action.

SECTION 6. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 7. Effective Date. This Resolution shall become effective immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

---

PAUL S. LEON, MAYOR

ATTEST:

---

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

---

BEST BEST AND KRIEGER LLP  
CITY ATTORNEY



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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-     was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2020-     duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A  
ECONOMIC DEVELOPMENT SUBSIDY REPORT

[Attached behind this cover page]

**ECONOMIC DEVELOPMENT SUBSIDY REPORT  
PURSUANT TO GOVERNMENT CODE SECTION 53083.1**

**FOR AN OPERATING COVENANT AGREEMENT  
BY AND BETWEEN  
CITY OF ONTARIO  
AND  
NIKE RETAIL SERVICES, INC.**

Pursuant to Government Code Section 53083.1, the City Council of the City of Ontario must hold a noticed public hearing and, prior to the public hearing, provide all of the following information in written form and available to the public and through the City's website, regarding a proposed economic development subsidy to be provided by the City pursuant to an Operating Covenant Agreement by and between the City of Ontario and NIKE Retail Services, Inc. ("Agreement"). Notice was published in the local newspaper for a public hearing to be held on September 15, 2020.

The purpose of this report is to provide the information required pursuant to Government Code Section 53083.1 in regard to the Agreement. This report shall remain available to the public and posted on the City's website until the end date of the economic development subsidy, as further described in number 2 below.

- 1. The name and address of all corporations, including members of a commonly controlled group or members of a combined reporting group of which the corporation is a member, or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy.**

The Agreement is with NIKE Retail Services, Inc. an Oregon corporation ("NIKE"). NIKE Retail Services, Inc. is the beneficiary of the economic development subsidy.

Luc Hooybergs, VP North America Logistics  
One Bowerman Drive, Beaverton, Oregon 97005  
(503) 671-6453

- 2. The name and address of all warehouse distribution centers that are the beneficiary of the economic development subsidy.**

5331 S. Carpenter Ave, Colony Commerce Center in Ontario, CA ("Facility") and other affiliate locations pursuant to the terms of the Agreement, and subject to approval by the City Council.

- 3. The start and end dates and schedule, if applicable, for the economic development subsidy.**

If the Agreement is approved by the City Council, the term will begin on the Effective Date of the Agreement and continue for no less than 11.5 years. The first Covenant

Payment will be paid following the first Covenant Quarter in which NIKE Retail Services, Inc. has performed its covenants and other obligations pursuant to the Agreement.

**4. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.**

The economic development subsidy shall be the sum of fifty percent (50%) of the Sales Tax Revenues attributable to annual taxable sales received by the City for Facility.

The City estimates that the annual payment to NIKE Retail Services, Inc. will be up to one million five hundred thousand dollars (\$1,500,000) by 2023, and that the total amount of the expenditure or loss of revenue of public funds as a result of the economic development subsidy will be up to seventeen million two hundred fifty thousand dollars (\$17,250,000) over the 11.5 year term. However, NIKE Retail Services, Inc. taxable sales paid to City is estimated to be up to thirty-four million five hundred thousand dollars (\$34,500,000) over the 11.5-year term of the agreement.

**5. A statement of the public purposes for the economic development subsidy.**

NIKE is world's leading designer, marketer and distributor of authentic athletic footwear, apparel, equipment and accessories for a wide variety of sports and fitness activities and is seeking to expand its business operations in order to serve customers within California and the Western region of the United States.

Through this agreement, NIKE will lease a newly constructed distribution center of approximately 580,000 square feet within the City of Ontario. Without an agreement, NIKE would not consider locating its distribution center in the City and possibly not in the State of California. The economic development subsidy will ensure that NIKE locates within the City for a period of 11.5 years.

The City has determined that location of NIKE, as described in the preceding paragraph, will generate substantial revenue for the City, allow for the creation of new jobs, revitalize an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years.

Further, the location of NIKE serves the additional public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom, thereby assisting the City in its goal of furthering the development of the community. This Agreement furthers the policies of the City to be business friendly and support economic growth including the creation of new job opportunities and new sources of revenue that support residents and city services.

**6. The projected tax revenue to the local agency as a result of the economic development subsidy.**

The City anticipates that the expansion of NIKE Retail Services, Inc. within the City will result in an approximate increase of annual sales tax revenue in the amount of up to three million dollars (\$3,000,000), minus the covenant payments to be paid to NIKE Retail Services, Inc., as set forth in number 4 above.

In addition, the value of the new improvements associated with the business is valued at approximately thirty million dollars (\$30,000,000) and will result in additional real property taxes in the amount of fifty-two thousand dollars (\$52,000) annually.

The City will receive an estimated sixty thousand dollars (\$60,000) in business license tax from NIKE Retail Services, Inc. annually.

**7. The estimated number of jobs created by the economic development subsidy, including wage scale, broken down by full-time, part-time, and temporary positions.**

NIKE Retail Service, Inc. has contracted with DHL to manage the employees and their operations at the distribution center. Below are the positions by year along with wage and benefit info. DHL utilizes a flex program that could be implemented here but is not currently identified in the structure.

Year	Full-Time Jobs Created	Seasonal Jobs Created	Weighted Average Base Salary	Weighted Average Wage w/ Incentives (Vacation, Bonus, Benefits, etc.)
1	89	264	\$35,413	\$37,810
2	242	628	\$35,296	\$41,948
3	325	849	\$36,197	\$43,093

**8. The estimated number of workers employed through temporary agencies.**

There will be no workers employed through temporary agencies. Short term associates are listed in the table above as “seasonal” but are hired directly to DHL.

**9. Whether any benefit package is offered, including health benefits, fringe benefits, and defined benefit pensions.**

Full benefits are provided to full-time associates after 30 days of employment. Seasonal associates are not offered benefits, but are expected to be employed for no longer than 90 days. If converted from seasonal to full-time they are offered the same benefit package.

DHL does not offer pension benefits.

**10. Both of the following regarding each warehouse distribution center that is the beneficiary of the economic development subsidy:**

- a. A description of the outreach, training, and hiring plans, including plans to hire disadvantaged workers.**

During startup, DHL Supply Chain in Ontario, CA will be hiring approximately 66 hourly and 15 exempt associates. The methods of recruitment will be through Indeed and different job boards in the area. Upon hire, all new associates will go through an orientation which includes 1 day of classroom training and 2 additional days of on-the-job training to get them acclimated with the company and their specific job functions. Associates will also get training in Nike's NLS operational method and will be cross trained in all functions in the building. As Nike grows the site in 2021, Nike will increase the headcount to accommodate the needs of the business.

While DHL does not specifically target disadvantaged workers, as defined under Government Code section 53083.1(j)(1), DHL will accommodate disadvantaged workers, if they can fulfill the physical requirements of the position (repetitively lift 30-60 lbs, stand for 8+ hours, and pass the safety test).

- b. A description and total value of any state or federal subsidies in the process of being applied for, or received by, the warehouse distribution center.**

None.

**11. A description of any accountability measures, including, but not limited to, clawbacks of subsidies, provided in the contract if the warehouse distribution center does not meet the goal outlined in the contract for subsidies.**

If Nike does not meet any of the covenants required by Agreement, City may automatically terminate its obligations with respect to Covenant Payments without cost, expense or liability, after providing Nike an opportunity to cure. Nike's contractual covenants include an operating and use covenant for the Facility, a required designation of City as point of sale for the Facility, obligations regarding maintenance of the Facility and against solicitation or acceptance of financial assistance, as defined. Nike also covenants that the Facility shall not be used for any purpose outside of that set forth in the Agreement, as a warehouse distribution facility.

If Nike breaches their covenant obligations within the first five (5) years of the Agreement (20 Computation Quarters), the City may recover an amount equal to sixty-six percent (66%) of the Covenant Payments paid to date.

EXHIBIT B  
OPERATING COVENANT AGREEMENT

[Attached behind this cover page]

**OPERATING COVENANT AGREEMENT**

**between**

**THE CITY OF ONTARIO**  
**a California municipal corporation,**

**and**

**NIKE RETAIL SERVICES, INC.,**  
**an Oregon Corporation**

[Dated as of September 15, 2020, for reference purposes only]



## **RECITALS**

**WHEREAS**, NIKE Retail Services, Inc. (“Owner”), is considering leasing a facility of approximately 580,000 square feet in distribution space, to be occupied as a West Coast Distribution and E-Commerce Distribution Facility (“Facility”), within the City of Ontario (“City”); and

**WHEREAS**, the incentives provided in this Agreement are intended to ensure Owner leases the new Facility of approximately 580,000 square feet for purposes of a regional West Coast Distribution and E-Commerce Distribution Facility within the City and remains in the City for 11 and ½ years (138 months) subject to the terms contained herein; and

**WHEREAS**, entering into this Agreement will generate substantial revenue for the City, create approximately 325 permanent jobs over the first three (3) years of Facility operation that will revitalize an underserved area of the City, and result in community and public improvements that might not otherwise be available to the community for many years; and

**WHEREAS**, Owner wishes to locate in the City because of the operational advantages including, but not limited to, a qualified workforce, cost advantages, access to customers, and capacity to staff a certain number of jobs in said City; and

**WHEREAS**, the incentives herein are intended exclusively to reward and encourage the Owner for job creation within the City of Ontario. The incentives are available to Owner for job creation regardless of where within the City the jobs are located (excluding jobs created at retail storefronts).

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, and for such other good and valuable consideration, the receipt of which is hereby acknowledged, the City of Ontario and NIKE Retail Services, Inc. agree as follows:

### **ARTICLE 1. EFFECTIVE DATE; PARTIES; DEFINITIONS**

**1.1 Effective Date of Covenant Agreement.** This NIKE Retail Services, Inc., Operating Covenant Agreement (“Covenant Agreement”) is dated September 15, 2020, for reference purposes only. This Covenant Agreement will not become effective until the date (“Effective Date”) on which all of the following are true:

**1.1.1** This Covenant Agreement has been approved and executed by the appropriate authorities of Owner, as defined herein, and delivered to the City;

**1.1.2** Following all legally required notices and hearings, this Covenant Agreement has been approved by the City Council;

**1.1.3** This Covenant Agreement has been executed by the appropriate authorities of the City and delivered to Owner.

If all of the foregoing conditions precedent have not been satisfied by October 31, 2020, then this Covenant Agreement may not thereafter become effective and any prior

signatures and approvals of the Parties will be deemed void and of no force or effect.

## **1.2 Parties to Covenant Agreement.**

**1.2.1 The City.** The address of the City is 303 East B Street, Ontario, California 91764, Attention: Economic Development Agency; telephone 909-395-2005; facsimile 909-395-2102; with copies to Ruben Duran, City Attorney, 2855 E Guasti Rd, Ontario, CA, 91761, Telephone: (909) 989-8584.

The City represents and warrants to Owner that, to the best of City's actual current knowledge:

(a) The City is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the laws of the State of California;

(b) The City has taken all actions required by law to approve the execution of this Covenant Agreement;

(c) The City's entry into this Covenant Agreement and/or the performance of the City's obligations under this Covenant Agreement does not violate any contract, agreement or other legal obligation of the City;

(d) The City's entry into this Covenant Agreement and/or the performance of the City's obligations under this Covenant Agreement does not constitute a violation of any state or federal statute or judicial decision to which the City is subject;

(e) There are no pending lawsuits or other actions or proceedings which would prevent or impair the timely performance of the City's obligations under this Covenant Agreement;

(f) The City has the legal right, power and authority to enter into this Covenant Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Covenant Agreement has been duly authorized and no other action by the City is requisite to the valid and binding execution, delivery and performance of this Covenant Agreement, except as otherwise expressly set forth herein; and

(g) The individual executing this Covenant Agreement is authorized to execute this Covenant Agreement on behalf of the City.

The representations and warranties set forth above are material consideration to Owner and the City acknowledges that Owner is relying upon the representations set forth above in undertaking Owner's obligations set forth in this Covenant Agreement.

As used in this Covenant Agreement, the term "City's actual current knowledge" shall mean, and shall be limited to, the actual current knowledge of the City Manager as of the Effective Date, without having undertaken any independent inquiry or investigation for the

purpose of making such representation or warranty and without any duty of inquiry or investigation.

All of the terms, covenants and conditions of this Covenant Agreement shall be binding on and shall inure to the benefit of the City and its nominees, successors and assigns.

**1.2.2 Owner.** The address of NIKE Retail Services, Inc. (“Owner”) for purposes of this Covenant Agreement is One Bowerman Drive, Beaverton, Oregon 97005; telephone 503-671-6453]

Owner represents and warrants to the City that, to the best of its actual current knowledge:

(a) Owner is a duly formed Oregon corporation, qualified and in good standing to do business under the laws of the State of California;

(b) The individual(s) executing this Covenant Agreement is/are authorized to execute this Covenant Agreement on behalf of Owner;

(c) Owner has taken all actions required by law to approve the execution of this Covenant Agreement;

(d) Owner’s entry into this Covenant Agreement and/or the performance of its obligations under this Covenant Agreement does not violate any contract, agreement or other legal obligation of Owner;

(e) Owner’s entry into this Covenant Agreement and/or the performance of its obligations under this Covenant Agreement does not constitute a violation of any state or federal statute or judicial decision to which Owner is subject;

(f) There are no pending lawsuits or other actions or proceedings which would prevent or impair the timely performance of Owner’s obligations under this Covenant Agreement;

(g) Owner has the legal right, power and authority to enter into this Covenant Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Covenant Agreement have been duly authorized and no other action by Owner is requisite to the valid and binding execution, delivery and performance of this Covenant Agreement, except as otherwise expressly set forth herein; and

(h) Owner and its managerial personnel possess sufficient experience and qualifications necessary to conduct Owner’s Sales Activities (hereinafter defined) as required by this Covenant Agreement.

(i) Owner covenants that nothing in this Agreement or the implementation thereof shall violate the provisions or intent of Government Code Section 53084.5.

The representations and warranties set forth herein are material consideration to the City and Owner acknowledges that the City is relying upon the representations set forth above in undertaking the City's obligations set forth above.

As used in this Covenant Agreement, the term "actual current knowledge of Owner" shall mean, and shall be limited to, the actual current knowledge of Luc Hooybergs, VP of North America Logistics as of the Effective Date, without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

All of the terms, covenants and conditions of this Covenant Agreement shall be binding on and shall inure to the benefit of Owner and its permitted nominees, successors and assigns. Wherever the term "Owner" is used herein, such term shall include any permitted nominee, assignee or successor of Owner.

The qualifications and identity of Owner are of particular concern to the City, and it is because of such qualifications and identity that the City has entered into this Covenant Agreement with Owner. No voluntary or involuntary successor-in-interest of Owner shall acquire any rights or powers under this Covenant Agreement except as expressly set forth herein.

**1.2.3** The City and Owner are sometimes individually referred to as "Party" and collectively as "Parties."

### **1.3 Definitions.**

**1.3.1 "Affiliate"** means, as defined by the Internal Revenue Code (IRC) Section 1504, any corporation included in NIKE Retail Services, Inc. affiliated group.

**1.3.2 "CDTFA"** means the California Department of Tax and Fee Administration.

**1.3.3 "City"** means the City of Ontario, a California municipal corporation, and any nominee, assignee of, or successor to, its rights, powers and responsibilities.

**1.3.4 "Computation Quarter"** means each calendar quarter beginning on January 1, April 1, July 1, or October 1, as applicable, and ending on the succeeding March 31, June 30, September 30, or December 31, as applicable. The first Computation Quarter within the Eligibility Period shall commence on October 1, 2020, and is referred to herein as "Computation Quarter 1," with each succeeding Computation Quarter within the Eligibility Period being consecutively numbered, concluding with Computation Quarter 46 unless the lease for the Facility is extended, or any additional option to extend is approved by the Parties, in which instance the Computation Quarters will extend sequentially after Computation Quarter 46. In the event the lease of the Facility is terminated or expires after Computation Quarter 22 or before Computation Quarter 46, the final Computation Quarter shall be appropriately adjusted subject to the terms and obligations of this Agreement.

**1.3.5 "Covenant Payment(s)"** means those contingent payments to be made by the City to the Owner pursuant to Section 3.2 of this Covenant Agreement for the purchase of the

Covenants and Owner's timely and faithful performance thereunder.

**1.3.6 "Covenant Term"** means, a period of 11 and ½ years, comprised of an initial 5 ½ year term and two (2) three-year extensions (138 months) commencing upon the first day of the first Computation Quarter (unless terminated sooner pursuant to specific provisions of this Covenant Agreement). Owner will have the option to extend this Agreement past the Covenant Term in concert with the underlying lease of Facility.

**1.3.7 "Covenants"** means those five (5) covenants described in Section 3.1 herein.

**1.3.8 "Eligibility Period"** means the period commencing as of the first (1<sup>st</sup>) day of Computation Quarter 1 and ending the last day of the final Computation Quarter contemplated by the lease of the Facility as set forth in 1.3.3 but not less than Computation Quarter 46, subject to extension pursuant to the terms of this Agreement.

**1.3.9 "Facility"** means that certain facility of approximately 580,000 square feet in distribution space, located at 5331 S. Carpenter Street, Ontario, CA, 91761, to be leased as a regional West Coast Distribution and E-Commerce Distribution Facility within the City of Ontario, that Owner will be proposing to lease for 11 and ½ years (138 months), with anticipated capital investment in facility upgrades and equipment. Facility, at Owner's option and upon prior notice to City, may also include other distribution type facilities leased or owned by Owner within the City from which Owner and/or affiliate product is sold through Owner's and/or its affiliates' internet websites and sold directly to an end-user consumer so long as such affiliate sales are completed in compliance with Sections 1.3.11 and 4.27.

**1.3.10 "Liquidated Damages"** means, for purposes of Section 3.6, as follows: If the breach occurs during Computation Quarters 1 through 20, an amount equal to sixty-six percent (66%) of the Covenant Payments paid to Owner at any time prior to the Computation Quarter in which the breach occurs.

**1.3.11 "Owner"** means and refers to NIKE Retail Services, Inc. an Oregon corporation, and its successors and assigns, cumulatively.

**1.3.12 "Owner's Sales Activities"** means the commercially reasonable business practices and activities associated with the electronic sale of products from the Facility through Owner's website that are sold directly to end-user consumers, whether at the Facility or another property leased or owned by Owner, over the internet, or otherwise, that results in Sales Tax Revenues relating to personal property which is shipped or distributed from Facility, but excluding sales occurring within Owner's retail stores in other physical locations, and pursuant to the terms contained herein. "Owner's Sales Activities" also include any of the above-described activities which are conducted by a parent, subsidiary or wholly or partially owned affiliate of Owner, provided that such parent, subsidiary or affiliate did not previously conduct such activities in the City.

**1.3.13 "Penalty Assessments"** means and refers to penalties, assessments, collection costs and other costs, fees or charges resulting from late or underpaid payments of Sales Tax and which are levied, assessed or otherwise collected from Owner.

**1.3.14 “Sales Tax”** means and refers to all sales and use taxes levied under the authority of the Sales Tax Law attributable to the Facility in City and Owner’s Sales Activities excluding that which is to be refunded to Owner because of an overpayment of such tax.

**1.3.15 “Sales Tax Law”** means and refers to: (a) California Revenue and Taxation Code Section 7200 et seq., and any successor law thereto; (b) any legislation allowing City or other public agency with jurisdiction in City to levy any form of local Sales Tax on the operations of Owner; and (c) regulations of the CDTFA and other binding rulings and interpretations relating to (a) and (b) of this Section 1.3.14.

**1.3.16 “Sales Tax Revenues”** means the net Sales Tax actually received by the City from the CDTFA pursuant to the application of the Sales Tax Law (as such statutes may hereafter be amended, substituted, replaced, re-numbered, moved or modified by any successor law) attributable to the Facility in City in a particular Computation Quarter. Sales Tax Revenues shall not include: (i) Penalty Assessments; (ii) any Sales Tax levied by, collected for or allocated to the State of California, the County of San Bernardino, or a district or any entity (including an allocation to a statewide or countywide pool); (iii) any administrative fee charged by the CDTFA; (iv) any Sales Tax subject to any sharing, rebate, offset or other charge imposed pursuant to any applicable provision of federal, state or local (except City’s) law, rule or regulation; (v) any Sales Tax attributable to any transaction not consummated within the Eligibility Period; or (vi) any Sales Tax (or other funds measured by Sales Tax) required by the State of California to be paid over to another public entity (including the State) or set aside and/or pledged to a specific use other than for deposit into or payment from the City’s general fund.

**ARTICLE 2. ADDITIONAL RECITALS**

**2.1** The previously stated Recitals are incorporated herein and made a part hereof as though fully set forth.

**2.2** The City has determined that the long-term operation of the Facility will result in substantial benefits to the City, and its citizens including, without limitation, the creation of significant new numbers of employment opportunities, property tax revenues, sales tax revenues and other ancillary benefits. Accordingly, the City has also determined that its entry into this Covenant Agreement and its purchase of the Covenants serve a significant public purpose, while providing only incidental benefits to a private party.

**ARTICLE 3. COVENANTS RUNNING WITH THE LAND; COVENANT PAYMENTS; REMEDIES FOR BREACH.**

**3.1 Covenants Running with the Land.**

**3.1.1 Operating and Use Covenant.** Owner covenants and agrees that for the Covenant Term Owner shall operate, or cause to be operated upon the Property, the Facility in City in a commercially reasonable business manner, consistent with all applicable provisions of federal, state and local laws and regulations. Subject to Section 4.9, the Facility in City shall be operated in accordance with the reasonable and customary practices in surrounding communities.

(a) Owner will operate its business in a commercially reasonable and prudent manner, with the objective of generating a reasonable amount of Sales Tax Revenues. Owner's obligations pursuant to the immediately preceding sentence include, without limitation, the obligation to obtain all federal, state and local licenses and permits required for the operation of the business and to advertise, market and promote the business in a commercially reasonable fashion. For the term of this Operating Covenant, the Owner may use the Property only for the purposes of the operation of the Facility, related business uses and conducting Owner's Sales Activities in accordance with this Covenant Agreement.

**3.1.2 Covenant to Designate City as Point of Sale.** Owner covenants and agrees that, for the term of the Operating and Use Covenant as described in Section 3.1.1, Owner shall maintain such licenses and permits as may be required by any governmental agency to conduct Owner's Sales Activities related to the Facility and shall consummate at the Facility all taxable sales transactions resulting from Owner's Sales Activities and identify the City as such in all reports to the CDTFA in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Revenue and Taxation Code 7200, et seq.), as it may be amended or substituted. Owner shall designate City as the sole point of sale for all of Owners products sold, including but limited to, through Owner's internet website which are fulfilled from the Facility and sold directly to an end-user consumer within California. Owner shall maintain the appropriate master sales permits applicable to and required for the operation of the Facility. The Owner shall consummate all taxable sales transactions for Owner's Sales Activities at the Facility, consistent with all applicable statutory and CDTFA regulatory requirements applicable to Owner's Sales Activities and the designation of the City as the "point of sale" for all Owner's taxable sales occurring as a result of Owner's Sales Activities.

**3.1.3 Owner's Additional Obligations Regarding Repairs and Alterations to Facility.** Owner covenants and agrees that, for the term of the Operating and Use Covenant as described in Section 3.1.1, the Owner shall maintain, or cause to be maintained, the Facility in good condition, ordinary wear and tear excepted, and free from the accumulation of trash or other debris and agrees to promptly remove, or cause the removal of, all graffiti upon the Facility.

**3.1.4 Covenant Against Solicitation and Acceptance of Economic Incentives During the Term of the Operating Use Covenant.** Owner covenants and agrees that, for the term of the Operating and Use Covenant as described in Section 3.1.1, Owner will not directly or indirectly solicit or accept any "Financial Assistance" from any other public entity, if such Financial Assistance is given for the purpose of causing or would result in either Owner's breach of any of the Covenants. For purposes of this Section 3.1.4 the term "Financial Assistance" means any direct or indirect payment, subsidy, rebate, or other similar or dissimilar monetary or non-monetary benefit, including, without implied limitation, payment of land subsidies, relocation expenses, public financings, property or sales tax relief, rebates, exemptions or credits, relief from public improvement obligations, and payment for public improvements to or for the benefit of Owner.

**3.1.5 Use of Property.** Owner covenants and agrees that the real property upon which the Facility sits shall be put to no use other than those uses specified in the City's General Plan, the Specific Plan, zoning ordinances, and this Covenant Agreement as the same may be

amended from time to time. Nothing in this Section 3.1.5 shall limit, expand, modify or otherwise affect any right of the Owner to continue any legal nonconforming use upon the real property upon which the Facility sits following changes in the City's General Plan or zoning ordinances.

### **3.2 Covenant Payments.**

**3.2.1 Statement of Intent.** The consideration to be paid to the Owner in exchange for the Covenants and Owner's performance of its obligations set forth in this Covenant Agreement, and subject to satisfaction of all conditions precedent thereto, shall consist of City's payment to the Owner for each Computation Quarter during the Eligibility Period that the City receives Sales Tax Revenue, an amount equal to the sum of fifty percent (50%) of the Sales Tax Revenues attributable to annual taxable sales at the Facility received by the City ("Covenant Payment"). The City's obligations under this Section 3.2 are contingent on a Computation Quarter-to-Quarter basis and, for each Computation Quarter, City's obligations to make any payments hereunder are expressly contingent upon the Owner having, for the entirety of such Computation Quarter, completely fulfilled its material obligations under this Covenant Agreement, including, without limitation, the Covenants. Should such condition precedent not be satisfied for each Computation Quarter, then City shall have no obligation under this Section 3.2 to make any Covenant Payments to Owner in such Computation Quarter.

**3.2.2 Computation Quarter Covenant Payments.** Within forty-five (45) days following the end of each Computation Quarter, Owner shall submit to City certified copies of its quarterly reports to the CDTFA which sets forth the amount of sales taxes paid to the CDTFA during the Computation Quarter arising from Owner's Sales Activities conducted at the Facility. Within one hundred twenty (120) days following the end of each Computation Quarter, City shall pay to Owner any Computation Quarter Covenant Payment due for such Computation Quarter.

**3.2.3 No Carry Forward or Back.** The determination of the Covenant Payment(s) shall be determined and calculated on a Computation Quarter to Computation Quarter basis. Except as provided in Section 3.2.4, no Sales Tax Revenue which is generated in a Computation Quarter other than the Computation Quarter for which the Covenant Payment is being determined shall be used or considered in the calculation of any Covenant Payment which may be due for that Computation Quarter.

**3.2.4 CDTFA Determination of Improperly Allocated Local Sales Tax Revenues.** If, at any time during or after the Eligibility Period of this Covenant Agreement, the CDTFA determines that all or any portion of the Sales Tax Revenues received by the City were improperly allocated and/or paid to the City, and if the CDTFA requires repayment of, offsets against future sales tax payments, or otherwise recaptures from the City those improperly allocated and/or paid Sales Tax Revenues, then Owner shall, within thirty (30) calendar days after written demand from the City, repay all Covenant Payments (or applicable portions thereof) theretofore paid to Owner which are attributable to such repaid, offset or recaptured Sales Tax Revenues. If Owner fails to make such repayment within thirty (30) calendar days after the City's written demand, then Owner shall be in breach of this Covenant Agreement and such obligation shall accrue interest from the date of the City's original written demand at the then-maximum legal rate imposed by the California Code of Civil Procedure on prejudgment monetary



obligations, compounded monthly, until paid. Additionally, the City may deduct any amount required to be repaid by Owner under this Section 3.2.4 from any future Covenant Payments otherwise payable to Owner under this Covenant Agreement. This Section 3.2.4 shall survive the expiration or termination of this Covenant Agreement.

**3.2.5 Not a Pledge of Sales Tax.** Owner acknowledges that the City is not making a pledge of Sales Tax Revenues, or any other particular source of funds; the definition of Sales Tax Revenues, as used herein, is used merely as a measure of the amount payment due hereunder and as means of computing the City's payment in consideration for the Covenants. It is acknowledged by Owner that he City's obligation to make payments is specifically contingent upon receipt by the City of the Sales Tax Revenues derived from operation of the Facility.

### **3.3 Default.**

**3.3.1 Owner Default.** City shall provide Owner with written notice of Owner's failure ("Owner Default") to strictly abide by any material provision of this Covenant Agreement, including, without limitation, the Covenants. Owner shall have thirty (30) days from the date of such notice to either cure such Owner Default, or, if such Owner Default cannot be reasonably cured during such thirty (30) day period, to commence to cure within said thirty (30) day period and diligently prosecute such cure to completion thereafter.

**3.3.2 City Default.** Owner shall provide City with written notice of City's failure ("City Default") to strictly abide by any material provision of this Covenant Agreement. City shall have thirty (30) days from the date of such notice to either cure such City Default, or, if such City Default cannot be reasonably cured during such thirty (30) day period, to commence to cure within said thirty (30) day period and diligently prosecute such cure to completion thereafter.

**3.4 General Remedies for Default.** Except as provided in Section 3.6, upon either a City or an Owner Default (as defined in Section 3.3), Owner or City (as applicable) shall have the right to seek all available legal and equitable remedies, including, without implied limitation, general and consequential damages, unless otherwise expressly provided to the contrary herein. Unless prohibited by law or otherwise provided by a specific term of this Covenant Agreement, the rights and remedies of the City and the Owner under this Covenant Agreement are nonexclusive and all remedies hereunder may be exercised individually or cumulatively, and the City may simultaneously pursue inconsistent and/or alternative remedies. Either Party may, upon the Default of the other Party and in addition to pursuing all remedies otherwise available to it, terminate this Covenant Agreement and all of its obligations hereunder without cost, expense or liability to itself.

**3.5 The City's Rights to Terminate its Obligations under Section 3.2.** The City's obligations under Section 3.2 shall automatically terminate without cost, expense, or liability to City, upon the occurrence of any one or more of the following: (i) uncured Owner Default; (ii) the end of the Eligibility Period; or (iii) upon the final determination by a court of competent jurisdiction that any one or more of the Covenants are void, voidable, invalid, or even unenforceable for any reason whatsoever, including, without limitation, legal infirmity. Termination of the City's obligations under Section 3.2 in accordance with this Section 3.5 shall

not operate to forgive, modify, discharge or excuse Owner's obligations arising under this Covenant Agreement.

### **3.6 Liquidated Damages.**

**3.6.1 Owner Default With Respect to Obligations Under Sections 3.1.1 through 3.1.5.** The Parties acknowledge that the consideration to the City for its entry into this Covenant Agreement and the performance of its obligations hereunder include the City's receipt of Sales Tax Revenues, employment and other payroll taxes, property taxes, and other direct and indirect financial and non-financial benefits arising from the operation Owner's Sales Activities and the location of the Facility in the City in accordance with Article 3 of this Covenant Agreement. Owner agrees that the City will suffer damages if Owner commits any Owner Default and fails to cure the same with respect to any of its obligations arising under Sections 3.1.1 through 3.1.5. The Parties agree that the exact determination of such damages would be impracticable and extremely difficult to quantify. Accordingly, the Parties have determined that Liquidated Damages (as determined pursuant to Section 1.3.9) represents a reasonable estimate of the damages which would be suffered by the City if Owner commits any Owner Default with respect to any of its obligations set forth in Sections 3.1.1 through 3.1.5. Accordingly, as its sole and exclusive remedy for an Owner Default with respect to any of its covenants and obligations set forth in Sections 3.1.1 through 3.1.5, the City shall be entitled to (1) terminate this Covenant Agreement and the entirety of its obligations hereunder, including any accrued and unpaid Covenant Payments, and (2) receive from Owner the applicable amount of Liquidated Damages as provided by Section 1.3.9.

**3.6.2 ACKNOWLEDGEMENT OF REASONABLENESS OF LIQUIDATED DAMAGES.** UPON AN UNCURED OWNER DEFAULT WITH RESPECT TO ANY OF ITS OBLIGATIONS SET FORTH IN SECTIONS 3.1.1 THROUGH 3.1.5, FOLLOWING NOTICE AND OPPORTUNITY TO CURE PURSUANT TO SECTION 3.3.1, THE CITY AND OWNER ACKNOWLEDGE AND AGREE THAT IT WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN THE AMOUNT OF DAMAGES THAT WOULD BE SUFFERED BY THE CITY WITH RESPECT TO SUCH DEFAULT. HAVING MADE DILIGENT BUT UNSUCCESSFUL ATTEMPTS TO ASCERTAIN THE ACTUAL DAMAGES THE CITY WOULD SUFFER, THE PARTIES AGREE THAT THE LIQUIDATED DAMAGES AMOUNT AS DETERMINED IN ACCORDANCE WITH SECTION 1.3.9 REPRESENTS A REASONABLE ESTIMATION OF THOSE DAMAGES. THEREFORE, UPON AN OWNER DEFAULT WITH RESPECT TO ANY OF ITS OBLIGATIONS SET FORTH IN SECTIONS 3.1.1 THROUGH 3.1.5, AS ITS SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT, THE CITY SHALL BE ENTITLED TO (1) RECEIPT OF THE LIQUIDATED DAMAGES AMOUNT CALCULATED IN ACCORDANCE WITH SUBSECTION 1.3.9, WHICH OWNER SHALL PAY WITHIN TEN (10) DAYS FOLLOWING WRITTEN DEMAND FROM THE CITY, AND (2) TERMINATE THIS AGREEMENT AND THE ENTIRETY OF ITS OBLIGATIONS HEREUNDER, INCLUDING ANY ACCRUED BUT YET UNPAID COVENANT PAYMENTS.

\_\_\_\_\_  
Initials of Authorized City Representative

\_\_\_\_\_  
Initials of Authorized Owner Representative

## ARTICLE 4. GENERAL TERMS

**4.1 Tax Consequences.** Owner acknowledges that it may experience tax consequences as a result of its receipt of the payments provided for in this Covenant Agreement and agrees that it shall bear any and all responsibility, liability, costs, and expenses connected in any way therewith.

**4.2 Rights Not Granted Under Covenant Agreement.** This Covenant Agreement is not, and shall not be construed to be, a Development Agreement under Government Code Section 65864 et seq., or a disposition and development agreement under Health and Safety Code Section 33000 et seq. This Covenant Agreement is not, and shall not be construed to be, an approval or an agreement to issue permits or a granting of any right or entitlement by the City concerning the Facility, Owner's Sales Activities or any other project, development, or construction by the Owner in the City. This Covenant Agreement does not, and shall not be construed to, exempt Owner from the application and/or exercise of the City's or City's power of eminent domain or its police power, including, but not limited to, the regulation of land uses and the taking of any actions necessary to protect the health, safety, and welfare of its citizenry.

**4.3 Consent.** Whenever consent or approval of any party is required under this Covenant Agreement, that party shall not unreasonably withhold, delay or condition such consent or approval unless otherwise allowed by a specific provision of this Covenant Agreement.

**4.4 Notices and Demands.** All notices or other communications required or permitted between the City and Owner under this Covenant Agreement shall be in writing, and may be (i) personally delivered, (ii) sent by United States registered or certified mail, postage prepaid, return receipt requested, (iii) sent by telecopier, or (iv) sent by nationally recognized overnight courier service (e.g., Federal Express), addressed to the Parties at the addresses provided in Article 1, subject to the right of either party to designate a different address for itself by notice similarly given. Any notice so given by registered or certified United States mail shall be deemed to have been given on the second business day after the same is deposited in the United States mail. Any notice not so given by registered or certified mail, such as notices delivered by telecopier or courier service (e.g., Federal Express), shall be deemed given upon receipt of the same by the party to whom the notice is given.

**4.5 Nonliability of the City or City Officials and Employees.** No board member, official, contractor, consultant, attorney or employee of the City or City shall be personally liable to Owner, any voluntary or involuntary successors or assignees, or any lender or other party holding an interest in the Property, in the event of any default or breach by the City, or for any amount which may become due to the Owner or to its successors or assignees, or on any obligations arising under this Covenant Agreement.

**4.6 Conflict of Interests.** No board member, official, contractor, consultant, attorney or employee of the City or City shall have any personal interest, direct or indirect, in this Covenant Agreement nor shall any such board member, official or employee participate in any decision relating to this Covenant Agreement which affects his/her personal interests or the

interests of any corporation, partnership or association in which he/she is directly or indirectly interested.

**4.7 Pledge or Hypothecation of Covenant Payments.** Owner may assign any Covenant Payment(s) due in accordance with the terms of this Covenant Agreement (but not any other right or obligation of this Covenant Agreement) upon thirty (30) days' prior written notice to City as collateral for any loan or financing obtained by the Owner in connection with the Facility; provided that nothing in this Section 4.7 shall be deemed to limit the operation of Section 4.16. Without limiting the general applicability of the foregoing, Owner acknowledges that Owner's lender and any transferee of Owner's lender shall be subject to the transfer restrictions of Section 4.16.

**4.8 Entire Agreement; Good Faith Negotiations.** This Covenant Agreement contains all of the terms and conditions agreed upon by the Parties and supersedes any previous agreements between the Parties concerning the subject matter of this Covenant Agreement. No other understanding, oral or otherwise, regarding the subject matter of this Covenant Agreement shall be deemed to exist or to bind any of the parties hereto. All prior written or oral offers, counteroffers, memoranda of understanding, proposals and the like are superseded by this Covenant Agreement.

The Parties acknowledge that this Covenant Agreement is the product of mutual arms-length negotiations and that each party has been, or has had the opportunity to have been, represented by legal counsel in the negotiation and drafting of this Covenant Agreement. Accordingly, the rule of judicial construction which provides that ambiguities in a document are to be construed against the drafter of that document shall have no application to the interpretation or enforcement of this Covenant Agreement. In any action or proceeding to interpret and/or enforce this Covenant Agreement, the trier of fact may refer to extrinsic evidence not in conflict with any specific provision of this Covenant Agreement to ascertain and give effect to the intent of the Parties hereto.

**4.9 Time Deadlines Critical; Extensions and Delays; No Excuse Due to Economic Changes.** Time is of the essence in the performance of the City's and Owner's obligations under this Covenant Agreement. In addition to specific provisions of this Covenant Agreement providing for extensions of time, times for performance hereunder shall be extended where delays or defaults are due to war; insurrection; any form of labor dispute; lockouts; riots; floods; earthquakes; fires; acts of God or of third parties; third party litigation; acts of a public enemy; referenda; acts of governmental authorities (except that the failure of the City to act as required hereunder shall not excuse its performance); moratoria; epidemics; quarantine restrictions; and freight embargoes (collectively, "Enforced Delays") provided, however, that the Party claiming the extension notify the other Party of the nature of the matter causing the default; and, provided further, that the extension of time shall be only for the period of the Enforced Delays. However, deadlines for performance may not be extended as provided above due to any inability of the Owner to obtain or maintain acceptable financing for the operation of the Facility.

**ANYTHING IN THIS COVENANT AGREEMENT TO THE CONTRARY NOTWITHSTANDING, OWNER EXPRESSLY ASSUMES THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES AND/OR**

**MARKET DEMAND/CONDITIONS AND WAIVES, TO THE GREATEST LEGAL EXTENT, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, FRUSTRATION OF PURPOSE, CHANGED ECONOMIC CIRCUMSTANCES OR SIMILAR THEORIES.**

**OWNER EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF OWNER SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN THE MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS COVENANT AGREEMENT. OWNER EXPRESSLY ASSUMES THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF OWNER'S EXECUTION OF THIS COVENANT AGREEMENT.**

**OWNER'S INITIALS \_\_\_\_\_**

**4.10 Attorneys' Fees.** In the event of the bringing of an arbitration, action or suit by a Party hereto against another Party hereunder by reason of any breach of any of the covenants or agreements or any intentional inaccuracies in any of the representations and warranties on the part of the other Party arising out of this Covenant Agreement or any other dispute between the Parties concerning this Covenant Agreement or the Property, then, in that event, the prevailing party in such action or dispute, whether by final judgment or arbitration award, shall be entitled to have and recover of and from the other Party all costs and expenses of suit or claim, including actual attorneys' fees. Any judgment, order or award entered in any final judgment or award shall contain a specific provision providing for the recovery of all costs and expenses of suit or claim, including actual attorneys' fees (collectively, the "Costs") incurred in enforcing, perfecting and executing such judgment or award. For the purposes of this Section 4.10, "Costs" shall include, without implied limitation, attorneys' and experts' fees, costs and expenses incurred in the following: (i) post judgment motions and appeals, (ii) contempt proceedings, (iii) garnishment, levy and debtor and third party examination, (iv) discovery; and (v) bankruptcy litigation. This Section 4.10 shall survive any termination of this Covenant Agreement.

**4.11 Amendments to This Covenant Agreement.** Any amendments to this Covenant Agreement must be in writing and signed by the appropriate authorities of both the City and Owner. The City Manager is authorized on behalf of the City to approve and execute minor amendments to this Covenant Agreement, including, but not limited to, the granting of extensions of time to Owner, not to exceed ninety (90) days in the aggregate.

**4.12 Jurisdiction and Venue.** Any legal action or proceeding concerning this Covenant Agreement shall be filed and prosecuted in the appropriate California state court in the County of San Bernardino, California. Both Parties hereto irrevocably consents to the personal jurisdiction of that court. The City and Owner each hereby expressly waive the benefit of any provision of federal or state law or judicial decision providing for the filing, removal, or change of venue to any other court or jurisdiction, including, without implied limitation, federal district court, due to any diversity of citizenship between the City and Owner, due to the fact that the City is a party to such action or proceeding or due to the fact that a federal question or federal

right is involved or alleged to be involved. Without limiting the generality of the foregoing, the City and Owner specifically waive any rights provided to it pursuant to California Code of Civil Procedure Section 394. Owner acknowledges that the provisions of this Section 4.12 are material consideration to the City for its entry into this Covenant Agreement, in that the City will avoid the potential cost, expense and inconvenience of litigating in a distant forum.

**4.13 Interpretation.** The City and Owner acknowledge that this Covenant Agreement is the product of mutual arms-length negotiation and drafting and that both Parties have been represented by legal counsel in the negotiation and drafting of this Covenant Agreement. Accordingly, the rule of construction which provides that ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this Covenant Agreement. In any action or proceeding to interpret or enforce this Covenant Agreement, the finder of fact may refer to any extrinsic evidence not in direct conflict with any specific provision of this Covenant Agreement to determine and give effect to the intention of the Parties.

**4.14 Counterpart Originals; Integration.** This Covenant Agreement may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument. This Covenant Agreement and any exhibits represent the entire understanding of the Parties and supersedes all negotiations, letters of intent, memoranda of understanding or previous agreements between the parties with respect to all or any part of the subject matter hereof.

**4.15 No Waiver.** Failure to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

**4.16 Successors and Assigns.** The terms, covenants and conditions of this Covenant Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns. Except as provided in this Section 4.16, Owner shall neither transfer nor convey Owner's interest in the Facility without the express written consent of the City, which shall not be unreasonably withheld, conditioned or delayed. In determining whether to approve of such a sale, transfer, conveyance or assignment of the Owner's interest in the Property, the City shall evaluate: (i) the financial ability of the proposed transferee to own and operate the Facility, or portion so transferred, and to meet the Owner's obligations under this Covenant Agreement; (ii) the fitness and experience of the proposed transferee and its managerial personnel to own and operate the Facility or portion so transferred thereof; and (iii) the ability of the proposed transferee to maintain a level of quality and service comparable to that maintained by the Owner for the Facility. Upon the permitted sale, transfer or conveyance by Owner of its interest therein, such owner shall thereupon be relieved of its obligations under this Covenant Agreement from and after the date of sale, transfer or conveyance except with respect to any defaults in the performance of its obligations hereunder or thereunder which occurred prior to such sale, transfer or conveyance, and the transferee shall thereafter be solely responsible for the performance of all of the duties and obligations of Owner under this Covenant Agreement.

**4.17 No Third-Party Beneficiaries.** The performance of the respective obligations of the City and Owner under this Covenant Agreement are not intended to benefit any party other than the City or Owner, except as expressly provided otherwise herein. No person or entity not a signatory to this Covenant Agreement shall have any rights or causes of action against any party to this Covenant Agreement as a result of that party's performance or non-performance under this Covenant Agreement, except as expressly provided otherwise herein.

**4.18 No Effect on Eminent Domain Authority.** Nothing in this Covenant Agreement shall be deemed to limit, modify, or abridge or affect in any manner whatsoever the City's or City's eminent domain powers with respect to the Facility, or any other property owned by the Facility.

**4.19 Warranty Against Payment of Consideration for Covenant Agreement.** Owner warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Covenant Agreement. Third parties, for the purposes of this Section 4.19, shall not include persons to whom fees are paid for professional services if rendered by attorneys, financial consultants, accountants, engineers, architects and the like when such fees are considered necessary by Owner.

**4.20 Severability.** The City and Owner declare that the provisions of this Covenant Agreement are severable. If it is determined by a court of competent jurisdiction that any term, condition or provision hereof is void, voidable, or unenforceable for any reason whatsoever, then such term, condition or provision shall be severed from this Covenant Agreement and the remainder of the Covenant Agreement enforced in accordance with its terms.

**4.21 Further Acts and Releases.** The City and Owner each agree to take such additional acts and execute such other documents as may be reasonable and necessary in the performance of their obligations hereunder.

**4.22 Estoppels.** At the request of Owner or any holder of a mortgage or deed of trust secured by all or any portion of the Property, the City shall promptly execute and deliver to Owner or such holder a written statement of the City as to any of the following matters as to which Owner or such holder may inquire: (i) that no default or breach exists, or would exist with the passage of time, or giving of notice, or both, by Owner pursuant to this Covenant Agreement, if such be the case; (ii) the total amount of Covenant Payments made by the City to Owner pursuant to this Covenant Agreement prior to the date of such written statement; (iii) the amount of any Covenant Payments earned by or due and owing to Owner pursuant to this Covenant Agreement as of the date of such written statement; (iv) the Covenant Payments for a particular Computation Quarter; (v) if the City has determined that Owner is in default or breach hereunder, the nature of such default and the action or actions required to be taken by Owner to cure such default or breach; and (vi) any other matter affecting the rights or obligations of Owner hereunder as to which Owner or such holder may reasonably inquire. The form of any estoppel letter shall be prepared by Owner or such holder at its sole cost and expense and shall be reasonably acceptable in form and content to the City and Owner. The City may make any of the representations described above based on the actual current knowledge of the then-current City Manager.

#### **4.23 Indemnity.**

**4.23.1** Owner shall defend (using counsel of City's reasonable choosing), indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against any and all third party claims, losses, proceedings, damages, causes of action, liability, cost and expense (including reasonable attorney's fees) arising from, in connection with or related to this Agreement or the functions or operations of the Facility (other than to the extent arising as a result of the City's active negligence or willful misconduct). The City shall fully cooperate in the defense of any such actions and upon written request of Owner shall provide to Owner such documents and records in possession of the City that are relevant to such actions and not otherwise protected by law. Notwithstanding the foregoing, should any third party bring any such action or proceeding Owner shall have the right to terminate this Agreement, and as of such date of termination, all unaccrued liabilities of the parties under this Agreement shall cease except for Owner's obligation of indemnity owned to the City as provided in this Section 4.23.1. For purposes of clarification, should Owner exercise its termination right as provided in this Section 4.23.1, the same shall not be considered a Default and the City shall have no claims against Owner for liquidated damages.

#### **4.24 Public Benefits.**

**4.24.1 Community Participation.** As additional consideration for the benefits conferred under this Agreement, Owner will use commercially reasonable efforts to participate in supporting community benefit events and activities consistent with Owner's practices and policies such as NIKE's Made to Play program within the City, and Give Your Best platform to allow employee contribution matching of qualifying City charitable programs.

**4.24.2 State of California Legislation Impact on Covenant Payment.** Owner acknowledges that the California Legislature has in the past adopted certain legislation which diverted to the State of California a portion of the Sales Tax Revenues which were otherwise payable to the City. Owner acknowledges that it is possible that the legislature may enact similar legislation in the future which would cause a corresponding reduction of and/or delay in the payment of the Sales Tax Revenues and that such reduction will cause Owner a corresponding reduction and/or delay in the payment of the Covenant Payments due to Owner during such time as such legislation is in effect. Furthermore, Owner acknowledges that it is possible that the legislation described above, or some variant thereof, may be enacted and effective during one or more subsequent times during the Eligibility Period and may materially and negatively impact the amount of Sales Tax Revenues and, accordingly, Covenant Payments. The City does not make any representation, warranty or commitment concerning the future actions of the California legislature with respect to the allocation of Sales Tax Revenues to the City. Owner agrees that it is undertaking its obligations under this Covenant Agreement after having considered, and is expressly assuming the risk of, the possibility of the enactment of such legislation.

(a) The foregoing paragraph notwithstanding, City acknowledges that the California legislature may provide for the payment to City of other revenues for the purpose of offsetting any losses in Sales Tax Revenues resulting from the enactment of



legislation of the type described in the immediately preceding paragraph. City agrees that, should the California legislature provide for such offsetting revenues, then for purposes of this Covenant Agreement and the computation of any Covenant Payments which may become due to Owner hereunder, City will consider any such offsetting revenues which are (i) indexed to Sales Tax and offset the loss of Sales Tax Revenues to the City on a dollar for dollar basis, (ii) actually received by the City, and (iii) not subject to any restrictions on use beyond those which are otherwise generally applicable to sales tax revenues received by California municipalities, to be Sales Tax Revenues within the meaning of this Covenant Agreement.

**4.25 State of California Legislation Impact on Covenant Payment.** Owner acknowledges that the California Legislature has in the past adopted certain legislation which diverted to the State of California a portion of the Sales Tax Revenues which were otherwise payable to the City. Owner acknowledges that it is possible that the legislature may enact similar legislation in the future which would cause a corresponding reduction of and/or delay in the payment of the Sales Tax Revenues and that such reduction will cause Owner a corresponding reduction and/or delay in the payment of the Covenant Payments due to Owner during such time as such legislation is in effect. Furthermore, Owner acknowledges that it is possible that the legislation described above, or some variant thereof, may be enacted and effective during one or more subsequent times during the Eligibility Period and may materially and negatively impact the amount of Sales Tax Revenues and, accordingly, Covenant Payments. The City does not make any representation, warranty or commitment concerning the future actions of the California legislature with respect to the allocation of Sales Tax Revenues to the City. Owner agrees that it is undertaking its obligations under this Covenant Agreement after having considered, and is expressly assuming the risk of, the possibility of the enactment of such legislation.

The foregoing paragraph notwithstanding, City acknowledges that the California legislature may provide for the payment to City of other revenues for the purpose of offsetting any losses in Sales Tax Revenues resulting from the enactment of legislation of the type described in the immediately preceding paragraph. City agrees that, should the California legislature provide for such offsetting revenues, then for purposes of this Covenant Agreement and the computation of any Covenant Payments which may become due to Owner hereunder, City will consider any such offsetting revenues which are (i) indexed to Sales Tax and offset the loss of Sales Tax Revenues to the City on a dollar for dollar basis, (ii) actually received by the City, and (iii) not subject to any restrictions on use beyond those which are otherwise generally applicable to sales tax revenues received by California municipalities, to be Sales Tax Revenues within the meaning of this Covenant Agreement.

**4.26. Anti-Bribery.** City and its representatives, including but not limited to its elected officials, officers and directors: (i) have complied and will comply with all applicable anti-bribery and anti-corruption laws and regulations in connection with this Agreement; (ii) have not directly or indirectly offered, paid, promised, requested, or accepted a bribe, kickback, or other improper benefit in connection with this Agreement; and (iii) will not directly or indirectly offer, pay, promise, request, or accept a bribe, kickback, or other improper benefit in connection with this Agreement. If City or its representatives become aware of any violation of the foregoing provisions or any anti-bribery or anti-corruption laws or regulation in connection with this Agreement, City shall give notice to Owner. City has undertaken and will undertake reasonable

measures to ensure compliance with the foregoing provisions by City and its representatives, including but not limited to its executive officers and directors. The above representations are an inducement to Owner to enter into this Agreement. In the event City breaches the representations in this clause or violates applicable law related thereto, Owner may terminate this Lease without penalty or prejudice to any of its rights under law.

**4.27. Addition of Affiliates.** At such time as an Affiliate of Owner desires to locate an e-commerce distribution facility in the City of Ontario, Owner shall request approval in writing from the City to have any sales tax generated by the Affiliate included in the Sales Tax Revenues attributable to Owner for calculation of the Covenant Payment. Said written request shall be submitted to the City Manager for review and consideration by the City Council, following any legally required noticing and public hearings. Said review shall be in the City's sole and unfettered discretion. As condition precedent to the City consideration of the request, Owner and the Affiliate shall make and attest to all representation and warranties required by this Agreement, including but not limited to that inclusion of the Affiliate in this Agreement or the implementation thereof will not violate Government Code Section 53084.5. Additionally, City shall only make a Covenant Payment to Owner. Owner shall be prohibited from sharing the Covenant Payment with Affiliate and Affiliate shall be prohibited from requesting the City enter into a separate Operating Covenant Agreement with Affiliate directly. City shall have no liability to Affiliate for the distribution of Covenant Payments.

**[Signatures on the following pages]**

**SIGNATURE PAGE TO THE  
NIKE RETAIL SERVICES, INC. OPERATING COVENANT AGREEMENT**

CITY OF ONTARIO  
a California municipal corporation

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

ATTEST:

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

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Ruben Duran  
City Attorney

**SIGNATURE PAGE TO THE  
NIKE RETAIL SERVICES, INC. OPERATING COVENANT AGREEMENT**

NIKE Retail Services, Inc.  
an Oregon corporation

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

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Title (Print)

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

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Title (Print)

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
ADMINISTRATIVE REPORTS/  
DISCUSSION/ACTION

**SUBJECT: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO APPROVING AN EQUIPMENT LEASE/PURCHASE AGREEMENT AND ESCROW AND ACCOUNT CONTROL AGREEMENT AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH RELATING TO THE FINANCING OF CERTAIN EQUIPMENT FOR THE CITY**

**RECOMMENDATION:** That the City Council approve a resolution approving an Equipment Lease/Purchase Agreement and an Escrow and Account Control Agreement and authorizing certain other actions therewith (collectively, “the Lease Agreement”), between the City and Banc of America Public Capital Corp (“BAPCC”) to finance the implementation of certain energy related improvements to City facilities.

**COUNCIL GOALS:** Operate in a Businesslike Manner  
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 total amount of the Lease Agreement is not to exceed \$32,000,000 which includes funding for the City’s costs of legal and municipal advisory costs directly related to the Lease Agreement. These funds are to be used to fund a portion of the total estimated project cost of \$35,143,220 which includes project development, design, engineering, implementation, and commissioning costs. Additional project funding includes the following sources: Financing of \$2,898,220 at 1% interest through the California Energy Commission’s Energy Conservation Assistance Act Program; \$245,000 financing at 0% interest through the Southern California Edison On-Bill Funding (OBF) program. The City may also seek Self-Generation Incentive Program incentives of \$2.7 million for battery storage dependent on future grant approval. If approved, necessary budget adjustments will be included in the First Quarter Budget Update Report for City Council Approval.

The term of subject Lease Agreement is 20 years, with a total borrowing cost for tax-exempt funds not to exceed 2.35%, and a total borrowing cost for taxable funds not to exceed 3.25%. The total annual debt service payment will be approximately \$1,999,000. Any principal or interest payment is pre-payable at

**STAFF MEMBER PRESENTING:** Armen Harkalyan, Executive Director of Finance

Prepared by: Jason M. Jacobsen  
Department: Investments & Revenue Resources

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

Submitted to Council/O.H.A. 09/15/2020

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

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

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

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102% for years 1-10; at 101% for years 11-15; and at 100% for years 16-20. Pursuant to the requirements of Section 5852.1 of the California Government Code, the resolution sets forth below the good faith estimates provided to the City by CSG Advisors Incorporated, the City's municipal advisor.

The cost of the Lease Agreement is intended to be offset by savings achieved under the agreement with Climatec. The total gross lifecycle savings is estimated at \$75,100,000 over the life of the new equipment which includes approximately \$56,300,000 in operating savings and \$18,800,000 in avoided capital expenditures associated with critical infrastructure modernization. Annual operating savings are estimated to exceed total program costs plus repayments under the Lease Agreement, providing both General Fund and Capital Improvement Fund budget relief. Audit results and savings estimates have been reviewed and approved by a third-party engineering firm.

In addition, pursuant to the agreement between the City and Climatec, LLC (executed on July 21, 2019), Climatec has provided a written guarantee, for a term not to exceed 15 years, that project savings will achieve 100% or more of the Guaranteed Project Annual Savings for budget integrity. Climatec will complete Measurement and Verification (M&V) Reports annually to verify project savings are being met. In the event that an annual M&V Report savings value (including any excess, unapplied savings from previous years) does not meet the Guaranteed Project Savings in accordance with the M&V Plan, then Climatec shall repair, replace, or substitute the Energy Conservation Measure (ECM) that is not performing at the required level, as identified in the M&V Report, and at Climatec, LLC's sole expense. Following corrective action, Climatec shall re-perform the relevant M&V work for the affected ECM(s) and amend or supplement the M&V Report. If the sum of the ECMs indicates that the Guaranteed Project Savings are met or exceeded, then no further remedy shall be required. If, after the opportunity to make corrections, the M&V Report, as amended, indicates that verified savings are less than the Guaranteed Project Savings as shown in the Savings Summary, then Climatec shall pay the City the shortfall amount.

**BACKGROUND:** The energy related improvements being financed are to be installed pursuant to an Energy Services Agreement between the City and Climatec, LLC of Phoenix AZ approved by the City Council on July 21, 2020. Such agreement is being implemented in accordance with California Government Code Section 4217.10 to 4217.18; in which the City Council adopted findings that the cost to the City to implement the energy related improvements are less than the anticipated marginal cost to the City of thermal, electrical, or other energy that would have been consumed by the City absent of purchasing the energy improvements.

In tandem with City's approval of the Climatec Agreement, the Financial Services Agency engaged CSG Advisors Incorporated as Municipal Advisor to solicit proposals from qualified bidders in order to finance the improvements based on a direct purchase equipment lease security structure. Under an equipment lease, a lender's security interest ensuring timely lease payments is limited to the equipment installed under the lease agreement, as opposed to other real property or other assets of the City. Bank of America, through its equipment leasing affiliate BAPCC, was determined to provide the most competitive bid. The interest component of the Lease Payments is determined to be exempt from federal income taxes, thereby reducing the rate of interest. The Financial Services Agency additionally engaged Stradling, Yocca, Carlson & Rauth as the City's Special Counsel to review and prepare documents, and provide the tax opinion for the Lease Agreement.

The improvements funded under the Lease Agreement include:

- Interior and Exterior LED Lighting Modernization Citywide

- LED Streetlight conversions and Smart City Control System Citywide (working in partnership with IT)
- Central Chilled Water Plants at the Ovitt Family Library and Convention Center
- Hot Water Boiler Plants at the Ovitt Family Library, Convention Center and Toyota Arena
- Refurbishing Air Handlers and VAV Boxes at the Convention Center
- Building Automation Control Systems Upgrades at 27 sites
- New Packaged Air Condition System Upgrades at 11 sites
- Solar PV Systems at City Hall Annex, Convention Center and Toyota Arena
- Solar Thermal Heating Systems at Westwind and Dorothy Quesada Pools
- Electric Vehicle Charging Systems at Armstrong, Westwind, and Dorothy Quesada Community Centers and the Ontario Municipal Utilities Company
- New Electric Transformers at City Hall Annex, Police Department, and Senior Center
- Battery Storage Systems at the Toyota Arena

Because the vast array of improvements is located at many locations throughout the City, but most of the cost is limited to five locations, BAPCC has agreed to limit their security interest to energy improvements to be installed at the following locations:

- the Toyota Arena;
- the Convention Center;
- the Police Department;
- the Ovitt Family Library; and
- the City Hall Annex.

The Lease Agreement further stipulates that such security interest in the equipment by BAPCC is separate and apart from the real property securing lease payments on the City's existing 2013 and 2017 Lease Revenue Bonds, and will not limit future encumbrances of such facilities for similar future City financing purposes, so long as the City excludes such energy improvements from such financing leases, and, accordingly, the value of such improvements are excluded in the fair rental value of such leases. The energy improvements alone constitute a small fraction of the total value of such assets, and therefore are not a limiting factor for future financing needs of the City. This feature is a key benefit to the City of the direct purchase equipment lease approach, and it maximizes use of the City's most essential real property assets for potential future financing needs.

If approved, the financing is expected to close on September 22, 2020. Estimated project completion timeline is about 18 months.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING EQUIPMENT LEASE/PURCHASE AGREEMENTS AND ESCROW AND ACCOUNT CONTROL AGREEMENTS AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH RELATING TO THE FINANCING OF CERTAIN EQUIPMENT FOR THE CITY.

WHEREAS, the City of Ontario (the "City"), has determined that it is necessary and desirable to finance the acquisition of certain energy efficiency equipment for the benefit of the City (collectively, the "Project"); and

WHEREAS, in order to accomplish the financing of the Project, the City and Banc of America Public Capital Corp ("BAPCC") and/or an affiliate of BAPCC desire to enter into one or more Equipment Lease/Purchase Agreements, by and between the City and BAPCC or an affiliate of BAPCC (collectively, the "Lease"), a form of which has been presented to the City Council of the City (the "City Council") at the meeting at which this Resolution has been adopted; and

WHEREAS, pursuant to the Lease, the City will grant a security interest in certain equipment owned or to be acquired by the City (the "Equipment") to BAPCC and/or an affiliate of BAPCC in consideration for BAPCC and/or an affiliate of BAPCC financing such Equipment in an amount not to exceed \$32,000,000, and the City will lease the Equipment from BAPCC and/or an affiliate of BAPCC and pay certain rental payments in connection therewith.

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

SECTION 1. The City Council does hereby find and declare that the above recitals are true and correct.

SECTION 2. The form of the Lease presented to this meeting and on file with the City Clerk, is hereby approved; provided that the maximum principal amount of all rental payments pursuant to the Lease shall not exceed \$32,000,000 and the interest rate on the principal component of the rental payments the interest on which is to be excluded from gross income for federal and State income tax purpose shall not exceed 2.35% (except in the case of any increase due to a late payment, a default or an event of taxability) and the interest rate on the principal component of the rental payments the interest on which is not excluded from gross income for federal income tax purposes shall not exceed 3.25% (except in the case of any increase due to a late payment or a default). Each of the Mayor of the City, or such member of the City Council as the Mayor may designate, the City Manager of the City, the Assistant City Manager of the City, the Executive Director of Finance of the City, and their authorized designees (the "Authorized Officers") is hereby authorized for and in the name of the City to execute one or more Leases in substantially the form on file with the City Clerk, with



such additions thereto and changes therein as are recommended or approved by Stradling Yocca Carlson & Rauth, a Professional Corporation, as Special Counsel ("Special Counsel"), the City Attorney and the officers executing the same. Approval of such changes shall be conclusively evidenced by the execution and delivery of the Leases by such Authorized Officers. Each of the Authorized Officers is hereby authorized to execute, acknowledge and deliver any and all documents required to consummate the transactions contemplated by the Leases.

SECTION 3. The form of one or more Escrow and Account Control Agreements (collectively, the "Escrow Agreement") by and among BAPCC (or any affiliate of BAPCC), the City and Bank of America, National Association, as escrow agent, presented to this meeting and on file with the City Clerk, is hereby approved. Each of the Authorized Officers is hereby authorized for and in the name of the City to execute one or more Escrow Agreements in substantially the form on file with the City Clerk, with such additions thereto and changes therein as are recommended or approved by Special Counsel, the City Attorney and the officers executing the same. Approval of such changes shall be conclusively evidenced by the execution and delivery of the Escrow Agreements by such Authorized Officers. Each of the Authorized Officers is hereby authorized to execute, acknowledge and deliver any and all documents required to consummate the transactions contemplated by the Escrow Agreements.

SECTION 4. Each of the Authorized Officers is hereby authorized, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary and advisable in order to consummate the entry into of the Leases and the Escrow Agreements and otherwise effectuate the purposes of this Resolution.

SECTION 5. The City Council acknowledges that the good faith estimates required by Section 5821.1 of the California Government Code are attached hereto as Exhibit "A" and are available to the public at the meeting at which this Resolution is approved.

SECTION 6. All actions heretofore taken by the Authorized Officers with respect to the Lease and Escrow Agreement, or in connection with or related to any of the agreements or documents referenced herein, are hereby approved, confirmed and ratified.

SECTION 7. This Resolution shall take effect from and after the date of approval and adoption hereof.

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

PASSED, APPROVED, AND ADOPTED this 15<sup>th</sup> day of September 2020.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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BEST BEST & KRIEGER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2020-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 15, 2020 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2020-        duly passed and adopted by the Ontario City Council at their regular meeting held September 15, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

## EXHIBIT A

### GOOD FAITH ESTIMATES

The good faith estimates set forth herein are provided with respect to the Lease in accordance with Section 5852.1 of the California Government Code. Such good faith estimates have been provided to the City by CSG Advisors Incorporated, the City's municipal advisor (the "Municipal Advisor").

*Principal Amount.* The Municipal Advisor has informed the City that, based on the City's financing plan, its good faith estimate of the aggregate principal amount of the Lease to be issued and sold is \$31,085,000 (the "Estimated Principal Amount").

*True Interest Cost of the Lease.* The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Lease is issued and sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the true interest cost of the Lease, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Lease, is 2.33%.

*Finance Charge of the Lease.* The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Lease is issued and sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the finance charge for the Lease, which means the sum of all fees and charges paid to third parties (or costs associated with the Lease), is \$85,000.

*Amount of Proceeds to be Received.* The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Lease is issued and sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the amount of proceeds expected to be received by the City for sale of the Lease, less the finance charge of the Lease, as estimated above, and any reserves or capitalized interest paid or funded with proceeds of the Lease, is \$31,000,000.

*Total Payment Amount.* The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Lease is sold, and based on the interest rate of the Lease, its good faith estimate of the total payment amount, which means the sum total of all payments the City will make to pay the Lease, plus the finance charge for the Lease, as described above, not paid with the proceeds of the Lease, calculated to the final maturity of the Lease, is \$39,126,174, which excludes any reserves or capitalized interest funded or paid with proceeds of the Lease (which may offset such total payment amount).

The foregoing estimates constitute good faith estimates only and are based on information available at the time of preparation of such estimates. The actual principal amount of the Lease issued and sold, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with

respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the Lease being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Lease issued and sold being different from the Estimated Principal Amount, (c) the actual amortization of the Lease being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of sale of the Lease being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the City's financing plan, or a combination of such factors. The actual date of the Lease and the actual principal amount of Lease issued and sold will be determined by the City based on the timing of the need for proceeds of the Lease and other factors.

# CITY OF ONTARIO

Agenda Report  
September 15, 2020

SECTION:  
ADMINISTRATIVE REPORTS/  
DISCUSSION/ACTION

**SUBJECT: CONFIRMATION OF APPOINTMENT OF DEPUTY POLICE CHIEF  
MICHAEL LORENZ TO POLICE CHIEF**

**RECOMMENDATION:** That the City Council confirm the City Manager's appointment of Michael Lorenz to the position of Police Chief.

**COUNCIL GOALS:** Invest in the Growth and Evolution of the City's Economy  
Maintain the Current High Level of Public Safety  
Operate in a Businesslike Manner  
Purse City's Goals and Objectives by Working with Other Governmental Agencies


**FISCAL IMPACT:** None.

**BACKGROUND:** Police Chief Derek Williams announced his retirement effective September 18, 2020. Pursuant to Ontario Municipal Code Section 2-3.204 (a): "*Police Chief. The Police Chief shall be appointed by the City Manager for an indefinite term, subject to confirmation by the Council.*" It is recommended that Deputy Police Chief Michael Lorenz be confirmed as Police Chief beginning September 15, 2020.

Deputy Police Chief Michael Lorenz has worked a variety of assignments, which include: Patrol, Narcotics, Gang Violence Suppression, Field Training Program, Multi Enforcement Team and SWAT. He has held supervisory and command positions in Patrol, SWAT/Crisis Negotiations, COPS/MET, Gang Suppression, K9 and Interdiction.

Deputy Police Chief Michael Lorenz is a graduate of West Covina High School and holds a Bachelor of Science Degree in Criminal Justice from California Coast University. He attended the San Bernardino County Sheriff's Department 130th basic academy session in 1997. He was hired during the academy by the City of Ontario and in 1998, upon his graduation, he became a Patrol Officer for the Ontario Police Department.

**STAFF MEMBER PRESENTING:** Scott Ochoa, City Manager

Prepared by: Lupe Marquez  
Department: Human Resources  
City Manager Approval: 

Submitted to Council/O.H.A. 09/15/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_